

27th April 2018

The Arc
High Street
Clowne
Derbyshire
S43 4JY

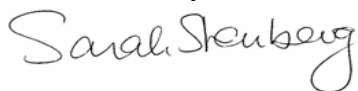
Dear Sir or Madam

You are hereby summoned to attend a meeting of the Standards Committee of the Bolsover District Council to be held on Tuesday 8th May 2018 at **1400 hours** in Committee Room 2, The Arc, Clowne.

Register of Members' Interests - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on page 2.

Yours faithfully



Assistant Director of Governance and Monitoring Officer
To: Chair and Members of the Standards Committee.

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**STANDARDS COMMITTEE
AGENDA**

Tuesday 8th May 2018 at 1400 hours in Committee Room 2, The Arc, Clowne

Item No.		Page No.(s)
	PART 1 – OPEN ITEMS.	
1.	<u>Apologies for absence</u>	
2.	<u>Urgent Items of Business</u> To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4 (b) of the Local Government Act 1972.	
3.	<u>Declarations of Interest</u> Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of: a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	<u>Notes of a meeting held on 27th November 2017.</u> To approve the notes of an informal meeting of the Standards Committee. As this meeting was inquorate, these are not formal Minutes of a meeting of the Standards Committee and do not appear in the Minute Book.	4-6
5.	<u>Minutes of Constitution Working Group held on 26th February 2018</u> To approve the Minutes of a Constitution Working Group meeting held on 26 th February 2018.	7-8
6.	<u>Parliamentary Review on Intimidation in Elections</u> To note the content of the review.	9-13 (plus Appendix)
7.	<u>Consultation on Ethical Standards by Committee on Standards in Public.</u> To formulate a response to the Consultation	14-19

8.	<u>Whistleblowing Policy</u> To consider the review of the Policy.	20 – 33
9.	<u>Member/Officer Protocol</u> To consider the proposals for a revised protocol.	34 – 49
10.	<u>Review of the Constitution</u> To make recommendations to Council on the proposals for amendments to the Constitution.	50 – 125
11.	<u>Complaints of Breach of the Code of Conduct.</u> To receive a verbal report from Monitoring Officer	
12.	<u>Work Plan for 2018/19</u> To agree a Work Plan for the forthcoming municipal year.	126

STANDARDS COMMITTEE

Notes of a meeting of the Standards Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne, on Monday 27th November 2017 at 1400 hours.

PRESENT:-

Members:-

Mrs R. Jaffray (Independent Member) in the Chair

Councillors H.J. Gilmour, and D.S. Watson.

Independent Person:-

I. Kirk

Officers:-

S.E.A. Sternberg (Assistant Director – Governance, Solicitor to the Council and Monitoring Officer) and D. Cairns (Governance Manager - Acting).

As only two Members were present, this meeting of the Standards Committee was not quorate. Members agreed to proceed with the agenda for information and discussion, noting that any decisions would be ratified at the next meeting.

The Chair introduced and welcomed Mr Ian Kirk, recently appointed Independent Person, to the Committee.

0001. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors M. Dixey, C.R. Moesby, and S. Statter.

0002. URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

0003. DECLARATIONS OF INTEREST

There were no declarations of interest made.

0004. MINUTES OF THE LAST MEETING OF THE STANDARDS COMMITTEE

Moved by Councillor H.J. Gilmour and seconded by Councillor D.S. Watson.

AGREED that the Minutes of a Standards Committee held on 13th April 2017 be noted.

STANDARDS COMMITTEE

0005. LICENSING COMMITTEE AND DISABLED FACILITIES GRANTS

Committee considered a report which recommended that the approval of Disabled Facilities Grants (DFGs) be removed from the Terms of Reference for Licensing Committee and added to the Executive functions.

Members were advised that DFGs were deemed an Executive function as a matter of law and this report sought to correct the allocation of this responsibility which had been with Licensing Committee under previous governance arrangements.

It was further proposed that mandatory DFGs be dealt with under an officer delegation and that only discretionary DFGs would be submitted to Executive.

Members discussed the sorts of applications dealt with under DGFs and commented that it did not seem like a fitting subject matter in line with the remit of Licensing Committee.

It was requested that this report be brought back to Standards Committee, following consideration of the matter by the Executive.

AGREED that the report be noted.

(Assistant Director – Governance, Solicitor to the Council and Monitoring Officer)

0006. ANNUAL REVIEW OF THE CONSTITUTION

The Committee considered a report which outlined areas on the Constitution that would be considered in this year's review. Members were invited to raise any further areas that felt needed review.

The report also outlined the timetable that the review would follow, with a possibility of an informal meeting of the Committee being called in January 2018 should the review require Member input at an early stage, prior to the consideration of the proposals at the scheduled Committee meeting in February 2018.

AGREE that the report be noted.

(Assistant Director – Governance, Solicitor to the Council and Monitoring Officer)

0007. COMPLAINTS OF BREACH OF THE CODE OF CONDUCT – 2017

The Committee were informed that one complaint was still being dealt with however no new complaints had been received since the previous meeting.

AGREED that the update be noted.

(Assistant Director – Governance, Solicitor to the Council and Monitoring Officer)

0008. WORK PLAN

STANDARDS COMMITTEE

Committee considered their Work Plan for the 2017/18 period.

It was noted that the report on Licensing Committee and Disabled Facilities Grants would be brought back to the next meeting, once it had been considered by the Executive.

RESOLVED that the Work Plan be noted.

(Assistant Director – Governance, Solicitor to the Council and Monitoring Officer)

The meeting concluded at 1425 hours.

Constitution Working Group

Notes of a meeting of the Constitution Working Group of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Monday 26th February 2018 at 1400 hours.

PRESENT:-

Ruth Jaffray in the Chair

Members:-

Councillor H Gilmour, Councillor C Moesby, Councillor T Munro, Councillor D Watson, Councillor K Reid and Councillor B Watson.

Officers:-

Sarah Sternberg (Head of Corporate Governance and Monitoring and Solicitor to the Council), Nicola Calver (Governance Manager), Victoria Dawson (Team Manager Solicitor), Liz Robinson (Accountancy Assistant) and Donna Cairns (Senior Governance Officer (NEDDC)).

1. APOLOGIES

Apologies were received from Councillors M Dixey and S Statter.

2. REVIEW OF THE COUNCIL'S CONSTITUTION

Members gave consideration to a report of the Head of Corporate Governance and Monitoring Officer setting out the proposed amendments to the Council's Constitution for comment by the Constitution Working Group prior to submission to a meeting of the Standards Committee. This included Employee Code of Conduct, Contact Procedure Rules, the Petition Scheme and Joint Arrangements which were set out in appendices 2-5 of the report.

The Governance Manager detailed the suggested changes within Appendix 1 and Members comments were captured to inform the final review report. A summary of these comments are set out below:

- Clarity required on 15 of Employee Code of Conduct re: Criminal Activity
- Part 21 1 and 2 of Code of Conduct – add in 'in a Council Vehicle' Clarity sought around drinking at work.
- Minute Books – Must be circulated to members
- Protocol on service requests to be included in induction for Members.

AGREED that the changes identified be put to Standards Committee as part of the Review of the Constitution Report.

Constitution Working Group

3. PROTOCOL ON MEMBER/OFFICER RELATIONS

The current Protocol on Member / Officer Relations was circulated to the meeting for comment prior to construction with All Members.

The Head of Corporate Governance and Monitoring Officer noted that Sheffield City Council had a 'do's and don'ts' for guidance for Members and it was agreed that a similar document could be appended to the Member / Officer Protocol.

It was noted that Strategic Alliance Management Team had also considered the Member / Officer Protocol and details of their suggestions were put to the meeting including:

- Considering LGA best practice
- Unacceptable behaviour
- Respect
- Undue pressure

Clarification was sought around Member attendance at meetings and the Monitoring Officer gave clear guidance to Members around their role as policy setters.

AGREED that:

- 1) The Member Officer Protocol be circulated to Members for their views prior to the next meeting of the Constitutional Working Group;
- 2) The comments made be considered as part of the review; and
- 3) LGA guidance be circulated to Constitutional Working Group Members

4. OTHER AREAS FOR REVIEW

The Head of Corporate Governance and Monitoring Officer noted that there was still some work to be carried out on the Delegation Scheme following the announcement of the new structure. This would be presented to a forthcoming meeting of Standards Committee.

5. DATE AND TIME OF NEXT MEETING

AGREED that the next Constitution Working Group take place on 16th April 2018 at 1400 hours.

The meeting concluded at 1443 hours.

Bolsover District Council

Standards Committee

8 May 2018

Standards in Public Life: Intimidation in Elections

Report of the Joint Head of Corporate Governance and Monitoring Officer

This report is public

Purpose of the Report

- To advise Members of a review that has taken place by the Parliamentary Committee on Standards in Public Life on Intimidation in Elections.
- To provide Members with an overview of the findings of that review.

1 Report Details

BACKGROUND

- 1.1 Reports of intimidation of candidates and their supporters during the 2017 General Election led the Prime Minister to commission a review by the Parliamentary Committee on Standards in Public Life. Whilst intimidation in public life is nothing new, the scale of intimidation and abuse experienced by Parliamentary Candidates was a shocking intensification of the experiences of many in public life.
- 1.2 A significant proportion of candidates experienced harassment, abuse and intimidation. There has been persistent, vile and shocking abuse, threatened violence including sexual violence, and damage to property. It is believed that widespread use of social media platforms was the most significant factor driving this behaviour.
- 1.3 The Parliamentary Committee, while considering the scope of the review on intimidation, identified several areas of concern:-
 - 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 legal intimidatory activities;
 - Election law is out of date.

- 1.4 For the purpose of the review the Parliamentary Committee interpreted intimidatory behaviour as “words and/or behaviour intended or likely to block or deter participation which would reasonably lead to an individual wanting to withdraw from public life”.

SOCIAL MEDIA

- 1.5 One clear trend is the way that social media are changing the way in which Election campaigns are conducted and have led to a marked shift in how the public engages with Parliamentary Candidates. Social media companies and Government have met to consider how they may proactively address the issue of intimidation online due to the Parliamentary Committee’s concerns around the lack of progress that Twitter, Facebook and Google specifically had made in protecting their users online. They have noted however that existing social media platforms are being used to perform a specific democratic function for which they were not designed.
- 1.6 The Parliamentary Committee have noted that political tensions run high during Election campaigns. Whilst social media provides a means for citizens to engage with the political process, using intimidation has increased. One analysis of offensive language targeted at MPs during the General Election found that between 2% and 4% of all tweets sent to politicians on any given day could be identified as abusive.
- 1.7 The Committee have made several recommendations to be implemented in relation to social media. These are:-
- Social media platforms should work proactively during Elections and cooperate with police, parliament, and the political parties to consider what special measures might be put in place;
 - Twitter, Facebook and Google should work with the Government to create a pop-up election social media reporting team of trusted flaggers (this is to speed up take down on offensive and abusive posts);
 - The pop-up one shop should facilitate reporting and provide advice on escalating complaints in to Police reports;
 - 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

- 1.8 Elections are competitive and can be robust, but abusive behaviour, goes further and amounts to intimidation and harassment. The Parliamentary Committee have deduced that some of those responsible for abusive and derogatory behaviour were party members. In a survey of 950 Parliamentary Candidates 33% reported inappropriate behaviour by supporters of opposition parties and/or candidates.
- 1.9 The Parliamentary Committee have identified that political parties have three key responsibilities.
- (a) To show leadership in setting an appropriate tone for public debate around elections for their campaigners and supporters;
 - (b) To tackle intimidatory behaviour undertaken by their members;

- (c) To provide support to their candidates who face intimidation during the Election campaign.
- 1.10 Intimidation experienced by candidates is too high a price to pay for political points scoring, and the Parliamentary Committee has urged that political parties must work proactively together to tackle the issue of intimidation in public life.
- 1.11 The Parliamentary Committee has called for a Joint Cross Party Code of Conduct backed up by sanctions for intimidatory behaviour during Election campaigns to be ready by December 2018. It would be jointly developed by all parliamentary political groups and jointly enforced by a committee of party compliance officers. A joint Code could provide an alternative mechanism to escalate intimidatory behaviour to an authority other than their own party.

ELECTIONS

- 1.12 On a more local level the Parliamentary Committee noted that candidates standing for election as County / District / Parish Councillors are required to publish their home addresses on ballot papers. A number of people told the Committee during the review that this had been a significant factor in receipt of intimidatory behaviour or would put them off from standing as a Council candidate due to the risk of intimidation. The Committee 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 aware that publication of the details of an interest could be prevented where the Councillor and Monitoring Officer agree that it could lead to intimidation or violence against the Councillor or their family. Bolsover's Monitoring Officer updated on this matter at the recent meetings of Standards Committee and Member Training.
- 1.13 The Parliamentary Committee felt that 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. 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.
- 1.14 The Parliamentary Committee heard from Councillors during the course of this inquiry and decided the health check of Local Government would be timely and therefore it commissioned a review of Ethical Standards in Local Government. The two reviews are indeed connected and the Standards Committee at its previous meeting formulated its collective response to the Parliamentary Committee.
- 1.15 The Full Review of the Parliamentary Committee is attached to this report as Appendix A.

2 Conclusions and Reasons for Recommendation

- 2.1 To raise awareness of the review and findings of the Parliamentary Committee.
- 2.2 To gain a collective understanding of the legal protections available if circumstances should arise in Bolsover District.

2.3 To consider the support that could be provided to candidates by the Council should they experience intimidation during an election period.

3 Consultation and Equality Impact

3.1 None.

4 Alternative Options and Reasons for Rejection

4.1 None.

5 Implications

5.1 Finance and Risk Implications

5.1.1 None.

5.2 Legal Implications including Data Protection

5.2.1 None.

5.3 Human Resources Implications

5.3.1 None.

6 Recommendations

6.1 That Members given consideration to the Parliamentary Briefing on Intimidation in Elections as attached **Appendix 1** to this report and note its content.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Affected</p>	All
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 **Document Information**

Appendix No	Title
1	Parliamentary Committee on Standards in Public Life Review: Intimidation in Elections
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
LGiU Briefing – Standard in Public Life: Intimidation in Elections and Inquiry in to Local Government Standards published on 14th March 2018.	
Report Author	Contact Number
Nicola Calver Governance Manager	(01246) 217753

AGIN – (STANDARDS 0503) 2018 – Intimidation in Elections/AJD

Intimidation in Public Life

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

**Committee on
Standards in
Public Life**



December 2017
Cm 9543



Intimidation in Public Life: A Review by the Committee on Standards in Public Life

Presented to Parliament
by the Prime Minister
by Command of Her Majesty
December 2017



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The Seven Principles of Public Life

The Principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.





Dear Prime Minister,

I am pleased to present the 17th report of the Committee of Standards in Public Life, on intimidation in public life. You invited the Committee to undertake a review on the intimidation of Parliamentary candidates in July 2017, considering the wider implications for public office-holders, and producing recommendations for action which could be taken in the short- and the long-term. The Committee wishes to thank all those who gave evidence to the review, particularly those who were willing to relate often highly personal and distressing experiences of intimidation.

The vitality of our political culture depends upon free and vigorous expression of opinion, and it is crucial that this freedom is preserved.

The increasing prevalence of intimidation of Parliamentary candidates, and others in public life, should concern everyone who cares about our democracy. This is not about defending elites from justified criticism or preventing the public from scrutinising those who represent them: it is about defending the fundamental structures of political freedom.

A significant proportion of candidates at the 2017 general election experienced harassment, abuse and intimidation. There has been persistent, vile and shocking abuse, threatened violence including sexual violence, and damage to property. It is clear that much of this behaviour is targeted at certain groups. The widespread use of social media platforms is the most significant factor driving the behaviour we are seeing.

Intimidatory behaviour is already affecting the way in which MPs are relating to their constituents, has put off candidates who want to serve their communities from standing for public offices, and threatens to damage the vibrancy and diversity of our public life. However, the Committee believes that our political culture can be protected from further damage if action is taken now.

Having taken evidence from a number of Parliamentary candidates, and a range of expert organisations and members of the public, it is clear that there is no single, easy solution. But, at a watershed moment in our political history, it is time for a new and concerted response.

Our report makes recommendations which address the full breadth of the problem we face. Those across public life must work together to address this problem: we must see greater energy and action from social media companies, political parties, Parliament, the police, broadcast and print media, and from MPs and Parliamentary candidates themselves. Above all, this is a question of leadership by our largest political parties. This is all the more important in the light of recent allegations of sexual harassment and bullying in Parliament which will have shaken public confidence in politicians. Political parties will need to work together to address intimidation in public life; they should not use this report and its recommendations for partisan purposes or political gain.

We propose legislative changes that the government should bring forward on social media companies' liability for illegal content online, and an electoral offence of intimidating Parliamentary candidates and party campaigners. Political parties must also put in place measures for more effective joint working to combat intimidation in advance of the next general election. In the long term, prevention will be more effective and important than any individual sanction. Those in public life must adopt a more healthy public discourse and must stand together to oppose behaviour which threatens the integrity of public life.

I commend the report to you.

Lord Bew

Chair, Committee on Standards in Public Life





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

Jo Cox MP





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Executive summary

Intimidation in public life presents a threat to the very nature of representative democracy in the UK. Addressing this intimidatory, bullying and abusive culture matters. It matters for the diversity of our public life, it matters for the way in which the public can engage with representative democracy, and it matters for the freedom to discuss and debate issues and interests.

While intimidation in public life is nothing new, the scale and intensity of intimidation is now shaping public life in ways which are a serious issue. Social media companies have been too slow in taking action on online intimidation to protect their users. The political parties have failed to show leadership in calling out intimidatory behaviour and changing the tone of political debate. Police authorities have shown inconsistency in supporting those facing illegal intimidatory activities, and electoral law is out of date on this issue. So, we make recommendations for action to social media companies, political parties, government, police and prosecutors.

Intimidation also reflects broader issues with our public political culture. Those in public life must take responsibility for shaping that culture. They must take steps to ensure that their behaviour does not open the door for intimidation and work to build public trust in public life. They should uphold high ethical standards, and should never themselves engage in, incite or encourage derogatory or dehumanising political debate.

To understand this issue we have heard from a range of individuals and organisations, including candidates, MPs, social media companies, local councillors, regulatory bodies, broadcasters and journalists, police and security authorities, and other relevant stakeholders. We held 34 individual meetings, a roundtable, and a public and private hearing. We also received 88 written submissions to our call for evidence.

Our recommendations stand as a package. They should be implemented together, as a comprehensive response to an issue of central importance to our representative democracy. It is clear that determined action on the part of all those involved is required. The cost of not doing so is too high.

Our recommendations

The widespread use of **social media** has been the most significant factor accelerating and enabling intimidatory behaviour in recent years. Although social media helps to promote widespread access to ideas and engagement in debate, it also creates an intensely hostile online environment. Some have felt the need to disengage entirely from social media because of the abuse they face, and it has put off others who may wish to stand for public office.

In the fast-paced and rapidly developing world of social media, the companies themselves and government must both proactively address the issue of intimidation online. Not enough has been done. The Committee is deeply concerned about the limited engagement of the social media companies in tackling these issues.

Currently, social media companies do not have liability for the content on their sites, even where that content is illegal. This is largely due to the EU E-Commerce Directive (2000), which treats the social media companies as 'hosts' of online content. It is clear, however, that this legislation is out of date. Facebook, Twitter and Google are not simply platforms for the content that others post; they play a role in shaping what users see. We understand that they do not consider themselves as publishers, responsible for reviewing and editing everything that others post on their sites. But with developments in technology, the time has come for the companies to take more responsibility for illegal material that appears on their platforms.



The government should seek to legislate to shift the balance of liability for illegal content to the social media companies away from them being passive ‘platforms’ for illegal content. Given the government’s stated intention to leave the EU Single Market, legislation can be introduced to this effect without being in breach of EU law. We believe government should legislate to rebalance this liability for illegal content, and thereby drive change in the way social media companies operate in combatting illegal behaviour online in the UK.

Government should bring forward legislation to shift the liability of illegal content online towards social media companies.

The social media companies are not providing a safe experience for their users. This is having a severely negative impact on a wide range of people in public life, who can be subject to persistent, vitriolic and threatening abuse online.

In advance of legislative change, social media companies must take responsibility for developing technology and the necessary options for users to tackle the issue of intimidation and abuse on their platforms.

Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.

Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.

Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.

The Committee is deeply concerned about the failure of Google, Facebook and Twitter to collect performance data on the functioning of their report and takedown processes. Their lack of transparency is part of the problem. None of these companies would tell us if they collect this data, and do not set targets for the time taken for reported content to be taken off the platform. This seems extraordinary when their business is data driven in all other aspects. This data must be collected, and made available to users to judge the companies’ performance on takedown.

All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content online.

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

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

Political tensions run high during election campaigns, and this also plays out online. During election campaigns, political debate and discussion online can become particularly heated. This can be amplified when intimidatory content online is not taken down quickly enough, as it shapes the tone of political debate.



Therefore, government should work with the social media companies to develop an independent body which can be set up during election campaigns as a ‘trusted flagger’ social media reporting team for illegal, hateful and intimidatory content. This would lead to any intimidatory content online being dealt with more quickly during the fast-paced context of an election.

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

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

Political parties have an important duty of care to their candidates, members and supporters to take action to address intimidation in public life. Intimidation takes place across the political spectrum, both in terms of those engaging in and those receiving intimidation.

The leadership of political parties must recognise this duty of care, and call out and condemn intimidatory behaviour wherever it occurs. Political parties must also be prepared to work together and engage constructively on these issues. Although political parties rely heavily on volunteers, particularly at election time, given the seriousness of the intimidation experienced by candidates and others, the parties have a responsibility to show leadership in addressing intimidation.

Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.

Political parties must proactively work together to tackle the issue of intimidation in public life.

Some of those engaging in intimidatory behaviour towards Parliamentary candidates and others are members of political parties and/or the fringe groups of political parties. Leaders across the political spectrum must be clear that they have no tolerance for this sort of behaviour in their party, wherever it occurs. They should not remain silent whenever and wherever intimidation takes place.

One important part of setting expectations for the appropriate behaviour is through a code of conduct for members. Codes of conduct should also be supported by training on the code, and backed-up with appropriate disciplinary processes and sanctions for inappropriate behaviour.

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

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

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



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

To tackle this issue, more cross-party collaboration is needed. The parties should come together to develop a joint code of conduct on intimidatory behaviour during election campaigns. This would encourage cross-party consensus on recognising and addressing the issue, and reduce the party political element of enforcing breaches of the code.

This code should be jointly enforced by the political parties through regular meetings during election campaigns. By working together, parties can take steps to set aside partisan differences to combat the important issue of intimidation in our public life.

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

Political parties have a responsibility to support and try to protect those who give their time, often on a voluntary basis, towards the democratic process and public life. This includes support and training on online campaigning.

In particular, the parties must provide support for those who are most likely to be subject to the most intensely hostile abuse online. We are deeply concerned about the impact of intimidation on the diversity of our representative democracy, therefore, the parties have an important responsibility to support female, BAME, and LGBT candidates and prospective candidates in particular.

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

Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.

For the **law** to be effective and enforceable, existing legislation must have a sufficient scope, the **police** must be able to curtail and contain intimidatory behaviour, as well as be able to gather the required evidence where a prosecution is appropriate, and **prosecutors** must have appropriate guidance in place.

We have seen no evidence that the current criminal law is insufficient. New offences specific to social media are unnecessary and could be rendered out-dated quickly.

Intimidation of Parliamentary candidates is of particular significance because of the threat it poses to the integrity of the democratic process and of public service more widely. Specific electoral sanctions would reflect the seriousness of this threat. A new electoral offence of intimidating Parliamentary candidates and party campaigners during an election should be considered. This would serve to highlight the seriousness of the issue, result in more appropriate sanctions, and serve as a deterrent to those specifically targeting Parliamentary candidates and their supporters.



The government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.

The requirement that candidates standing for election as local councillors must publish their home address on the ballot paper has enabled intimidatory behaviour. There is cross-party consensus for legislation to remove this requirement, which the government should bring forward. Provisions already exist to prevent local authority members' particular financial and other interests being publicly declared where there is a risk of intimidation to them or their family, and these provisions should be drawn to members' attention by Monitoring Officers.

The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.

Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.

There have been a significant number of prosecutions and convictions, with a relatively high rate of successful prosecutions, for offences covering intimidatory behaviour. The Crown Prosecution Service (CPS) guidelines on cases involving social media communications rightly set a high evidential threshold and demanding public interest test, in order to ensure compatibility with the Article 10 right to freedom of expression under the European Convention on Human Rights.

We are persuaded that the CPS guidelines are reasonable and proportionate.

We commend the work of the Parliamentary Liaison and Investigation Team (PLaIT), a specialist police team based in Parliament which is building a national picture of the security threat to MPs and acts as a central point of contact and advice for individual MPs, and makes recommendations for additional security measures. However, its effectiveness requires MPs to make full use of the advice and services offered to them and to report any threats.

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

There is currently inconsistency in the approach taken locally by police forces in policing intimidatory behaviour towards Parliamentary candidates. This may be due to police forces not fully understanding the context in which MPs and candidates operate, as well as a lack of understanding of social media technologies. Whilst we are mindful of pressures on police resources, better guidance and training is needed in this area.

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

There is a lack of policing guidance on offences which constitute intimidation during election periods, and local police sometimes conflate personal threats and public order offences. General election periods are a heightened environment in which candidates, in particular MPs standing for re-election, are more likely to experience intimidation.



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

The rise of social media, in particular its transnational reach, has created significant challenges for policing. A most significant challenge is establishing who is responsible for sending a particular communication.

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

Parliamentary candidates have a broad range of expectations about what the police would be able to do in response to intimidatory behaviour they experience. Greater clarity as to what behaviour is and is not illegal, and what Parliamentary candidates can expect from their local police force, would assist Parliamentary candidates during a campaign and would result in more effective policing.

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

It is important that those who perpetrate intimidatory behaviour face proportionate legal sanctions. However, the law is a blunt instrument for dealing with much intimidatory behaviour. Policing and the law should not be seen as the primary means of addressing this issue. The primary focus must be on prevention.

Everyone in public life must play their part in **taking responsibility** for combatting intimidatory behaviour; this includes in particular MPs, leaders of political parties, and the media. They all play a role in shaping a healthy public political culture which does not open the door to intimidation.

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

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

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

Those in positions of power and leadership in public life have a particular responsibility to consider how their tone is likely to shape public debate, and must not engage in political debate in a derogatory, dehumanising, or abusive way.

In particular, they must seek to stop intimidation based on prejudice or hate, which has a disproportionately negative impact on women, BAME, LGBT and other candidates from minority groups. It is essential that those in positions of leadership take steps to stop hatred and intimidation based on personal characteristics.



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

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

The broadcast and print media also have a responsibility to help tackle the intimidatory tone of public life. The freedom of the press is essential and must be protected. Nevertheless, journalists, broadcasters and editors should consider how the content they create might incite intimidation through delegitimising someone's engagement in the political process, placing undue influence on their individual characteristics, or using threatening language. While continuing their important scrutiny of those in public office, they must also be careful they are not unduly or unfairly undermining trust in the political system, especially through portraying stories about disagreements as breaches of ethical standards.

The media must also take active steps to prevent intimidation by ensuring that they do not encourage or incentivise obtaining stories through intimidation or harassment.

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

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

Election campaigns are competitive and Parliamentary politics is adversarial. Candidates and MPs must be able to have robust political debate within our democracy without opening the door to intimidation. Where candidates engage in highly personalised attacks, or blur the distinctions between policy differences, professional failures and breaches of ethics, they legitimise the behaviour of others who seek to engage in intimidation. They also undermine trust in the political system.

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



Summary table of recommendations and timeframes

Recommendation	Responsibility	Timeframe
Government should bring forward legislation to shift the liability of illegal content online towards social media companies.	Government	On exiting the EU
Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.	Social media companies	Immediately
Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.	Social media companies	Immediately
Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.	Social media companies	Immediately
All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content online.	Social media companies	Immediately
Twitter, Facebook and Google must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.	Social media companies	At least every quarter, beginning in the first quarter of 2018
Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.	Social media companies	Immediately
The social media companies should work with the government to establish a 'pop-up' social media reporting team for election campaigns.	Social media companies	Before the next general election
Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while using their sites.	Social media companies	Before the next general election
Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.	Those in positions of leadership within political parties	Immediately
Political parties must proactively work together to tackle the issue of intimidation in public life.	Political parties	Immediately



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



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



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



Introduction

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

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

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

Terms of reference

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

The review should:

- examine the nature of the problem and consider whether measures already in place to address such behaviour are sufficient to protect the integrity of public service; and whether such measures are (a) effective, especially given the rise of social media, and (b) enforceable

- produce a report, including recommendations for action focused on what could be done in the short and long-term and identifying examples of good practice

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

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

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

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



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

Overview of the report

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

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

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

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

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

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



Chapter 1

Intimidation in public life

What is the problem?

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

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

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

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

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

Sarah Lesiter-Burgess

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

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

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

Rachel Maclean MP

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

2 Written Submission 44 (Sarah Lesiter-Burgess)

3 Written Submission 49 (Rachel Maclean MP)



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

Jess Phillips MP

(quoted by National Democratic Institute for International Affairs)

What we have seen

“2017 was the most negative campaign I have experienced. For example at hustings, if someone doesn’t agree with you they shout you down.”⁵

Rehman Chishti MP

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

Findings from evidence submitted to the Committee:

33% of candidates surveyed had experienced ‘inappropriate’ behaviour during the election campaign⁶

56% of candidates surveyed are concerned about abuse and intimidation, and 31% say they are fearful⁷

No female MP who was active on Twitter has been free from online intimidation⁸

Of the women in Parliament, Diane Abbott MP received the most abuse. In addition to this, black and Asian women MPs – despite representing only 11% of all women in Westminster – received 35% more abusive tweets than white women MPs⁹

One clear trend is that social media is changing the way in which election campaigns are conducted and has led to a marked shift in how the public engages with Parliamentary candidates. Online intimidation is now a persistent characteristic of election campaigns for a large number of Parliamentary candidates, who can be subject to intimidatory messages 24 hours a day.

“Thirty years ago, when I first became an MP, if someone wanted to attack an MP, they had to write a letter—usually in green ink—put it in an envelope, put a stamp on it and walk to the post box. Now, they press a button and we read vile abuse that, 30 years ago, people would have been frightened even to write down.”¹⁰

Rt Hon Diane Abbott MP

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

5 Rehman Chishti MP, Individual Oral Evidence, 14 September 2017

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

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

8 Written Submission 87 (Amnesty International)

9 Written Submission 87 (Amnesty International)

10 Diane Abbott MP, speaking in a Westminster Hall debate on 12 July 2017, Hansard HC Deb, 12 July 2017, Vol 627, Col 159WH



Intimidation has been experienced by individuals across public life, from all groups and across the political spectrum. What is especially worrying is that some groups are disproportionately likely to be the targets of intimidation and abuse both online and offline. Candidates who are female, BAME or LGBT are disproportionately targeted in terms of scale, intensity and vitriol. The intimidation experienced by those who fit in more than one of these groups can be even worse.

“I’ve been in and around lobbies since 2003 and have been in Westminster full time since 2014/15. There’s been a sea change during that time in what’s been experienced by MPs and candidates, especially women.”¹¹

Laura Kuenssberg

The prevalence of intimidation during election campaigns, and in public life more broadly, has an impact on those beyond just Parliamentary candidates. It affects candidates’ families, staff, party volunteers, supporters, and voters.

“Intimidation may well put people off even acting as volunteers and activists for political parties at a grassroots level, which is often the first step towards public roles.”¹²

William Wragg MP

We face a serious challenge. Parliament cannot be cut off from the people it represents; we cannot permit intimidation to result in the exclusion of women and members of black and minority ethnic groups from the ranks of parliamentarians; and our public culture must be one in which people can debate, exchange views, and express their opinions, with mutual respect, civility and truth.

Why does addressing intimidation matter?

The wide spread of intimidatory language and behaviour is already shaping our political culture. Representative democracy is dependent on people’s freedom to engage in political debate and discussion. That freedom is compromised when a culture of intimidation effectively forces people out of public life, and where people are put off engaging in the political process by intimidation. The vast majority of messages the public send to MPs are not unpleasant, abusive or intimidatory. Our culture needs to promote debate and discussion, but it needs to do so in a way which preserves the civility of that debate and the integrity of political processes and mechanisms.

Freedom of expression

“We are definitely at a potential turning point. We are on a trajectory, there was a healthy change since the 1950s where the pedestal for office holders has been knocked down, but we are now at a stage of danger of dehumanisation. Right at the other end, if we end up there, it is a very dark and dangerous place for liberal democracy.”¹³

Brendan Cox

Freedom of expression is an important part of a vibrant public life, and our democracy depends on those with different viewpoints disagreeing well. Intimidation aims at shutting down debate – cutting off participation and engagement. In the past, and in many places across the world today, elections are violent and intimidatory, and result in the domination of those who bully most effectively, and often systematically exclude some groups. Tackling this intimidation, far from threatening genuine democratic debate and scrutiny, will serve to enhance and protect it. Indeed, in order to represent all legitimate interests all voices should

11 Laura Kuenssberg, Individual Oral Evidence, 14 September 2017

12 Confidential Submission

13 Brendan Cox, Individual Oral Evidence, 7 November 2017.



be heard so that the democratic process can be maintained.

More than half of candidates surveyed are moderately or very concerned about inappropriate behaviour (56%) and almost a third (31%) say they are fearful.¹⁴

A diverse public life

“I wouldn’t have given up my job and stood for election if the abuse I would receive had been explained to me. I wouldn’t have. I believed I had something to contribute with lengthy experience in the NHS, but I have a young family, and I wouldn’t have wanted to put them through it. Their wellbeing is the priority.”¹⁵

Dr Lisa Cameron MP

Intimidation is already having an impact on our public life. We have heard how racist, sexist, homophobic, transphobic and anti-Semitic abuse has put off candidates from standing for public office. If this issue is not addressed, we could be left with a political culture that does not reflect the society it should represent. This has serious implications for our democracy if our public life erodes to such a degree that it effectively excludes parts of the society it is there to serve.

“There is one woman in particular in my constituency who would make a fantastic MP. She said to me, ‘I wouldn’t do it, I couldn’t do it, I couldn’t go through what you experience.’”¹⁶

Luciana Berger MP

Changing the relationship between Parliament and the public

The intimidation experienced by Parliamentary candidates is also changing the way they interact with the public. We have seen how intimidatory behaviour has led people to reduce or seek protection for their public appearances, and change how they engage with the public online. Without action, this issue is not going to go away, especially as the reduced accessibility and presence of those in public life can itself lead to the dissatisfaction which can fuel intimidatory behaviour.

“Whilst experienced party members and I could handle ourselves, the experience was very off-putting for new members, particularly young and elderly activists. By the end of the campaign we feared for their safety and new activists were only sent out with experienced activists.”¹⁷

Councillor Ameet Jogia

The tone of debate

“The tone of modern political discourse permeates through society and normalises abusive and occasionally aggressive language when discussing politics.”¹⁸

Equality and Human Rights Commission

Intimidation is also changing the tone of our public life. There are many examples of behaviour aimed at shutting down some people’s involvement in the political sphere, as well as discussion and debate around some subjects. Politics, participation and comment has changed dramatically in recent years, with the rise of social media in the context of an increasingly plural and diverse society.

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

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

16 Luciana Berger MP, Individual Oral Evidence, 20 November 2017

17 Written Submission 51 (Councillor Ameet Jogia)

18 Written Submission 82 (Equality and Human Rights Commission)



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

“That level of lively knockabout, which has happened all my adult life, has not changed. What has changed is the sense that the views of the other are illegitimate. The thought is that ‘your views are illegitimate; you should be silenced.’”¹⁹

Nick Robinson

The wide reach of intimidation

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

What can be done?

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

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

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

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

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

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

19 Nick Robinson, Individual Oral Evidence, 6 September 2017

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



Chapter 2

Social media

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

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

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

Amnesty International

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

off by the tone and intensity of political discussion online.

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

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

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

Is this abuse anything new?

“Abuse of parliamentary candidates is not a new phenomenon, but evidence would suggest that with the growth of social media, candidates are more exposed and open to abuse which is taking place on a larger scale than even five years ago.”²²

All Party Parliamentary Group Against Antisemitism

To an extent, the intimidation experienced by candidates is nothing new. In the past, some candidates received intimidating messages by post, or were physically harassed.²³ These ‘offline’

21 Written Submission 87 (Amnesty International)

22 Written Submission 34 (All Party Parliamentary Group Against Anti-Semitism)

23 Submission 10 (Sir Ronald Watson CBE)



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

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

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

What has changed?

The scale

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

The accelerating pace of political debate

“The existing social media platforms are being used to perform a specific democratic function for which they were not designed.”²⁷

BCS – The Chartered Institute for IT

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

The volume of messages

“Some MPs receive an average of 10,000 messages per day.”²⁸

BCS – The Chartered Institute for IT

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

“Social media also bleeds into your 24 hours home life, at night the tweets come in when you’re cooking your kids’ tea or going to bed. There is little place to hide.”²⁹

Lisa Robillard Webb

24 <http://www.internetlivestats.com/twitter-statistics/>

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

26 Google/Jigsaw, Oral Evidence, 2 November 2017

27 Written Submission 64 (BCS - The Chartered Institute for IT)

28 Written Submission 64 (BCS - The Chartered Institute for IT)

29 Written Submission 36 (Lisa Robillard Webb)



Abuse and intimidation online can be persistent and overwhelming. Intimidatory users can use social media to encourage others to inundate a user with hostile messages, known as a 'dogpile'.

Ease of communication online

Social media has made communication with those in public life much easier, with over 70% of UK adults owning a smartphone which can be used from any location to send messages directly to the social media accounts of politicians and candidates.³⁰

"Social media enables unplanned, impulsive comment to reach its target; whereas previously a penned missive entailed numerous opportunities to rethink and change approaches or presented barriers which many would not or could not be bothered to overcome."³¹

Public Submission

"The increasing accessibility to public figures through the likes of social media and digitalisation has led to a blurring of boundaries over what can be considered acceptable and what cannot. A huge amount of the abuse directed at female parliamentary candidates in particular is highly sexualised and dangerous."³²

Scottish Women's Convention

This ease of communication has increased the opportunities for those who intend to intimidate people in public life to do so without much effort. A malicious user of an internet platform does not need to be in physical contact with a candidate, or

even write and send a letter to intimidate. Others who would not consider engaging in offline forms of intimidation, do engage in such behaviours online.

"...our experience is that this an area where an old problem has been given a new and more toxic life."³³

National Democratic Institute for International Affairs

Brevity changing the tone of debate

The format of social media, most obviously Twitter, encourages brevity. While concise communication can make political messages more accessible, the motivation to boil down complex political ideas into short messages can change the tone of debate. The norms of appropriate communication online are not well established.³⁴

The detailed discussion of a political idea or concept may be too long or complex to deliberate or debate on social media, whereas highly personalised political attacks are often more direct and more likely to be shared. Social media therefore incentivises content which is more likely to be negative. While communication and discussion in the traditional media also encourages brevity, these publications receive editorial oversight and operate within a regulatory framework which moderates content.

"Extreme positions whether political or moral or abusive, you will get more a rise in followers. There is an incentive to go to the extreme."³⁵

Lionel Barber, Financial Times

30 https://www.ofcom.org.uk/__data/assets/pdf_file/0017/105074/cmr-2017-uk.pdf

31 Written Submission 22 (Norm Cooper)

32 Written Submission 59 (Scottish Women's Convention)

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

34 Alex Krasodomski-Jones (2017) Signal and Noise: Can technology provide a window into the new world of digital politics in the UK? Demos. <https://www.demos.co.uk/wp-content/uploads/2017/05/Signal-and-Noise-Demos.pdf>

35 Lionel Barber, Editor of the Financial Times, Individual Oral Evidence, 30 October 2017



The impact of anonymity

It is remarkably easy for those who seek to hide their identity online to do so, and some of the social media companies do not require a real name for users to sign up to their services. We have heard evidence from Parliamentary candidates and others in public life that anonymity online perpetuates the abuse and intimidation.

“Because of the internet and social media people feel emboldened to be ruder or more critical than they would otherwise be in person.”³⁶

Rt Hon Sir Hugo Swire MP

Where individuals are able to speak anonymously online, the ‘online disinhibition effect’ can be made worse: people tend to show a lack of restraint when communicating online in comparison to communicating in person.³⁷ The evidence we have received from candidates supports this.

“What is clear though, is that the anonymous and ‘safe distance’ nature of social media platforms allows such abuse to be handed out far less respectfully than it would usually be if delivered face-to-face.”³⁸

Demos

Users can also use technology to make it appear as though they are in a different jurisdiction. This is especially concerning when the online intimidatory behaviour is illegal, as we have seen evidence that it can be difficult for the police to track down those involved intimidation across borders (see chapter 4).

Social media legislation and regulation

The current legal framework

The legislative framework in which social media companies operate is based on simple principles, but is complex in its application. Although the cultural attitudes of the companies are shaped by the US legislation, the key controlling legislation in the UK is the EU’s 2000 E-Commerce Directive,³⁹ which was developed before the current main social media companies even existed.⁴⁰

The E-Commerce Directive (the Directive) allows ‘information society services’ providers, such as internet service providers and social media companies, to be exempt from criminal or civil liability when their services are used to commit an offence – for example, publishing or transmitting illegal content.

The Directive sets out the responsibility of the social media companies as ‘platforms’ for content created by other people. The aim of the Directive was to strike a balance between maintaining a low regulatory burden on service providers, the social interest in removing illegal content, and upholding individual rights including freedom of expression.⁴¹

How does the law work in practice?

The posting of death threats, threats of violence, and incitement of racial hatred directed towards anyone (including Parliamentary candidates) on social media is unambiguously illegal. Many other instances of intimidation, incitement to violence and abuse carried out through social media are also likely to be illegal. We outline and evaluate the current law surrounding the content of communications further in chapter 4.

36 Sir Hugo Swire MP, Individual Oral Evidence, 20 November 2017

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

38 Alex Krasodonski-Jones (2017) Signal and Noise: Can technology provide a window into the new world of digital politics in the UK? Demos. <https://www.demos.co.uk/wp-content/uploads/2017/05/Signal-and-Noise-Demos.pdf>

39 European Union E-Commerce Directive (2000/31/EC)

40 Friendster was found in 2003, MySpace and Facebook in 2004, Bebo in 2005, and Twitter in 2006

41 European Union E-Commerce Directive (2000/31/EC), Recital 41



Social media companies are not held legally liable for any illegal content, as they are likely to fall within the ‘hosting’ exemption,⁴² where the provider’s relationship to that content as a host is considered merely ‘technical, automatic or passive’.⁴³ The hosting exemption requires that the company does not have knowledge of the illegal activity or information, and removes or disables access to it ‘expeditiously’ if it becomes aware of it. This has formed the basis for what is called the ‘notice and takedown’ model.⁴⁴ Member states are prohibited from imposing a general monitoring duty on service providers in Article 15 of the Directive. This means that social media companies are legally envisaged to have a passive, rather than proactive, role in identifying and removing illegal content.

International comparisons on social media regulation

The EU E-Commerce Directive came into law 17 years ago, before most of the big players in today’s social media landscape even existed. Since then, EU member states have diverged significantly in their legislative treatment of social media platforms.⁴⁵ Member states have differing interpretations of what counts as ‘actual knowledge’ of illegal content, what counts as ‘expeditious’ takedown of content, and whether ‘manifestly illegal content’ (content that is obviously illegal even to a non-lawyer) merits different treatment.⁴⁶

Germany

In a significant development in June 2017, Germany became the first EU member state to pass legislation creating time-specific takedown provisions for social media platforms and introducing sanctions for contravention.

The German Network Enforcement Act applies to social media networks with two million or more registered users, and requires them to remove content that is “clearly illegal” within 24 hours of being notified by a user. A social media network intentionally or negligently violating this obligation can be fined up to €50 million.⁴⁷

USA

The USA has significant liability exemptions for social media companies, based on Section 230 of the Communications Decency Act 1996. This section specifically states that “no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another content provider”. Section 230 has been consistently upheld in US case law and provides robust exemption from liability for illegal material published on social media companies.

This gives the USA a regulatory environment which is highly favourable for social media companies, with the only significant exception being intellectual property breaches. Since the major social media companies all have their headquarters in the USA, this regulatory mindset can shape their engagement with legislative authorities across the world.

Legislative reform

The EU’s E-Commerce Directive is the reason that the social media companies do not search proactively for illegal content in order to remove it. The notice and takedown model incentivises service providers to avoid actively monitoring or taking preventative measures against illegal content so that they benefit from the hosting exemption.⁴⁸

42 Article 14, European Union E-Commerce Directive (2000/31/EC)

43 European Union E-Commerce Directive (2000/31/EC), Recital 42. The importance of meeting this condition to benefiting from the hosting exemption was confirmed by the European Court of Justice in *Google France and Google*, C-236/08

44 European Commission Staff Working Document (2012), Online services including e-commerce in the Single Market, SEC(2011) 1641, p39

45 European Commission Staff Working Document (2012), Online services including e-commerce in the Single Market, SEC(2011) 1641, p26ff

46 European Commission Staff Working Document (2012), Online services including e-commerce in the Single Market, SEC(2011) 1641, p32-39

47 Library of Congress, “Germany: Social Media Platforms to Be Held Accountable for Hosted Content Under ‘Facebook Act’”, *Global Legal Monitor*, 11 July 2017

48 European Commission Staff Working Document (2012), Online services including e-commerce in the Single Market, SEC(2011) 1641, p35



When the UK leaves the EU, it will cease to have obligations under EU law. The government may then seek to tip the balance of liability for certain forms of illegal content towards social media companies. Especially as technology has developed, removing or blocking access to individual content no longer requires disproportionate effort or expense for the social media companies.⁴⁹

“Our position is we would much rather when there are genuine, and there are genuine attitudes that concern, let’s try and work with Parliamentarians, with governments, with NGOs and all the other relevant parties and with other companies to try and address the problem, such that Parliamentarians don’t feel that they have to regulate...if they decide after all that there are still things that need legislating, it is clearly their call and we respect the democratic process.”⁵⁰

Facebook

Due to the quickly changing nature of social media and the fast-paced change in technological advancements, government should look beyond just working with the social media companies. Instead, Parliament should consider on a first principles basis the legislative framework that the social media networks and technological companies of the future should need to grow within.

Parliament should reconsider the balance of liability for social media content. This does not mean that the social media companies should be considered fully to be the publishers of the content on their sites. Nor should they be merely platforms, as social media companies use algorithms that analyse and select content on a number of unknown and commercially confidential factors. These out-dated categories must be reconsidered to recognise the changing nature of the creation,

ownership and curation of online content and communications.

“We need new categories and to think about which parts of our current typologies still apply. The current distinctions do not do justice to the nature of [social media] institutions and their many and varied functionalities.”⁵¹

Will Moy, Full Fact

It is clear to us that the social media companies must take more responsibility for the content posted and shared on their sites. After all, it is these companies which profit from that content. However, it is also clear that those companies cannot and should not be responsible for human pre-moderation of all of the vast amount of content uploaded to their sites.

Legislation which rebalances the liability for online content can be considered when the UK ceases to have obligations under EU law. For example, legislation could remove the hosting liability exemption for particular types of content, such as death threats, where automatic removal or monitoring does not require disproportionate effort or expense.

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

Legislative change to rebalance liability would ensure that our recommendations on speeding up the process of taking down content, and transparency about the collection of data on notice of takedown, are enacted. It would also remove the current perverse incentives for companies to avoid any form of active moderation using machine learning.

49 The High Court accepted this in *Mosley v Google*, [2015] EWHC 59 (QB), 49-54

50 Simon Milner, Facebook, Oral Evidence, 20 September 2017

51 Will Moy, FullFact, Oral Evidence, 30 October 2017



Government should bring forward legislation to shift the liability of illegal content online towards social media companies.

There are concerns across government about illegal online behaviours and activity, which touch on a number of issues across government departments. We are aware that the social media companies are often dealing with different parts of government on different subjects, including hate speech, child sexual exploitation, counter-terrorism, and copyright. We discuss this further in chapter 4.

The social media companies must uphold their responsibility to engage with government to help tackle these issues. The government should take a coordinated approach to promote joint working with the social media companies. Government and Parliament should consider the recommendations we make to social media companies, and make efforts to take them forward as part of their wider work with the companies.

Developing technology and supporting users

In the meantime, and in addition to legislative change, there is much that the social media companies can and should be doing to change the experience of users who experience online abuse and intimidation.

“We need to protect users, even from a commercial perspective, we need to make people feel safe online.”⁵²

Jigsaw

Using technology to combat online intimidation

Social media firms rely on a ‘report and take down’ model for offensive, intimidatory and illegal material: a company’s users flag content to the host site, which then makes a decision about whether it breaches their rules and guidelines. Due to technological advances in text analysis and machine learning, companies should be able to develop ways to monitor proactively illegal and/or hateful content online.

“Machine learning is extremely important for flagging violent extremism content for review: over 83 percent of the videos we removed for violent extremism in the last month were taken down before receiving a single human flag... [we] receive over 260,000 user flags a day.”⁵³

Google

The Committee agrees with the House of Commons Home Affairs Committee’s recommendation that “all social media companies [should] introduce clear and well-funded arrangements for proactively identifying and removing illegal content”.⁵⁴ These companies are not lacking in resources, and having heard directly from social media companies, we remain unconvinced that they are going far enough or fast enough to tackle online intimidation or collect information intimidation reported to them.

52 Yasmin Green, Jigsaw, Oral Evidence, 2 November 2017

53 Google, Follow-up to Oral Evidence, 2 November 2017

54 <https://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2015/inquiry7/>



“For the industry, as noted, further investment in artificial intelligence systems should be a priority. Algorithms must be created that more readily filter abusive words, accounts and pictures, and more effectively identify problem users and remove them.”⁵⁵

All Party Parliamentary Group Against Antisemitism

The burden of combatting intimidation online should not lie solely with those who are intimidated. We have heard evidence from those who have experienced intimidation about the detrimental impact that having to deal with torrents of abuse can have on their lives. The social media companies have an immediate responsibility to develop and implement technology to support users who face intimidation by identifying, blocking, and screening hateful and abusive content.

“The first thing we do in the morning is to block and delete online abuse, usually whilst having breakfast. Porridge with one hand, deleting abuse with the other.”⁵⁶

Office of Rt Hon Diane Abbott MP

While there has been positive collaboration among social media firms, government and the third sector in tackling some illegal activities, for example online child abuse, this investment in a collaborative approach must also be taken for other key social issues, including online intimidation. The companies have told us that they do not compete on public policy or safety, so they must work together to address these issues.

Some progress is being made in the development of machine learning and automation techniques

to try to change the tone of political discussion online. Jigsaw, formerly Google Ideas, and Google’s Counter Abuse Technology team have been developing Perspective, an application-programming interface (API) which “uses machine learning to spot abuse and harassment online”.⁵⁷ However, we were disappointed to learn that this development is not being embedded into Google products, including YouTube.

Companies should be taking steps to use machine learning to identify intimidatory patterns of behaviour of users – for example sending lots of messages to one user in a short time frame with no replies, or persistently using violent or inappropriate language. Technology to identify online intimidation must be taken up across companies. This technology should not rely solely on users actively opting-in.

The companies should then take steps to prevent these users from engaging in such behaviour. Twitter, for example has introduced an automated ‘timeout’ for users engaging in intimidatory behaviour online.

“We’re using technology in ways to try to find that behaviour. User reports are still critical – and we won’t get past that because context is everything. We think there’s good progress... We are taking action on ten times more accounts than this time last year, due to internal machine learning.”⁵⁸

Twitter

55 Written Submission 34 (All Party Parliamentary Group Against Anti-Semitism)

56 Staff of Diane Abbott MP, Individual Oral Evidence, 1 November 2017

57 <https://www.perspectiveapi.com/>

58 Nick Pickles, Twitter, Oral Evidence, 25 October 2017



There has not been enough progress on developing automated techniques for the identification and takedown of intimidatory content online. As one way to combat intimidation in the immediate term, Facebook, Google and Twitter must do more to use technology to protect users from intimidation.

Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.

Identifying and preventing ‘dogpiling’

We have heard evidence of the ‘dogpiling’ of public figures, where an individual can receive tens of thousands of messages a day as part of a co-ordinated campaign or after becoming the centre of a viral news story. This can be a particular problem on Twitter, but also applies on other online platforms. The traditional press and broadcast media can trigger and perpetuate these ‘tweet storms’ by reporting on them.

“It got so bad during the election that for much of the campaign I came off social media and didn’t post anything which impacted on my ability to campaign.”⁵⁹

Maria Caulfield MP

The social media companies are making some progress in this area by developing new, automated tools to reduce the impact of dogpiling on individuals. For example, Twitter has taken steps to enable their teams to review reported tweets targeted at a person who is being dogpiled more quickly.

Twitter has set out in their community guidelines that users are prohibited from encouraging this behaviour.⁶⁰ However, any such co-ordinated online intimidation could be organised on other web platforms or specialised websites. Some of these messages may also be sent by automated bots and anonymous accounts. Therefore, the social media companies must do more to identify dogpiling and support users.

“...multiple different people are sometimes targeting an individual at scale. This is where they need help – and that’s why we have a relationship with political parties.”⁶¹

Twitter

Facebook commented to us that they deliberately do not have a ‘big red button’ to report content, as they need to ask questions about the inappropriate online behaviour in order to prioritise it. However, Reclaim the Internet recommend a ‘panic button’ system, whereby users can report online intimidation in the case of dogpiling due to the intensity of the messages.⁶² Combined with automated processes to identify where online dogpiling occurs, a panic button could help to protect those in the public eye from suffering intimidatory messages.

Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.

59 Written Submission 53 (Maria Caulfield MP)

60 <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/609/609.pdf>

61 Nick Pickles, Twitter, Oral Evidence, 25 October 2017

62 http://www.reclaimtheinternet.com/big_questions



Giving users options

Public figures who have experienced online intimidation told us that user options such as options to block and mute messages, phrases and other users are an important part of helping to protect themselves against some abusive content and managing their social media presence. But these measures do not yet go far enough to protect users.

Social media companies have taken some steps to give users options to reduce intimidatory behaviour online. These options, which should be simple for users to enable, provide those who experience intimidation with a means to prevent further threatening or offensive messages from appearing on their social media profiles.

“You can mute certain words, or you can use a filter where you don’t see tweets from someone who hasn’t changed their profile picture from the default. Some MPs are worried about using too many filters.”⁶³

Twitter

Twitter has announced the development of tools for users never to be shown tweets from a user who has never changed their profile picture or has not verified their phone number.⁶⁴ Facebook has introduced similar mechanisms to enable users to block profiles, and ‘unfollow’ pages and groups.

These tools must be improved and implemented in the immediate term. They must be clear to users and simple to set up. The companies have a responsibility to their users to enable users to protect themselves from reading intimidatory abuse online.

Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.

Action on report and takedown

However, when users mute or block an account it does not prevent a discussion, which may be illegal and/or incite violence, from continuing. Therefore, once someone has blocked or muted an account they must rely on others to report content to the social media company.

“They will remove them for you to see them, but not remove it altogether...But removing it from Diane doesn’t stop another black woman from seeing it, or from emboldening someone else.”⁶⁵

Office of Rt Hon Diane Abbott MP

As things stand, the delayed action by many of the social media companies in taking down content reported to them is unacceptable. We have heard from figures across public life about the frustration they have felt about the platforms’ (especially Facebook, Twitter and Google) delayed response or inaction on content that has been reported to them.

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

63 Nick Pickles, Twitter, Oral Evidence, 25 October 2017

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

65 Staff of Diane Abbott MP, Individual Oral Evidence, 1 November 2017

66 Written Submission 69 (Fawcett Society)



Delivering on takedown of reported content

Users of social media platforms should expect that the social media companies will take quick and decisive action on any content reported to them. The companies have a responsibility to their users, as well as a broader social responsibility, to act quickly to take down content on their platforms that violates their terms and guidelines. They already do this with commercial interests such as copyright infringement, and should do so with hateful and illegal speech which can be much more harmful.

In addition to developments in machine learning, human decision-making can play an important role in taking down some social media content, especially where online intimidation is very subjective.

“There were very subtle threats because of the context of the previous communication. For example, a woman talked about a man who was in abusive communication with her... mentioning the road that she lived on.”⁶⁷

Dr Ruth Lewis

Facebook told us that they are increasing the size of their global ‘community operations’ team from 4,500 to 7,500 people.⁶⁸ We commend this, but it must also have the impact of changing the user experience in terms of action on reported material.

This is not just a matter of allocating more resources; Google, Facebook and Twitter must do more so that action is taken on the content reported to them which breaches their rules. None of the social media companies have done enough to act on the content reported to them.

All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content online.

Transparency about performance on takedown

We are surprised and concerned about Google, Facebook and Twitter’s failure to collect performance data on the functioning of their report and takedown processes. Facebook and Twitter said that they do not collect data on the number of reports they receive by country, the percentage of reported content that is taken down,⁶⁹ nor the amount of time between the initial report and the content being removed from the site. Nor do they have targets for improving performance on the takedown of reported content.

“JR: You don’t keep performance data, you don’t do data reports on how many you’ve had in a particular period of what type of incident? SM: No.”⁷⁰

Facebook

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

67 Dr Ruth Lewis, Roundtable, 12 September 2017

68 Simon Milner, Facebook, Individual Oral Evidence, 20 September 2017

69 Google do publish country-level data on government requests for the takedown of content. <https://transparencyreport.google.com/government-removals/by-country/GB>

70 Simon Milner, Facebook, Individual Oral Evidence, 20 September 2017, Nick Pickles, Twitter, Oral Evidence, 25 October 2017.



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

Robert Shrimley, Financial Times

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

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

“Our target is to review a flagged video and make a decision as quickly as possible.”⁷²

Google

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

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

Twitter

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

The government should ensure that this recommendation is written into their code of practice for social media companies, which was required in Section 103 of the Digital Economy Act 2017.⁷³

Promoting swift and constructive escalation to the police

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

“Now the loud aggressor...can find a direct line to the...individual elected members they vehemently disagree with.”⁷⁴

Public Submission

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

72 Written Submission (Google follow-up)

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

74 Written Submission 22 (Norm Cooper)



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

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

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

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

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

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

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

Addressing intimidation online during election campaigns

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

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

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

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

76 Facebook, Individual Oral Evidence, 23 June 2009

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

78 https://www.buzzfeed.com/tomphillips/twitter-abuse-of-mps-during-the-election-doubled-after-the?utm_term=.xlnaVQOmp#.wpwo4qDMG



Social media companies should work with the police, Parliament and political parties to consider what special measures may be put in place during election campaigns.

Acting quickly to take down 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.



Chapter 3

Political parties

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

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

“They are interested in what they can use you for, not always on you as an individual, or what is particularly difficult for you.”⁸³

Sarah Olney

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

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

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

Taking responsibility for setting the tone

For everyone who engages in the political process, whether as party members, supporters, voters or observers, the political parties and especially their leaders play a fundamental role in setting the tone of debate surrounding elections.

“If we wish our constituents to respect us as candidates and potential representatives we should lead by example and conduct our debates in the chamber and in the media in a more respectful and civil manner.”⁸⁴

Showing leadership

One of the Seven Principles is leadership, which demands that:

“Holders of public office should exhibit these principles [Selflessness, Integrity, Objectivity, Accountability, Openness and Honesty] in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.”⁸⁵

Those in leadership positions in political parties regionally and nationally have a responsibility to set an appropriate tone within the organisation. They should be aware of how their behaviour shapes the activities of party members and supporters, and take steps to eradicate a culture of intimidation.

“...[if] political parties view harassment and abuse as legitimate tools they will give free reign to others to behave accordingly.”⁸⁶

Jackie Doyle-Price MP

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

83 Sarah Olney MP, Individual Oral Evidence, 17 October 2017

84 Written Submission 85 (Confidential)

85 <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

86 Written Submission 73 (Jackie Doyle-Price MP)



The Committee does not underestimate the frantic nature of election periods, and many of those submitting evidence have referred to the ‘rough and tumble’ nature of politics generally and particularly during election time. Nonetheless, party leaders must send very clear signals that any intimidatory behaviour is unacceptable, as members and supporters will be looking to their leadership to set the tone of their engagement with the campaign.

A survey of Parliamentary candidates at the 2017 general election found that several candidates noted that political parties and candidates themselves are responsible for an ‘abusive environment’ because they use aggressive rhetoric in their campaigns.⁸⁷

Leaders of parties must call out and condemn inappropriate behaviour wherever it occurs. At all times, including during election campaigns, leaders must take steps to set the tone of campaigning and communication, and take responsibility for making sure it is clear that any intimidatory behaviour is completely unacceptable.

Those in positions of leadership within political parties should make very clear that they have a ‘not in my name’ policy for intimidatory behaviour. They must send a clear message to their supporters that it is never acceptable to engage in, or open the door for, intimidation. Whether at a national or local level, parties should be prepared to directly call out behaviour of their supporters where it is inappropriate.

Online, this could include taking opportunities to retweet against the message or respond to inappropriate messages directly, to demonstrate that abusive behaviour is not acceptable. This would play an important part in setting an appropriate tone for political debate.

Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.

Tackling intimidation on a cross-party basis

“It is not inherent in anyone’s politics or ideology to act like this towards individuals. There is the possibility for cross-party and cross-political spectrum work on this.”⁸⁸

Joe Todd, Momentum

Elections are competitive, but denouncing the intimidation of Parliamentary candidates is one issue the parties can, and should, come together on. The Committee was disappointed to learn at our hearing with political parties about the lack of successful collaboration to date between the political parties on this issue.

“The Labour Party has not had cross-party talks with other parties with regard to intimidation, bullying and harassment. The reason for that is probably that there has been a bit of a stand-off. I want to be absolutely truthful about this. The Conservative Party has attacked the Labour Party, and the Labour Party has attacked the Conservative Party.”⁸⁹

Labour Party

We have seen parties unhelpfully using the issue of intimidation for partisan purposes, by alleging that the other party is the problem without addressing issues within their party or trying to work towards a common solution. The intimidation experienced by Parliamentary candidates across the political

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

88 Joe Todd, Momentum, Oral Evidence, 14 November 2017

89 Rt Hon Ian Lavery MP, Labour, Public Hearing, 14 September 2017



spectrum is too high a price to pay for political point scoring.

Political parties may also be reluctant to enforce their rules and codes for party members during elections due to the concern that other parties will use any evidence of intimidatory behaviour against their party as part of the campaign. In particular, party leaders at a national and regional level must show leadership in working together to address this issue across party lines.

Political parties must proactively work together to tackle the issue of intimidation in public life.

Intimidatory behaviour by party members

Political parties are membership organisations often with staff working on a voluntary basis with limited resources. They do, however, have a responsibility to ensure that their members are aware of the behaviour expected of them by the party, and take necessary steps to discipline any members who engage in intimidatory behaviour.

In a survey of 950 Parliamentary candidates at the 2017 general election, 33% reported 'inappropriate behaviour' by supporters of opposition parties and/or candidates. In the same survey, 68% of the 118 Conservative candidates who responded to the survey said they had experienced inappropriate, intimidatory behaviour during the 2017 election campaign, compared to 36% of the 229 Labour candidates.⁹⁰

Evidence submitted to the Committee suggests that Conservative candidates were more likely to be subject to intimidatory behaviour than candidates representing the other political parties.⁹¹ Those who gave evidence at our roundtable

suggested that this could be due to the fact that the Conservatives were the incumbent party of government, and that their party members and activists are less likely to be active on social media.⁹² For example, 38% of Conservative members said they 'liked' on Facebook something by their party or candidate during the 2017 campaign, compared to 63% of Labour members.⁹³

"It [the skew in reported harassment] can be explained in part because the Conservative Party is in government and therefore does things to people rather than simply saying things to or about them, and that will tend to increase opposition and perhaps ill feeling towards it. ... but it is important to realise that to some extent that difference is demographic and structural."

Professor Tim Bale

We are disappointed by the lack of progress by the political parties in ensuring that intimidatory behaviour does not become prevalent within their parties, and eradicating it where it does occur. Parties should use the influence they hold over their members to stamp out any abusive and derogatory behaviour. Party leadership should act immediately to condemn such behaviour as soon as it occurs.

"Greater consistency of approach, in calling out abuse and leading efforts to change party cultures and structures, is needed."⁹⁴

All-Party Parliamentary Group Against Antisemitism

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

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

92 Professor Tim Bale, Queen Mary University of London, Roundtable, 12 September 2017

93 Written Submission 80 (Professor Tim Bale), ESRC-funded UK Party Members Project <https://esrcpartymembersproject.org/>

94 Written Submission 34 (APPG Against Antisemitism)



Each of the parties which fielded candidates at the general election face different opportunities and challenges in managing this issue internally. Smaller parties are able to promote engagement with their members more directly, but have fewer resources to tackle breaches of the rules. The larger parties have more resources and staff to combat these issues, but also have a more disparate and larger group of members. Nonetheless, the recommendations set out below must be adopted proportionately by all of the political parties.

Codes of conduct for party members

Political parties have taken different approaches to developing internal standards on issues of intimidation, harassment and abusive behaviour. In particular, the parties have taken different approaches to developing and implementing codes and conduct and rules for their members.

Codes of conduct are a clear and visible way for political parties to set out the behaviour that they expect of their members. Codes of conduct can be powerful, and they give guidance in clarifying the right thing to do for those who are unsure.⁹⁵ While they are not a silver bullet solution, when combined with leadership, they can play an important role in addressing cultural issues within organisations.

Liberal Democrat Party

The Liberal Democrat Party has a members' code of conduct, which all members must sign up to. This code sets out a number of principles for appropriate behaviour, and also has a checklist of questions that members should ask themselves when they act internally or externally. One of the points on this list is:

Could what I am intending to do or say or write (in any format) be taken as intimidation, harassment or bullying?⁹⁶

We welcome this example of good practice of a political party setting out expected behaviours, and providing members with a framework by which to question their own behaviour. This code also clearly sets out the sanctions which may be employed if the code is breached.

Labour Party

At our public hearing, the Labour Party informed us they are developing a new code of conduct for members in light of the 2017 general election.⁹⁷ We welcome the Labour Party's commitment to developing a new code of conduct, and recommend that it should specifically address intimidatory language and behaviour. We recommend that the code should be produced quickly, and that it is made public.

The Labour Party has also implemented a pledge on online abuse and a social media policy which forms part of the party's membership terms and conditions. The pledge reads:

I pledge to act within the spirit and rules of the Labour Party in my conduct both on and offline, with members and non-members and I stand against all forms of abuse.⁹⁸

Conservative Party

The Conservative Party introduced a code of conduct in November 2017 in light of the sexual harassment scandals surrounding Parliament.⁹⁹ This is accompanied by a new procedure for party

95 Committee on Standards in Public Life, Standards Matter, January 2013, 4.8 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/348304/Standards_Matter.pdf

96 <https://www.libdems.org.uk/doc-code-of-conduct>

97 Ian Lavery MP, Public Hearing, 31 September 2017

98 Written Submission 74 (Labour Party)

99 <https://www.conservatives.com/codeofconduct>



discipline and sanctions when there are allegations that the code has been breached.

This code is for ‘anyone representing the Party as an elected or appointed official or office-holder’ and therefore does not apply to the wider party membership. The code makes explicit reference to bullying and abusive behaviour by those officials, as well as setting out the importance of behaviour which upholds the Seven Principles of Public Life.

They should: Not use their position to bully, abuse, victimise, harass or unlawfully discriminate against others¹⁰⁰

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

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

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

Sanctions, discipline and enforcement

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

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

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

“Parties were not expecting the snap election, and didn’t have always the infrastructure to make sure that they controlled the frontline of campaigning.”¹⁰³

Electoral Commission

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

100 <https://www.conservatives.com/codeofconduct>

101 <https://www.conservatives.com/volunteercode>

102 Written Submission 67 (Conservative Party)

103 Electoral Commission, Oral Evidence, 25 October 2017



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

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

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

Liberal Democrats

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

Collecting data on intimidation

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

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

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

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

Fringe groups

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

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

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

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



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

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

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

A joint code of conduct

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

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

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

Dr Lisa Cameron MP

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

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

Professor Mark Philp

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

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

107 Written Submission 54 (Professor Sarah Birch)

108 Professor Mark Philp, Roundtable, 12 September 2017



“There are accusations of another political party being involved – I asked if they [the other party] would investigate but they would say no.”¹⁰⁹

Lee Scott

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

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

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

Providing support to Parliamentary candidates

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

“There were instances where I had to attend meetings as a candidate and I knew I would face abuse but I didn’t get a response from the party. When you think there is a high risk and you highlight it, you should get some support and guidance.”¹¹⁰

Dr Lisa Cameron MP

“Being a candidate is a lonely experience.”¹¹¹

Lee Scott

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

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

109 Lee Scott, Individual Oral Evidence, 11 October 2017

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

111 Lee Scott, Individual Oral Evidence, 11 October 2017

112 All Party Inquiry into Electoral Conduct (2013) <https://www.antisemitism.org.uk/files/cj3e6rg8y906h0104uh8bojao/cj4muuz500250145fwnqvzat>



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

“I feel that as I am not in a winnable or marginal seat I am given less attention even though the abuse is the same.”¹¹³

Lisa Robillard Webb

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

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

Promoting and supporting diversity

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

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

“Some of it aims to attack women in public life – whether Labour, Tory, SNP – they get a visceral response. It is almost asking, ‘what are you doing in a public space?’”¹¹⁴

Rt Hon Diane Abbott MP

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

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

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

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

113 Written Submission 36 (Lisa Robillard Webb)

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



“We have particular groups, e.g. Greens of colour, women, LGBTIQ+ and others. These groups specialise in supporting these people...at election time they form a key part of supporting those groups.”¹¹⁵

Green Party

“...when it comes to social media. The parties are trying to exploit it for campaigning purposes to the greatest possible extent, so maybe occasionally we are fuelling the engine. We just do not know how to control it.”¹¹⁷

John Vincent

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

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

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

“...cross-party activity has to be there. We have to create the equivalent of the physical social norming whereby if one of your party members at a hustings starts being stupid then everyone rolls their eyes.”¹¹⁹

BCS – The Chartered Institute for IT

Social media: supporting candidates

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

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

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

115 Aimee Challenor, Green Party, Individual Oral Evidence, 21 September 2017

116 Baroness Brinton, Liberal Democrats, Public Hearing, 14 December 2017

117 John Vincent, Roundtable, 12 September 2017

118 Lisa Robilliard Webb, Roundtable, 12 September 2017

119 David Evans, BCS - the Chartered Institute for IT, Roundtable, 12 September 2017



Political parties

As the support network for candidates, parties are well placed to offer this training and guidance. This training could be conducted by the central party or regionally, and could take place in face-to-face or online formats. However it takes place, it is fundamental that candidates and their staff receive the necessary training on:

- managing a social media presence
- utilising block and mute features within the platforms
- how to report content to the social media companies
- recognising online behaviour that is illegal and that should be reported directly to the police

Social media policies and guidance issued by the parties provide a useful first step in addressing this intimidatory behaviour, but the parties have a duty of care beyond this to help candidates and their teams develop a practical awareness of the use of social media.

Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.



Chapter 4

Law, policing and prosecution

Our terms of reference for this review included establishing whether measures in place to address intimidatory behaviour, including the criminal law, are effective and enforceable. The fundamental importance of free speech and legitimate scrutiny of public officials needs to be recognised, and should not be unduly restricted. The vast majority of interactions between the public and those in public life are constructive and respect the principles underpinning our political system. However, it is right that legal sanctions exist for those whose words or behaviour threatens freedom of expression and the integrity of the democratic process. For the current law as a whole to be effective and enforceable, the smooth working of all the parts of the process is required, including legislation, the police, and prosecutors.

The law must have a sufficient scope: intimidatory behaviour, where it should be illegal, should fall within the scope of a relevant offence with appropriate sanctions. The police must be able to address intimidatory behaviour in order to curtail it or prevent it from escalating, but also be able to gather the required evidence where a prosecution is appropriate. The Crown Prosecution Service (CPS) must have appropriate guidance in place to prosecute offences where sufficient evidence exists and where it is in the public interest to do so. We consider challenges to the operation of different parts of the process, and make recommendations for how it can be improved.

Intimidation and the criminal law

The current law includes a range of offences that capture different aspects of our definition of intimidation, words or behaviour intended to or likely to block participation in public life.

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

The law is indifferent to the mode of communication, whether speech, written communication, or through social media. Government ministers have emphasised in relation to social media that “what is illegal offline is illegal online”.¹²⁰ Existing offences relating to intimidation are outlined in the summary table.



Summary table of existing offences

Offence	Legislation	Maximum penalty
Common assault	Criminal Justice Act 1988	6 months' imprisonment and a fine
Destroying or damaging property	Criminal Damage Act 1971, s.1	3 months' imprisonment if less than £5,000; otherwise 10 years' imprisonment
Threats to destroy or damage property	Criminal Damage Act 1971, s.2	10 years' imprisonment
Threats to kill	Offences against the Person Act 1861, s.16	10 years' imprisonment
Harassment	Protection from Harassment Act 1997, s.2	6 months' imprisonment and a fine
Stalking	Protection from Harassment Act 1997, s.2A	6 months' imprisonment and a fine
Harassment involving putting someone in fear of violence	Protection from Harassment Act 1997, s.4 (as amended by the Policing and Crime Act 2017)	10 years' imprisonment and a fine
Stalking involving putting someone in fear of violence	Protection from Harassment Act 1997, s.4A (as amended by the Protection of Freedoms Act 2012 and the Policing and Crime Act 2017)	10 years' imprisonment and a fine
Using threatening or abusive words or behaviour with intent to cause fear of violence	Public Order Act 1986, s.4	6 months' imprisonment
Using threatening or abusive words or behaviour in the hearing of someone likely to be caused alarm or distress	Public Order Act 1986, s.5	Fine (level 3)
Sending a message using a public electronic communications network that is of an indecent, obscene or menacing character	Communications Act 2003, s. 127	6 months' imprisonment and a fine
Sending communications with intent to cause distress and anxiety	Malicious Communications Act 1988, s.1 (as amended by the Criminal Justice and Courts Act 2015)	2 years' imprisonment and a fine



Where criminal intimidatory behaviour is perceived by the victim or any other person to be motivated by hostility or prejudice based on race, religion, disability, sexual orientation or transgender identity, it will be prosecuted as a hate crime.

Sufficiency of the current law

Criminal law

To evaluate whether the criminal law has sufficient scope, we have considered whether intimidatory behaviours, where they ought to be illegal, fall clearly within the range of at least one current criminal offence with appropriate penalties.

“Broadly, the law is there, and, broadly, law enforcement and policing are content with the law. There is a view that, with the advent of the internet, some of our more ancient laws are probably not applicable, but we do not find that. For example, threats to kill comes from the Offences Against the Person Act 1861 and is perfectly serviceable. The Public Order Act 1986 is perfectly serviceable. The Malicious Communications Act 1988 was designed around telephones and letters and is perfectly serviceable. Broadly, we are content with that.”¹²¹

Chief Constable Mike Barton QPM, National Police Chiefs Council

From our own analysis of the existing legal provisions, the Committee has found that the current criminal law is sufficient in the case of offences against the person and damage to property, as well as credible threats of violence. This was also the view of the expert evidence we received from the police and the CPS. However, in the course of the review, the Committee heard concerns about the sufficiency of the current law to deal with intimidatory behaviour on social media.

The relevant laws on abusive communications were framed before social media platforms existed, and there are no current criminal offences specific to social media.

Looking in detail at the offences listed above, the law is neutral on whether an offence is committed on social media or through other means. This is often expressed as the general principle that what is illegal offline is illegal online. This gives the law sufficiency flexibility to apply both to online and offline offences.¹²²

The wording of current offences captures the relevant aspects of behaviour on social media that we are concerned about, such as the nature of the communication as menacing or intending to cause distress. Since this is the case, an offence relating specifically to social media is unnecessary. New legislation which is specific to social media could be rendered out-dated more quickly, since it would involve specifying a particular means of committing an offence.¹²³

The House of Lords Select Committee on Communication considered the issue of criminal offences and social media in 2014, concluding that although all the relevant offences were framed before the prevalence of social media platforms, these offences are generally appropriate for prosecuting offences committed using social media, for the same reasons we have considered above. The Select Committee on Communication also concluded that they did not see a justification for a consolidation of the current law, since the law could be consolidated according to several different aspects of offences, of which social media is just one. Overlap in offences does not necessarily imply duplication, since some offences will be more or less serious than others.¹²⁴

121 Mike Barton QPM, Private Hearing, 14 September 2017

122 Alison Saunders, Q15, House of Lords Select Committee on Communications, Social Media and Criminal Offences Inquiry: Oral and supplementary written evidence

123 Alison Saunders, Q17, House of Lords Select Committee on Communications, Social Media and Criminal Offences Inquiry: Oral and supplementary written evidence

124 Tim Thompson, Q16, House of Lords Select Committee on Communications, Social Media and Criminal Offences Inquiry: Oral and supplementary written evidence



“Our view on social media at the moment is that we feel that we already have a suite of offences there, whether it is the Offences Against the Person Act 1861, the Public Order Act 1986...We believe that that is all there.”¹²⁵

Chief Constable Mike Barton QPM, National Police Chiefs Council

A number of submissions to the review urged the Committee not to recommend the introduction of new criminal offences relating to the intimidation of MPs and candidates. Whilst some offences do exist specifically in relation to named public offices, for example police officers, the current criminal law captures all the relevant aspects of the behaviour that we are concerned with and includes proportionate sanctions. Whilst we believe that electoral law could be updated and improved, the criminal law is not the appropriate place to introduce any new offences directed towards Parliamentary candidates or MPs.

We have seen no evidence to suggest that the current criminal law is insufficient in covering the full range of cases that we have defined as intimidation for the purpose of this report. As such, the current criminal law should remain as it is.

Electoral law

Electoral law can overlap with and complement the criminal law, such that offences with criminal sanctions can also involve sanctions under electoral law. These sanctions are specific to the election process, such as being barred from voting for a certain period, or removal from the electoral register.¹²⁶ Such sanctions recognise that these offences, such as undue influence or electoral fraud, are offences against the integrity

of the electoral process, and that it is therefore appropriate that individuals face sanctions relating to their own privileges within that process.

A number of submissions to the review recommended the implementation of the Law Commission’s recommendations to consolidate and update the offence of undue influence in electoral law.¹²⁷ We believe it is important that voter intimidation is addressed, but it should be noted that existing offences relate only to voter intimidation, not to the intimidation of Parliamentary candidates or party campaigners.¹²⁸

As we conclude above, we believe the current criminal law is sufficient to cover the full range of cases of intimidation. Therefore any new offence in electoral law should be no broader than the existing criminal law. However, the Committee considers that the issue of intimidation is of particular significance because of the threat that it poses to the integrity of public service and the democratic process.

During an election period, it would therefore be appropriate to have specific electoral sanctions that reflect the threat that intimidation of Parliamentary candidates and their supporters poses to the integrity of elections. Any such offence in electoral law should be tightly defined, to capture intimidatory behaviour that is directed towards an individual specifically in their capacity as a Parliamentary candidate or party campaigner, which intends unduly to influence the result of the election (for example, by affecting their candidature or inhibiting their campaigning).

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

125 Mike Barton QPM, Private Hearing, 14 September 2017

126 Written Submission 90 (Electoral Commission)

127 Written Submission 34 (APPG Against Antisemitism), Written Submission 74 (Labour Party)

128 Written Submission 90 (Electoral Commission)



serve to highlight the seriousness of the threat of intimidation of Parliamentary candidates to the integrity of public life and of the electoral process, and will result in more appropriate sanctions. We believe that specific electoral offences will also serve as an effective deterrent to those who are specifically targeting Parliamentary candidates and their supporters.

The government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.

We heard evidence from the Electoral Commission of the need to update electoral law more broadly in order to protect the integrity of the electoral system. As part of this, we agree with the Electoral Commission that the imprints¹²⁹ currently required for print material promoting a political party should also be extended to online material, including social media.¹³⁰ This reform was put in place for the Scottish independence referendum in 2014, and was successfully implemented in relation to formal campaigning organisations.

Local government

We also heard from a number of individuals that the requirement that candidates standing for election as local councillors to publish their home addresses on the ballot paper had been a significant factor in enabling intimidatory behaviour, or would put them off from standing as a council candidate due to the risk of intimidation.¹³¹ A number of former candidates stated that the disclosure of their home address

enabled intimidatory behaviour to escalate when they subsequently stood as a Parliamentary candidate.¹³² This is not a requirement for Parliamentary candidates, where candidates must state their address on their nomination form but can opt instead for only the constituency in which they live to appear on the ballot paper.¹³³

Fawcett Society survey data found that when standing as a councillor, there is a gender difference between councillors identifying ‘fear of violence’ (13% of women; 8% of men), or ‘harassment or abuse from the electorate’ (46% of women; 35% of men) as barriers to engagement.¹³⁴

In evidence we received from national political parties, we believe there is a consensus for removing the requirement that candidates standing as local councillors have their address published. Rather, as with Parliamentary candidates, candidates standing as local councillors should have the option to publish only the ward in which they live on the ballot paper. Equally, the addresses of agents, sub-agents, and election observers disclosed to the Returning Officer in order for them to attend an election count should not be disclosed to others.

The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.

129 “Whenever election material is produced, it must contain certain details (which we refer to as an ‘imprint’) to show who is responsible for the production of the material... Election material is published material such as leaflets, adverts and websites that can reasonably be regarded as intended to influence voters to vote for or against political parties or categories of candidates, including political parties or categories of candidates who support or oppose particular policies or issues, and is aimed at the public or a section of the public” https://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/166225/fs-imprints-npc.pdf

130 Electoral Commission, Oral Evidence, 25 October 2017

131 Written Submission 38 (John Woolley), Written Submission 72 (Lola McAvoy), Written Submission 79 (Anonymised), Dr Lisa Cameron MP, Individual Oral Evidence, 1 November 2017

132 Written Submission 72 (Lola McAvoy); Confidential Submissions.

133 Electoral Commission Guidance on standing as a Parliamentary candidate, https://www.electoralcommission.org.uk/__data/assets/pdf_file/0003/173019/UKPGE-Part-2b-Standing-as-a-party-candidate.pdf

134 Written Submission 69 (The Fawcett Society)



We also saw evidence that some local councillors were told to declare their home addresses as part of a declaration of pecuniary interests, but were not informed about the sensitive interests provisions in the Localism Act 2011, which prevents the publication of the details of an interest where the councillor and Monitoring Officer agree that it could lead to intimidation or violence against the councillor or their family. This meant that their addresses were in the public domain.

For offences including fear of violence offences and racially or religiously aggravated offences under the Protection from Harassment Act 1997 (excluding stalking), there have been a significant number of prosecutions and convictions, with a relatively high rate of successful prosecutions.

Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.

Enforcement: prosecution

Several high profile cases of intimidation of sitting MPs were successfully prosecuted. The individual found guilty of sending rape threats to Stella Creasy MP was found guilty under Section 127 of the Communications Act 2003; and an individual who sent multiple abusive racist messages to Luciana Berger MP was found guilty of racially aggravated harassment under the Protection from Harassment Act 1997. We have heard evidence that further convictions have taken place of individuals sending grossly offensive messages to or harassing MPs.¹³⁵

We have seen at least one case where an individual convicted of an online offence – sending an offensive, indecent or obscene message to Luciana Berger MP – has also been charged with an offline offence – being a member of the proscribed organisation National Action, whose members have been accused of conspiring to kill Rosie Cooper MP.¹³⁶

135 Crown Prosecution Service, Private Hearing, 14 September 2017

136 <https://www.theguardian.com/uk-news/2017/oct/27/alleged-neo-nazi-appears-in-court-charged-with-plotting-to-kill-labour-mp-rosie-cooper>



Protection from Harassment Act 1997¹³⁷

Year	Cautions	Prosecutions	Convictions	Convictions as % of prosecutions	% change in prosecutions year-on-year
2015	6,859	28,926	22,316	77%	-
2016	5,399	25,521	19,651	77%	-12%

The numbers of prosecutions and convictions under the Malicious Communications Act 1988 and Communications Act 2003 have seen a steady increase in recent years, with a high rate of successful prosecutions.

Malicious Communications Act 1988 (including under Section 32 of Criminal Justice and Courts Act 2015)¹³⁸

Year	Cautions	Prosecutions	Convictions	Convictions as % of prosecutions	% change in prosecutions year-on-year
2014	899	897	694	77%	-
2015	548	1,056	797	71%	18%
2016	131	1,420	1,083	76%	34%

Section 127 of the Communications Act 2003¹³⁹

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

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

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

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



The CPS informed us that, overall, there has been a 68% rise in prosecutions of communications offences since 2013/14.¹⁴⁰

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

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

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

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

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

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

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

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

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



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

Enforcement: policing

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

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

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

The Parliamentary Liaison and Investigation Team (PLaIT)

The Parliamentary Liaison and Investigation Team (PLaIT) is a specialist police team based in Parliament which was created to assess and address security threats to MPs. The unit provides

support to individual MPs about security concerns and coordinates the response within local forces.¹⁴¹

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

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

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

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

141 Written Parliamentary Question 61644, 30 January 2017

142 PLaIT, Individual Oral Evidence, 21 August 2017

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



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

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

“Other candidates do not have the support that we have. There is a real differential out there. It is about making sure that any candidate has the right to the same support when we reach an election period.”¹⁴⁶

Rt Hon Lindsay Hoyle MP, Deputy Speaker of the House of Commons

The Committee also welcomes the recent approach taken by IPSA in taking personal security

considerations into account in its publication policy, for example, by not publishing the start and end points of MPs’ claimed journeys, or the names of MPs’ landlords.¹⁴⁷ IPSA should remain alert to these considerations, particularly where a policy may disproportionately affect a particular group of MPs such as female MPs or those with families.¹⁴⁸

National policing

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

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

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

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

144 PLalT, Individual Oral Evidence, 21 August 2017

145 Parliamentary Security Directorate, Private Hearing, 14 September 2017

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

147 Written Submission 71 (IPSA)

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

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

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



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

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

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

Guidance during election periods

The Committee has found that there is a lack of policing guidance on offences which constitute intimidation during election periods. We have also heard evidence that local police sometimes conflate personal threats and public order offences. The College of Policing's Authorised Professional Practice (APP) guidelines for policing elections includes public order offences alongside electoral law offences, but these are generally framed in

expectation of public protests, not the intimidation of Parliamentary candidates by whatever means. In particular, the APP makes no reference to harassment or offences that may be committed via social media during elections.¹⁵⁵

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

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

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

152 Electoral Commission, Oral Evidence, 25 October 2017; All Party Inquiry into Electoral Conduct (2013) <https://www.antisemitism.org.uk/files/cj3e6rg8y906h0104uh8bojao/cj4muuuz500250145fwnqzaf>

153 Electoral Commission, Oral Evidence, 25 October 2017

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

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



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

Challenges to policing

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

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

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

definitions of hate crime and threatening speech in order to create a basis for greater international co-operation when policing these offences.

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

Clarity and guidance for Parliamentary candidates

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

“Anything that could be introduced to support MPs in their role would be very helpful, at the moment there is virtually nothing.”¹⁵⁷

Luciana Berger MP

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

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

157 Luciana Berger MP, Individual Oral Evidence, 20 November 2017

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



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

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

Therefore, addressing intimidation in public life will require a focus on prevention at all levels and by all with any interest, including those in public life themselves, which we discuss in chapter 5. More broadly, the recommendations we make throughout this review should be seen as a coherent package to address all aspects of the problem.

Focussing on prevention

It is important that those who perpetrate intimidatory behaviour are held to account and face appropriate legal sanctions. Equally, we have emphasised that effective policing can act both as an effective deterrent and can prevent intimidatory behaviour from escalating.

However, it should be recognised that the law is a blunt instrument for dealing with intimidatory behaviour. At the point that the force of law is invoked, already the relationship between Parliamentary candidates and the public has suffered, individuals may have been put off from standing for elected or appointed offices, and Parliamentary candidates will have gone through experiences that no individual ought to go through.



Chapter 5

Taking responsibility

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

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

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

“Enormous ad hominem [personal] attacks in Parliament are us spray-painting our own window... Those who choose to play the ball rather than the man or woman can hold strong views without treating the others as if they are scum of the earth.”¹⁵⁹

Rt Hon John Bercow MP, Speaker of the House of Commons

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

participation of every citizen in public life and public debate.

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

“I do believe that MPs should lead by example.”¹⁶⁰

Public Submission

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

Leadership in opposing and reporting intimidation

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

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

159 John Bercow MP, Speaker of the House of Commons, Individual Oral Evidence, 5 September 2017

160 Written Submission 8 (Adam Finkel-Gates)



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

“We need to build back to an era not of deference but of mutual respect. Politicians have a key role to play in that in how they behave and treat each other, and calling out behaviour.”¹⁶¹

Brendan Cox

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

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

Leadership in setting high ethical standards

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

The Seven Principles of Public Life were set out by the Committee in 1994 to set out the behaviours that the public expect of those in public life. In the

face of the challenge of an intimidatory culture in public life, everyone in public life, including candidates, must play a role in rebuilding the public’s trust in politics. One way of doing so is through ensuring that they show leadership in upholding ethical standards, so that their behaviour does not undermine or call into disrepute the institutions of which they are part.

“Changing today’s perceptions of politicians requires national effort by all involved in public service to demonstrate that they are there to help everybody and not to benefit themselves.”¹⁶³

Dr Clive Sneddon

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

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

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

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

161 Brendan Cox, Individual Oral Evidence, 7 November 2017

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

163 Written Submission 55 (Dr Clive Sneddon)



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

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

Brendan Cox

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

“If we are to hold people to high standards of accountability, as part of the foundations of mutual respect, then we have to allow them to correct mistakes. Where a mistake has been honestly made, corrections should be welcomed and respected and enforced.”¹⁶⁷

Will Moy, Full Fact

Setting the tone of debate

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

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

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

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

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

165 Brendan Cox, Individual Oral Evidence, 7 November 2017

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

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

168 Written Submission 17 (Confidential)



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

Baroness Brinton, Liberal Democrats

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

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

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

Public Submission

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

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

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

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

Brendan Cox

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

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

170 Written Submission 8 (Adam Finkel-Gates)

171 Brendan Cox, Individual Oral Evidence, 7 November 2017



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

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

The responsibility of the media

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

“It must be recognised by media outlets that there is a fine line between political debate and instigating reckless behaviour in individuals towards electoral candidates.”¹⁷²

Scottish Women’s Convention

Broadcast and print media can amplify the effects of intimidation that takes place on social media, for example, by reporting on ‘twitterstorms’. As the distinction between traditional and social media becomes increasingly blurred, for example, with online-only news outlets with a high profile on social media such as BuzzFeed, The Canary, and Guido Fawkes, the media should be increasingly

attentive to how stories are reported can give rise to intimidatory behaviour.

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

Rt Hon Anna Soubry MP

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

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

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

172 Written Submission 59 (Scottish Women’s Convention)

173 Hansard HC Deb, 15 November 2017, Vol 631 Col 386



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

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

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

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

The media are acutely aware of the potency of reporting on breaches of ethical standards, for

example, by framing a story about disagreement or incompetence as one of wrongdoing. They should not undermine public trust by deliberately portraying partisan disagreement or questions of professional competence as a breach of ethical standards.¹⁷⁶

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

Personal attacks and politicising ethical standards

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

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

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

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

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

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

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



Taking responsibility

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

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

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

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

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



Chapter 6

The impact of intimidation

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

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

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

The relationship between the public and Parliament

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

“It is important to recognise that the democratic process requires some direct contact between politicians and the general public in the widest sense.”¹⁷⁹

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

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

Maria Caulfield MP

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

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

179 Written Submission 49 (Confidential)

180 Written Submission 53 (Maria Caulfield MP)



“I would never now attend an ‘in-person’ event on my own because of my experience at the 2015 election when I genuinely believed that I could have been subject to a physical assault.”¹⁸¹

Labour Party 2017 Parliamentary Candidate

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

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

“Public campaigns are needed to ensure voters understand the nature of the roles. Misinformation about elections and public office needs to be countered.”¹⁸²

John Vincent

Unacceptable influence on the political process

Intimidation also threatens the integrity of the political process. For decisions to be made in the public interest, decision-makers must be able to make reasoned decisions based upon their best

judgment, and not be subject to unacceptable pressure or influence.¹⁸³

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

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

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

Candidates for public office and diversity in public life

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

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

181 Written Submission 74 (Labour Party)

182 Written Submission 43 (John Vincent)

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



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

“Our research shows that there is a real danger that high levels of online abuse against women MPs will have a chilling effect on women taking part in public life - particularly women of colour.”¹⁸⁴

Amnesty International

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

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

The freedom to stand for elected and appointed public offices is one of the core freedoms

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

“Almost everyone I know who goes into politics from any party is doing it because they care about their community and their country and they want to serve. Yet it makes you question constantly, ‘is it worth it?’”¹⁸⁶

Rachel Maclean MP

Freedom to debate

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

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

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

184 Written Submission 87 (Amnesty International)

185 Written Submission 69 (Fawcett Society)

186 Written Submission 25 (Rachel Maclean MP)

187 Lee Scott, Individual Oral Evidence, 11 October 2017

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



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

Nick Robinson

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

Acting now on intimidation in public life

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

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

We are aware that public office-holders in frontline roles, such as teachers or police officers, will have experienced threats or abuse for many years whilst serving the public. We are now seeing an increasing number of public office-holders being subject to intimidation. We note with concern reports that political journalists are experiencing threats of violence, which also represents a

broader threat to the freedom of the press.¹⁹⁰ We have heard similar reports from some election officials.¹⁹¹ We also heard that local candidates and councillors from across the political spectrum are also experiencing intimidatory behaviour.¹⁹² The 2016 Judicial Attitudes Survey found that 37% of judges were concerned for their safety outside of court.¹⁹³ We are also aware of recent reports of threats directed towards doctors.¹⁹⁴

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

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

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

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

189 Nick Robinson, Individual Oral Evidence, 6 September 2017

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

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

192 Local Government Association, Oral Evidence, 31 October 2017

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

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



Appendix 1: About the Committee on Standards in Public Life

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

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

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

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

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

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

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

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

Membership of the Committee, as of December 2017

Lord (Paul) Bew, Chair

The Rt Hon Dame Margaret Beckett DBE MP

Sheila Drew Smith OBE

Simon Hart MP

Dr Jane Martin CBE

Jane Ramsey

Monisha Shah

The Rt Hon Lord (Andrew) Stunell OBE

Secretariat

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



Appendix 2: Methodology

Methods

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

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

Public call for evidence

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

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

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

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

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

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

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

Is existing legislation sufficient to address intimidation of Parliamentary candidates?

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

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

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

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



Roundtable

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

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



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

Public hearing: political parties

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

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

Private hearing: police and security services

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

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



Interviews with social media companies

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

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

Interviews with Parliamentarians and former Parliamentary candidates

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

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



Meetings with individuals and stakeholder organisations

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

Name	Speaker of the House of Commons
Nick Robinson	BBC (personal capacity)
Laura Kuenssberg	BBC (personal capacity)
David Evans and James Davies	BCS – The Chartered Institute for IT
Officials	Crown Prosecution Service
Rachael Bishop	Department of Digital, Culture, Media and Sport
Claire Bassett and Bob Posner	Electoral Commission
Mary Pitcaithly OBE (by telephone)	Convenor, Electoral Management Board, Scotland
Lionel Barber and Robert Shrimmsley	Financial Times
Official	Foreign and Commonwealth Office
Will Moy	Full Fact
Official	Home Office
Matt Tee (by telephone)	IPSO
Brendan Cox (by telephone)	Jo Cox Foundation
Iona Lawrence	Jo Cox Foundation
Mark Lloyd and Dr Charles Loft	Local Government Association
Cllr Marianne Overton MBE	Local Government Association
Joe Todd (by telephone)	Communications Officer, Momentum
DI Philip Grindell	Parliamentary Liaison and Investigation Team

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Bolsover District Council

Standards Committee

8 May 2018

Parliamentary Committee on Standards in Public Life – Review of Local Government Standards

Report of the Head of Corporate Governance & Monitoring Officer

This report is public

Purpose of the Report

- To advise Members of the current review being undertaken by the Parliamentary Committee on Standards in Public Life and how they may feed in to the consultation.
- To create a collective response from the Bolsover Standards Committee to the questions set out in Appendix 1.

1 Report Details

- 1.1 The Committee on Standards in Public Life is undertaking a review of local government ethical standards. Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.
- 1.2 The terms of reference for the review are to:
- examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local Councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
 - assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
 - make any recommendations for how they can be improved
 - note any evidence of intimidation of Councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation
- 1.3 The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).
- 1.4 Consultation questions have been detailed at Appendix 1 to this report.

1.5 Anyone with an interest may respond to the consultation questions. The Committee on Standards in Public Life welcomes submissions from members of the public. However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- local authorities and standards committees
- local authority members (for example, Parish Councillors, District Councillors)
- local authority officials (for example, Monitoring Officers)
- Independent Persons appointed under section 28(7) of the Localism Act 2011
- think tanks with an interest or expertise in local government
- academics with interest or expertise in local government
- representative bodies or groups related to local government

1.6 Submissions can be sent either in electronic format or in hard copy and need to be received prior to 5pm on Friday 18th May 2018.

1.7 Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.
- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document
- Include factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

1.8 The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

1.9 Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:

Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

2 Conclusions and Reasons for Recommendation

- 2.1 To raise awareness of the consultation and encourage Members to participate on an individual basis.
- 2.2 To gain a collective view from the BDC Standards Committee.

3 Consultation and Equality Impact

- 3.1 Members may respond as a Standards Committee, or on an individual basis.

4 Alternative Options and Reasons for Rejection

- 4.1 None

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 None

5.2 Legal Implications including Data Protection

- 5.2.1 None arising.

5.3 Human Resources Implications

- 5.3.1 None

6 Recommendations

- 6.1 That Members consider the consultation questions as attached at Appendix 1 and provide a group response to be submitted to the Committee for Standards in Public Life.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
--	----

Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Appendix 1	Consultation Questions
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
Report Author	Contact Number
Nicola Calver, Governance Manager	01246 217753

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

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

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?
- 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.

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?
 - 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?
 - 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?

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i. 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?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

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.
 - i. 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?
 - ii. 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.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?

Bolsover District and North East Derbyshire District Council

Joint Whistleblowing Policy



CONTROL SHEET FOR JOINT WHISTLEBLOWING POLICY

Policy Details	Comments/Confirmation (to be updated as the document progresses)
Policy title	Joint Whistleblowing Policy
Current status – i.e. first draft, version ?? or final version	Final Version 2018
Location of Policy –	
Member route for approval	Cabinet/Executive
Cabinet Member (if applicable)	
Equality Impact Assessment (approval date)	
Partnership Involvement (if applicable)	
Final Policy approval route (i.e. Executive/Council Committee)	Cabinet/Executive
Date Policy approved	
Date Policy due for review	
Date Policy forwarded to Strategy and Performance (to include on Intranet and Internet, if applicable to the public)	

JOINT WHISTLEBLOWING POLICY

1. Introduction

- 1.1 Employees are often the first to realise that there may be something seriously wrong within a local authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Councils. They may also fear harassment or victimisation. In these circumstances employees may feel that it is easier to ignore the concern, rather than report what may just be a suspicion of malpractice.
- 1.2 The Councils are committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Councils encourage employees, Members and others with serious concerns about any aspect of the Councils work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 1.3 Whistleblowing is the term used when someone who works in or for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public or the organisation's own reputation. For example instances of theft from the Councils, accepting or offering a bribe, and failure by colleagues to adhere to Health & Safety directives could all be the subject of a Whistleblow.
- 1.4 This policy document makes it clear that concerns can be raised without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy is intended to encourage and enable employees to raise concerns within either Council in person, rather than overlooking a problem or using other methods to report concerns.
- 1.5 This policy applies to Council employees and other workers, including freelance staff, temporary and agency staff, trainers, volunteers, consultants, contractors, employees of another Local Authority with whom the Councils have entered into joint working arrangements and Members.
- 1.6 This policy also applies to all employees in organisations who work in partnership with the Councils and suppliers who wish to raise a concern.
- 1.7 The Public Interest Disclosure Act 1998 protects Council employees who report concerns from subsequent harassment, victimisation and other unfair treatment. Potential informants should feel reassured that it is illegal for the Councils to consider any action against them should their concerns not prove to be verifiable.

2. Aims and Scope of this Policy

2.1 This policy aims to:-

- encourage persons to feel confident in raising serious concerns that they may have about practices and procedures
- provide avenues to raise those concerns and receive feedback on any action taken
- allow persons to take the matter further if they are dissatisfied with the Councils response
- reassure employees that they will be protected from possible reprisals or victimisation if they have made any disclosure

2.2 Areas covered by the Whistleblowing Policy include:-

- criminal or other misconduct
- breaches of the Council's Standing Orders or Financial Regulations
- contravention of the Council's accepted standards, policies or procedures
- disclosures relating to miscarriages of justice
- health and safety risks
- damage to the environment
- unauthorised use of public funds
- fraud, bribery and corruption
- sexual, physical and/or verbal abuse of any person or group
- other unethical conduct
- the concealment of any of the above

2.3 Any concerns about any aspect of service provision or the conduct of officers or Elected Members of either Council, or others acting on behalf of either Council, can be reported under the Whistleblowing Policy. This may be about something that:-

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- Is against the Council's constitution and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct

3. When this Policy may not be appropriate

3.1 This policy is not a substitute for the Councils other policies and procedures on such matters as personal grievances, bullying and harassment, health and safety, safeguarding issues (children and/or adults) or complaints. It should also not be used to raise matters relating to an employee's own terms and conditions of service.

3.2 It is important to know the difference between a 'Whistleblow' and a 'grievance.' A Whistleblow has a public interest aspect to it, as it puts others at risk.

- 3.3 A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the Grievance Policy, not this policy.
- 3.4 For example, a member of staff being formally interviewed on capability grounds, without previously having had any indication that their performance was not acceptable, may lead to a grievance complaint being made. Whilst a member of staff who observes colleagues sharing/selling confidential data to un-authorised others, should lead to a Whistleblow.
- 3.5 The policy is not to be used by members of the public to pursue complaints about services. These should be dealt with through the Councils Complaints Procedures.
- 3.6 This Policy is not to be used by members of the public to pursue complaints against councillors conduct. They should direct complaints in the first instance to the Monitoring Officer who will deal with their complaints under the Members Code of Conduct procedure.

4. Safeguards against Harassment or Victimisation

- 4.1 The Councils recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. However, the Councils will not tolerate any form of harassment or victimisation, and will take appropriate action to protect persons who have made a disclosure.
- 4.2 The Councils are committed to good practice and high standards and endeavours to be supportive of persons who raise concerns under this Policy.
- 4.3 In all cases, the provisions of The Public Interest Disclosure 1998 (PIDA) will be adhered to.
- 4.4 The Enterprise & Regulatory Reform Act 2013 (ERRA) introduced a Public Interest test requirement on Whistleblowers. In order to receive the protection of PIDA, Whistleblowers will now have to show that they reasonably believe that the disclosure they are making is in the public Interest.

5. Confidentiality

- 5.1 All concerns will be treated in confidence and the identity of the person raising the concern will not be revealed without his or her consent (subject to any legal requirements or decisions). At the appropriate time, however, the person may be expected to come forward as a witness.

6. Anonymous Allegations

- 6.1 This policy encourages you to put your name to any allegation wherever possible and receive the protection of PIDA as anonymous complaints are likely to be difficult to deal with effectively.
- 6.2 Concerns expressed anonymously will be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:-

- The seriousness of the issues raised
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

7. Untrue Allegations & Legal Protection

- 7.1 If you are a Council employee you are given legal protection by the Public Interest Disclosure Act 1998. You will qualify for this protection if you reasonably believe that the disclosure is in the public interest.
- 7.2 If you make what is known as a “qualifying disclosure” under the 1998 Act to your employer or certain other persons/bodies, it will be unlawful for the Councils to subject you to any detriment (such as denial of promotion or withdrawal of a training opportunity), or to dismiss you, because of the disclosure.
- 7.3 Qualifying disclosures are disclosures of information where a Council employee reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.
- A criminal offence
 - The breach of a legal obligation
 - A miscarriage of justice
 - A danger to the health and safety of any individual
 - Damage to the environment
 - Deliberate attempt to conceal any of the above.
- 7.4 Compensation may be awarded to you by an Employment Tribunal if the Councils breach the 1998 Act, following a successful claim for ‘detrimental treatment’.

8. How to raise a Concern under this Policy

- 8.1 Concerns may be raised normally in writing. Persons who wish to raise a concern should provide details of the nature of the concern or allegation in the following format:
- The background and history of the concern giving names, dates and places where possible.
 - The reason why you are particularly concerned about the situation.
 - Submit any relevant evidence or documentation.
- 8.2 The earlier you express the concern the easier it is to take action.
- 8.3 Although you are not expected to prove beyond reasonable doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 8.4 Employees may choose to be represented by a colleague or Trade Union representative.

Employees

8.5 Employees should normally raise concerns in the first instance with their Line Manager. Alternatively, dependent upon the nature, seriousness and sensitivity of the issues involved and the person suspected of malpractice you could approach;

- the Service Manager whom you feel would be the most appropriate
- Internal Audit
- the Joint Chief Executive Officer
- the Monitoring Officer
- ~~The Joint Assistant Director of Human Resources and Payroll~~
- The ~~Joint~~ Head of Service of Finance and Resources and Executive Director of Corporate Resources and s151 Officer
- The Joint Strategic Director – People ~~Executive Director of Transformation~~ (responsible Officer for safeguarding)

8.6 You may choose to contact a Prescribed Person. Prescribed persons, as prescribed under the Public Interest Disclosure Act 1998, are independent bodies or individuals that can be approached by whistleblowers where an approach to their employers would not be appropriate. Prescribed persons, which usually have an authoritative relationship with the whistleblowers' organizations, can be regulatory or legislative bodies, central government departments, arm's length bodies or charities and include all Members of Parliament. You may also contact the "Public Concern at Work" helpline if you wish to remain anonymous. The telephone number for this service is: 020 7404 6609.

Other Persons (including Elected Members)

8.7 Other persons can contact any of the following officers of the Councils directly:

- the Service Manager whom you feel would be the most appropriate
- Internal Audit
- the Joint Chief Executive Officer
- ~~the Monitoring Officer~~
- ~~_____~~
- ~~The Joint~~ Head of Service of Finance and Resources and s151 Officer ~~Assistant Director of Human Resources and Payroll~~
- ~~the Section 151 Officer~~
- The Joint Strategic Director – People (responsible Officer for safeguarding) ~~Executive Director of Transformation (responsible Officer for safeguarding)~~

8.8 Officers of the Councils can be contacted in writing, by telephone or by going through one of the Contact Centres. You can contact the Councils through your elected Councillor if this is preferable or more convenient.

8.9 You may also choose to contact a body external to the Council such as the External Auditor or the Police or a Prescribed Person.

9 How the Council will respond to a concern raised under this Policy

9.1 The Officer with whom the concern was initially raised will respond in writing within ten working days:

- acknowledging that the concern has been received
 - indicating how it is proposed to deal with the matter
 - stating whether any initial enquiries have been made
 - supplying information on what support is available and stating whether further investigations will take place and if not, why not
- 9.2 Concerns raised under this Policy will be investigated by the investigating officer who will be appointed at the Council's discretion.
- 9.3 When conducting the investigation, the investigating officer may involve:-
- Internal Audit
 - Legal & Democratic Services
 - Human Resources
 - the Police (in some circumstances the Council will have no choice but to inform the Police if it believes a criminal offence has been committed and may do so without informing the whistle blower)
 - an external auditor
 - The Monitoring Officer
 - The S 151 Officer
 - The Joint Strategic Director – People (responsible Officer for safeguarding)~~Executive Director of Transformation (responsible Officer for safeguarding)~~
 - Any other person at the discretion of the investigating officer
- 9.4 The investigating officer should in the first instance inform any employee who is the subject of a Whistleblowing allegation of the allegation before a decision is taken as to what will happen with it. If the investigating officer determines that this would not be appropriate in the circumstances then he should seek guidance from the Monitoring Officer who may advise not to inform the employee at this stage of the process.
- 9.5 The investigating officer will make initial enquiries to decide whether an investigation is appropriate and if so what form it should take having regard to the law and the public interest.
- 9.6 If the investigating officer decides that a disciplinary investigation is the appropriate course of action to take, he/she will advise Human Resources who will instruct an appropriate person to conduct the disciplinary investigation and ensure that the investigation is carried out in accordance with the Councils' Disciplinary Policy.
- 9.7 Some concerns may be resolved by agreed action without the need for investigation.
- 9.8 It may be necessary to take urgent action before any investigation is completed.
- 9.9 The Council will take steps to minimise any difficulties that persons may experience as a result of raising a concern. For instance, if he or she is required to give evidence in criminal or disciplinary proceedings the Council will arrange for advice to be given about the procedure (but not about what answers to give).

9.10 The Councils accept that persons need to be assured that the matter has been properly addressed. Subject to legal constraints, the Council will inform the Whistleblower of the progress and outcome of any investigation.

9.11 It is important for persons to understand that making a Whistleblowing allegation doesn't give them anonymity, but does give them protection from harassment or victimisation.

10 The Responsible Officer

10.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality and substantially in the form attached.

10.2 The Monitoring Officer will report as necessary to the Councils.

10.3 The Investigating Officer must inform the Monitoring Officer of the receipt of a concern raised under this Policy, how they intend to deal with it and how the matter was concluded.

11. How the Matter Can Be Taken Further

11.1 This Policy is intended to provide a process within the Councils, through which appropriate persons may raise concerns. If at the conclusion of this process the person is not satisfied with any action taken or feels that the action taken is inappropriate, the following are suggested as further referral points:

- the Councils external auditor
- Your Trade Union
- Your local Citizens Advice Bureau
- Relevant professional body or regulatory organisation
- A relevant voluntary organisation
- The Police
- Your Solicitor
- The Audit Commission

11.2 Advice should be taken before making an external disclosure and the internal procedure should normally have been followed first.

11.3 The Councils would not normally expect Whistleblowers to make disclosures to the press.

12. Whistleblowing Register 2015

~~Kept 12.1 by T~~The Monitoring Officer in accordance with the Joint Whistle Blowing Policy of Bolsover District Council and North East Derbyshire District Council ~~as follows:-~~

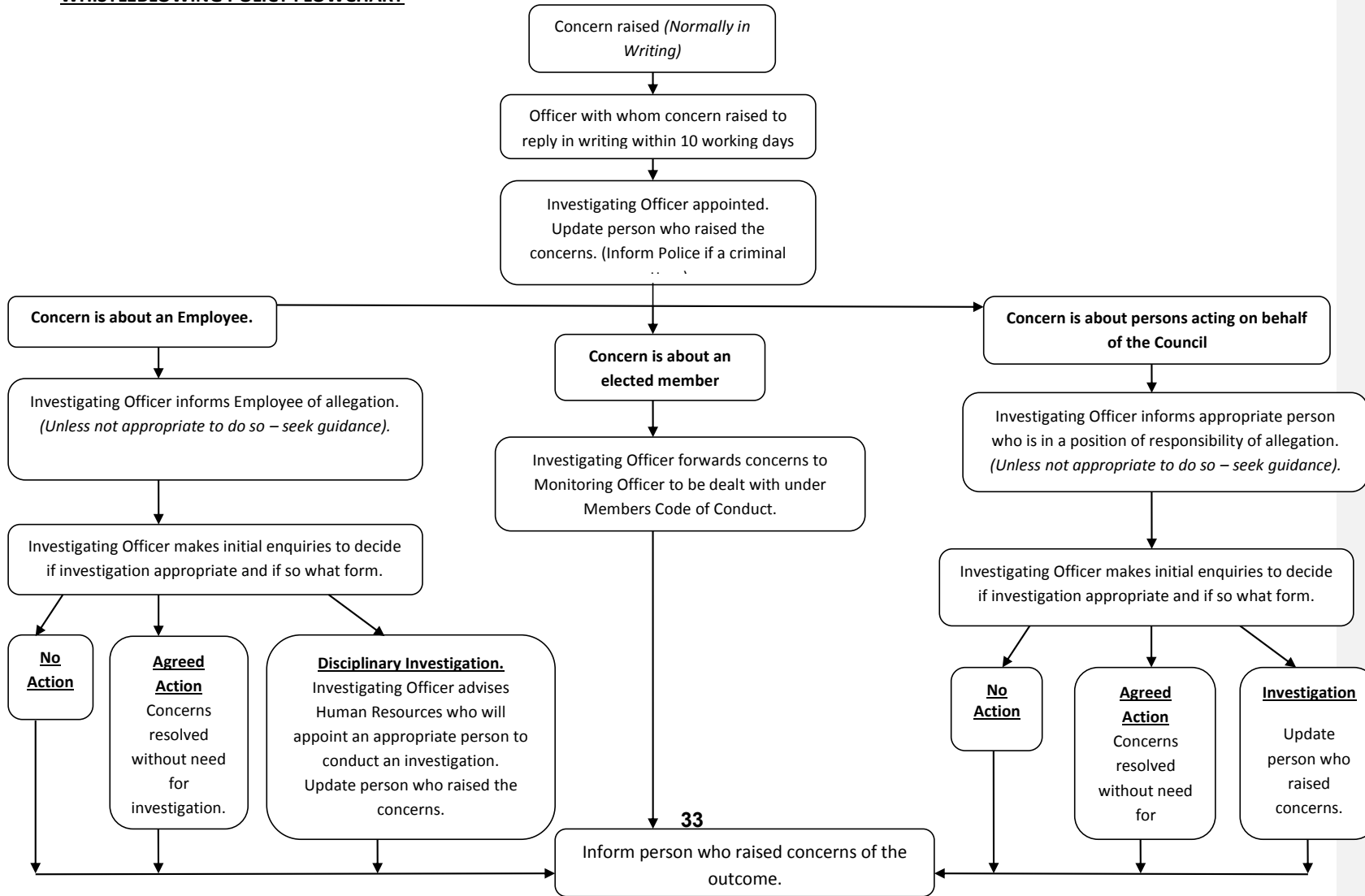
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10 The Responsible Officer

~~“10.1 The Monitoring Officer~~ has overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality and substantially in the form below attached.”

Number	Council	Details	Outcome
1/20xx			

WHISTLEBLOWING POLICY FLOWCHART



Bolsover District Council

Standards

8th May 2018

Review of Whistleblowing Policy

Report of the Head of Service Corporate Governance and Monitoring Officer

This report is open

Purpose of the Report

- To recommend for approval an updated Whistleblowing Policy

1 Report Details

- 1.1 Whistleblowing is a report from an employee, member or other person about suspected wrongdoing within the organisation. The Public Interest Disclosure Act 1998 requires employers to refrain from dismissing workers and employees or subjecting them to any other detriment because they have made a protected disclosure.
- 1.2 Whistleblowing policies should foster a climate of openness and transparency in which individuals in the workplace do not feel that they will be victimised, harassed or suffer any reprisals if they raise concerns about wrongdoing within the organisation. The Government expects all public bodies to have adequate whistleblowing procedures in place.
- 1.3 North East Derbyshire District Council and Bolsover District Council currently have in place a Joint Whistleblowing Policy. The Councils are committed to updating Policies on a regular basis to ensure that they are fit for purpose.
- 1.4 There are minor changes recommend to the existing Policy, to amend various job titles to bring the Whistleblowing Policy up to date, and to clarify the form of the register.
- 1.5 The amended Whistleblowing Policy is attached to this report at Appendix A, with amendments shown by way of track changes.

2 Conclusions and Reasons for Recommendation

- 2.1 The Whistleblowing Policy has been reviewed to ensure that it remains fit for purpose and the amended job titles are required to ensure the policy is current.

3 Alternative Options and Reasons for Rejection

3.1 None.

4 Implications

5 Finance and Risk Implications

5.1 None.

6 Consultation and Equality Impact

6.1 The Unison Branch Secretary, as Chair of the Council Joint Consultative Group, agreed that the updated policy need not be submitted to the group as the updated job titles is only a minor amendment.

6.2 Equality issues have been taken into account in the review of the policy.

7 Legal Implications including Data Protection

7.1 The legal implications in relation to whistleblowing are contained within the policy. .

8 Human Resources Implications

8.1 None.

9 Recommendations

9.1 That the amended Whistleblowing Policy be approved.

10 Decision Information

Is the decision a Key Decision? (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	None directly
Links to Corporate Plan priorities or Policy Framework	All

11 Document Information

Appendix No	Title	
A	Whistleblowing Policy	
Report Author		Contact Number
Victoria Dawson – Solicitor - Team Manager (Contentious)		Ext 2231

Bolsover District Council

Standards Committee

8 May 2018

Review of Protocol on Member/Officer Relations

Report of the Joint Head of Corporate Governance and Monitoring Officer

This report is public

Purpose of the Report

- For Members to consider the Protocol on Member/Officer Relations.

1 Report Details

- 1.1 At its meeting on 5th September 2017 the Standards Committee gave consideration to the Protocol on Member/Officer Relations and were given the opportunity for targeted scrutiny. In addition, the Constitution Working Group met on 26th February 2018 to give the matter further consideration.
- 1.2 It was resolved at the meeting that the Joint Head of Corporate Governance and Monitoring Officer carry out consultation with Members and the Senior Management Team on the Protocol.
- 1.3 The Strategic Alliance Management Team at their meeting on 16 February 2018 gave consideration to the Protocol in detail and offered amendments which have been incorporated in to the existing Protocol for consideration at this meeting.
- 1.4 Each Member of Council has been offered the opportunity to feed in to the Review, however, to-date no comments have been received.
- 1.5 Attached at **Appendix 1** to this report is a suggested revised version of the Protocol for Member/Officer Relations.
- 1.6 This document has been rewritten and reformatted to be more accessible and easier to reference and understand. In order for Members to easily identify changes, any addition text has been highlighted in bold. The remaining text is from the original Protocol.

1.7 The main revisions to the report are:-

- In light of recent political debates in Parliament, inclusion has been given to include elements covered by the Equalities Act 2010;
- Inclusion of details around applying pressure on Members or Officers in regard to duties they are neither empowered nor within their duties;
- Additional of principles of the Protocol as requested by the Standards Committee
- Providing clarification on advice to political group and restricted posts, also requested by Standards Committee;
- Providing clarity around how members request information and how employees are to meet these requests;
- Preparation and presentation of reports in line with the Leader's request for executive Members to present at meetings;
- Call in Decisions and expectations on Members and Officers;
- Providing clarity around publicity;
- Inclusion of a 'dos and don'ts' document as an Appendix to the protocol. This is attached at **Appendix 2** to this report.

2 Conclusions and Reasons for Recommendation

- 2.1 It is best practice that the Council's Constitution be reviewed on a regular basis and the Standards Committee has usually carried this out annually. It was agreed that the Protocol on Members/Officer Relations form part of this year's review.

3 Consultation and Equality Impact

- 3.1 All Members have been consulted on the original Protocol and the Senior Management Team have also been consulted as part of this review. There are no equalities issues.

4 Alternative Options and Reasons for Rejection

- 4.1 The Committee are asked to consider the changes included within **Appendix 1**. The amendments will form part of the final review of Constitution report to Annual Council.
- 4.2 The Committee could agree that the Protocol does not require further review and the current Protocol could be retained.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 None.

5.2 Legal Implications including Data Protection

- 5.2.1 None.

5.3 Human Resources Implications

5.3.1 None.

6 Recommendations

6.1 That Members give consideration to the Protocol on Member/Officer Relations and agree amendments.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
1	Protocol on Member/Officer Relations
2	Dos and Don'ts for Members and Officers
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Nicola Calver Governance Manager	(01246) 217753

Protocol for Member / Officer Relations

1 INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and employees of the Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise.
- 1.3 This protocol also seeks to reflect the principles set out in the respective codes of conduct which apply to Members and employees. The shared objective of these codes is to enhance and maintain the integrity (real and perceived) of local government and it, therefore, demands very high standards of personal conduct.
- 1.4 **The protocol reflects good practice. It aims to provide an open and honest working relationship between Members and employees which ensures the delivery of the Council's statutory and other proper functions in a transparent and accountable way.**

2 PRINCIPLES

- 2.1 **The provisions of the Code of Conduct apply to all Members. Breach of those provisions can be the basis for a complaint to the Monitoring Officer. The employees Code of Conduct is part of the terms of conditions of their employment. Employees are accountable to their Senior Manager and while employees will seek to assist any Member they must not be asked by Members to go beyond the bounds of whatever authority they have been given by their Senior Manager.**
- 2.2 **Any dispute over any provision of this protocol in relation to employees should be referred in the first instance to the responsible service manager or the *Chief Executive*. If agreement cannot be reached the *Chief Executive* will seek to resolve the issue in conjunction with the *Leader* of the Council and/or the *Leader* of the appropriate party group. Issues relating to employee conduct will be dealt with under disciplinary procedures. Any unresolved dispute relating to Member conduct under this protocol will be determined by the Standards Committee in accordance the Council's Constitution.**
- 2.3 **This protocol is also read in conjunction with the Planning Code/Protocol and the Protocol on Hospitality and any other policies of the Council, for example the Whistle-Blowing Policy (Public Interest Disclosure) and the Harassment and Bullying Policy.**

3 MEMBERS' CODE OF CONDUCT

Members of Bolsover District Council are committed to:-

- Dealing with people fairly, appropriately and impartially.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between everyone that is essential to good local government.
- Always treating people with respect, including the organisations and public they engage with and those the member works alongside.

4 EMPLOYEE CODE OF CONDUCT

4.1 The Employee Code of Conduct was drawn up broadly in line with the Local Government Management's Board Code of Conduct for local government employees with variations to reflect Bolsover's conditions and circumstances.

(1) Standards

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 other employees and Members with impartiality and courtesy.

(2) Disclosure of Information

- (i) The law requires that certain types of information must be made available to Members, Auditors, Government Departments, Service Users and the public.
- (ii) Under the Local Government Act 1972 the public have a right to see certain information. In most circumstances these rights are related to committee reports and background documents.
- (iii) Employees must not use any confidential information obtained in the course of their employment for personal gain or benefit nor shall they use it to pass onto others who might use it in such a way.

- (iv) **Only employees authorised by a Senior Officer or Senior Manager to do so may talk to the press or otherwise make public statements on behalf of their Service or Directorate. Generally an employee contacted by the press should refer the matter to the Communications Team who will deal with it as appropriate.”**
- (v) **The Local Authorities (*Executive Arrangements*) (Meetings and Access to Information) (England) Regulations 2012 provide additional rights of access to documents for Members of Scrutiny Committees.**

(3) Political Neutrality/Activities

- (i) **Employees serve the Council as a whole. It follows, therefore, that they must serve all Members, not just the Members of any controlling group and must ensure that the individual rights of all Members are respected.**
- (ii) **Some senior employees will be expected within the Council’s guidelines to advise political groups. These employees have a duty to advise minority groups as well as the majority group.**
- (iii) **Some employees who are normally those in more senior positions are in politically restricted posts and by law are prevented from taking part in certain political activities outside their work. Employees who are in this position should have been told of this in writing and of the rules about claiming exemption but any employee who is in doubt about their position should contact a Senior Officer.**

(4) Relationships

1. Both Members and Officers are servants of the public, and they are indispensable to one another but their responsibilities are distinct. Members 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 Members 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 the Executive.
2. Members must not do or threaten to do anything which compromises or which is likely to compromise the impartiality of an employee of the Council.
3. In line with the Council’s Codes’ reference to “mutual respect”, it is important that any dealings between Members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or be hostile to the other.

4. Mutual respect between employees and Members is essential to good local government but close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and should, therefore, be avoided.
5. **It is important that in any dealings between Members and Officers that neither party should act discriminatively against the other in regard to all elements covered by the Equalities Act 2010 including: Race, Religion, Gender, Sexual Orientation and Disability.**
6. **In their dealings with Chief Officers and Officers (especially junior Officers) Members need to be aware that it is easy for the Officers to be overawed and feel at a disadvantage. Such feelings can be intensified when Members hold additional official and/or political office. A Member should not apply undue pressure on an Officer either to do anything that he/she is not empowered to do or to undertake work outside normal duties or normal hours or to allow or aid the Member to do something which the Member is not authorised to do. Particular care needs to be taken in connection with the ease of use of Authority property and services.**
7. **Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in their favour nor raise personal matters to do with their job nor make claims or allegations about other staff. The Authority has formal procedures for consultation, whistleblowing, grievance and discipline. As an exception to this provision an officer may raise issues (other than those relating to the officer's employment or engagement with the Council) relating to Authority business where the Member is the local ward Councillor of the officer concerned.**
8. **Whilst the Chairman of a committee or sub-committee or Leader of the Executive will routinely be consulted as part of the process for drawing up the agenda for a forthcoming meeting it must be recognised that in many situations an officer will be under a duty to submit a report on a particular matter. Similarly, an officer will always be fully responsible for the contents of any reports submitted in his or her name. Any issues which cannot be resolved as the result of a decision/negotiation between the relevant Chairman and an officer in this area should be referred to the Head of Paid Service for resolution. Where individual Members wish to place an item on an agenda they should notify the appropriate meeting chairman or Head of Paid Service and comply with the Council's Constitution.**

5 ADVICE AND SUPPORT TO PARTY POLITICAL GROUPS

- 5.1 There is now statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision

making body. Officers may properly be called upon to support and contribute to such deliberations by political groups.

- 5.2 Political group meetings form part of the preliminaries to Council decision making and are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions. Members must not ask employees to implement a political group decision unless and until that decision has been properly taken in accordance with the Council's Constitution.
- 5.3 Similarly, where Officers provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 5.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 5.5 Officers must respect the confidentiality of any political group discussions at which they are present and should not relay the content of any such discussion to another political group.
- 5.6 The support provided by officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting to a presentation to a full political group meeting. Whilst in practice such officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.
- 5.7 The only basis on which the Council can lawfully provide support services (eg stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role of Members of the Council. Such support services must, therefore, only be used on Council business. They should never be used in connection with party political or campaigning activities or for private purposes.
- 5.8 Any particular cases of difficulty or uncertainty in this area of employee advice or support to political groups should be raised with the *Chief Executive* who will discuss them with the relevant group *Leaders*.

6 MEMBERS' ACCESS TO INFORMATION, COUNCIL DOCUMENTS AND EMPLOYEE ADVICE

- 6.1 **Members will need in the discharge of their duties to access information from employees, this will usually be most efficiently achieved through the**

Senior Managers who are able to provide an overview or direct the Member to the most appropriate employee. For individual cases Members may approach case officers, but junior staff are entitled to refer the Member to the responsible Senior Manager.

- 6.2 Members who wish to obtain information from employees should request it as early as possible recognising that employees may require reasonable time to collate or research the information. Members will state any deadline for the provision of this information. This also applies where a Member wishes to obtain information to supplement a report after the agenda for a meeting has been issued.**
- 6.3 Employees will make every reasonable effort to provide Members with accurate factual information and professional advice in a timely manner, unless this would exceed the officer's authority or there are lawful reasons to prevent disclosure of the information.**
- 6.4 Members have the same statutory right as any member of the public to inspect any Council document which contains material relating to any business which is to be transacted at a Council or Committee meeting or a meeting of Executive and any relevant background papers. This right applies irrespective of whether or not the Member is a Member of the Executive, Committee or Sub-Committee concerned or acting as a substitute. This right does not, however, apply to documents relating to items containing information which is exempt from publication. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

Correspondence held by the *Monitoring Officer* in relation to his/her duties is similarly exempt unless released by him/her in the interest of furthering any enquiry.

- 6.5 The common law right of Members is much broader and based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member to perform properly his/her duties as Member of the Council. This principle is commonly referred to as the 'need to know' principle.
- 6.6 The exercise of this common law right depends, therefore, upon the Member's ability to demonstrate the necessary "Need to Know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "Need to Know". This question will be determined by the particular Director or Head of Service as appropriate whose staff holds the document in question (with advice from the Monitoring Officer). It follows from this that the Member must give the reason for the enquiry. Written reasons will be provided on request. In the event of dispute, the question falls to be determined by the relevant Committee - i.e.

the committee in connection with whose functions the document is held or the Executive

- 6.7 A Member who requests to inspect documents which contain personal information about third parties will normally be expected to justify their request in specific terms.
- 6.8 A Member of one party group will not have a 'need to know' and, therefore, does not have a right to inspect any document which forms part of the internal workings of another party group and is in the possession of the Council or of an individual employee.
- 6.9 More detailed advice regarding Members' rights to inspect Council documents may be obtained from the *Monitoring Officer*.
- 6.10 Any Council information is provided to a Member on the basis that it must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council. This forms part of the Council's data protection requirements. This obligation for confidentiality is part of the Code of Conduct.

7 RELATIONSHIPS BETWEEN OFFICERS AND EXECUTIVE MEMBERS/ CHAIRS OF COMMITTEES/LEADER

- 7.1 It is important to the efficient discharge of the Council's functions that there should be a good working relationship between Members of the Executive, Senior Officers and Senior Managers and between the Chair of a committee and the lead officer and other senior officers who deal with matters within the terms of reference of that body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other party groups.
- 7.2 **Senior Officers and Senior Managers frequently write reports having undertaken background research and professional and technical appraisals of proposals.**
- 7.3 **These reports are then presented by the Executive Member with Portfolio.**
- 7.4 **Members must accept that in some situations officers will be under a duty to submit an opinion or advice in a report on a particular matter. In those situations the officer will always be fully responsible for those elements of the report submitted in the Member's name.**
- 7.5 **Where an officer wishes to consult a Executive Member or Chair as part of the preparation of a report to a decision making body within the**

Council's Constitution, the following principles will apply. The Executive Member or Chair may ask the report author:

- (1) To include particular options;**
- (2) To clarify the report by expanding, simplifying or re-phrasing any part of the report or including other particular information;**
- (3) To check or correct any error or omission of any matter or fact including statements of summaries of policy or budget;**
- (4) To check or correct any typing errors, omissions or duplications;**
- (5) To check any estimate of costs or savings.**

7.6 The Executive Member or Chair may not ask officers:

- (1) To exclude any option contained in the draft report;**
- (2) To exclude or alter the substance of any statement in the draft report of any officers' professional opinion.**
- (3) To alter the substance of any recommendations that compromises the officer's integrity or would result in illegality;**
- (4) To exclude any statement that a course of action would be a "key decision" or would be contrary to a policy or budget or to exclude any statement regarding legality, fairness or financial prudence, made by officers exercising their designated functions under Article 10 of the Council's Constitution;**
- (5) To exclude any report, comments or representations arising from consultations, publicity or supply of information to the community.**

7.7 Certain statutory functions are undertaken by officers. Their reports on such matters are then their own full responsibility.

7.8 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward members should be notified at the outset of the exercise.

7.9 In relation to action between meetings, it is important to remember that the law allows for decisions (relating to the discharge of any of the Council's functions) to be taken by a Committee, a Sub-Committee or an Officer and in relation to Executive functions by the Executive or an Officer. Legislation allows for Members to take individual decisions where the Council decides that this should happen and as set out the Functions Scheme. These decisions can only be taken in specific circumstances following appropriate advice and the decision must be recorded. This does not mean that any

decision can be taken by a Member. The rules relating to decision making where it is a Committee or Sub Committee or Officer decision remain unchanged.

- 7.10 The Council's delegation scheme is contained within the Constitution. This contains the majority of delegations to officers. From time to time the Executive, Committees and the Council give additional delegations which are added to the Constitution as it is updated annually.
- 7.11 Finally, it must be remembered that Officers within any department are directly accountable to the Chief Executive Officer. Whilst Officers should always seek to assist a Chairperson (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Chief Executive Officer.

8 SCRUTINY ARRANGEMENTS

8.1 The principles of the Employee's Code of Conduct remain in place under the Executive arrangements. However, these arrangements raise particular issues for local authority employees because:-

- (a) The advice which officers have given to the Executive, its Members or to any group may now be subject to scrutiny and examined by a Scrutiny Committee.**
- (b) Officers may have written reports for presentation by a Executive Member with Portfolio or provided advice to the Executive. Where such a decision is subject to Scrutiny by a Scrutiny Committee in their scrutiny roles, or when a decision is called-in, an officer may provide information or advice to a Scrutiny Committee. Members must recognise that there is an inherent tension between these two roles. As circumstances change or more information comes to light, advice may reflect the difference.**
- (c) Scrutiny Committees or their members will need active assistance from officers if they are to perform their role of scrutinising the Executive effectively.**

These factors will require understanding by Members of the role that officers have to perform.

9 PUBLICITY AND CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member,

this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.

- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a Member generally. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

Where Members send correspondence in their own name as a Member of the Council, such correspondence may be sent on Council headed notepaper headed with the words "from the Office of [Name of Councillor]"

- 9.3 **The Council abides by the provisions of the DETR Local Authority Publicity Code (April 2001).**
- 9.4 **Information on Council services will be produced in collaboration with the Communications Unit and will be impartial reflecting Council approved policy.**
- 9.5 **All news releases will be written and issued by the Communications Team following consultation with the Senior Officers and Portfolio Member concerned.**
- 9.6 **Publicity will not be party political and will report on and reflect Council policy.**
- 9.7 **Media requesting political comments will be referred to the political group *Leaders*.**
- 9.8 **It is the intention of the Council to make public information available on the website accessible to Members and residents as resources allow.**

10 THE ROLE OF THE HEAD OF THE PAID SERVICE (*CHIEF EXECUTIVE*)

- 10.1 **The *Chief Executive* has a specific statutory function in relation to employees, appointment, discipline, terms and conditions of employment and collective bargaining. Members will recognise and respect those responsibilities and duties.**

MEMBERS AND OFFICERS DO'S AND DON'T'S

APPENDIX 2

What Members Can Expect From Officers	
Officers Do	Officers Don't
Pursue lawful policies and comply with the Officers' Code of Conduct	Deviate from the Constitution, legal or contractual obligations
Promote equality, serve all Members equally with dignity, respect and courtesy, regardless of political group or position	
Comply with legal duty to provide professional advice, impartiality and implement Council policy	Allow their personal or political opinions to interfere with their work or professional judgement and advice
Avoid close personal familiarity with Members and follow guidelines on Personal Relationships	Form friendships, close relations with Members
Follow Council procedures for dealing with Member enquires effectively efficiently and within set timescales.	
Act with integrity and appropriate [<i>not absolute</i>] confidentiality	<ul style="list-style-type: none"> · Seek to improperly to influence Members; · Improperly disclose information received from one Member to another; or · Raise their personal circumstances or those of another directly with Members. Personal issues that might be raised with a Ward Member should be raised in a private capacity outside of work time.
Respect each other's free (i.e. non-Council) time	
Be prepared to justify and give reasons for decisions made under delegated powers;	
Report the least suspicion of fraud, corruption or impropriety	Conceal any information which it is proper for them to disclose (particularly where they have a duty to reveal it);

MEMBERS AND OFFICERS DO'S AND DON'T'S

APPENDIX 2

What Officers can expect from Members	
Members Do	Members Don't
Comply with the Members' Code of Conduct – ensuring the highest standards of behaviour	
<p>Promote equality and treat all Officers with dignity and respect.</p> <p>Members are to comply with the equality laws prohibiting discrimination, harassment and victimisation</p> <p>Chairs of meetings are expected to apply the rules of debate/procedures to prevent abusive or disorderly conduct</p>	<p>Subject individuals to unreasonable or excessive personal attack</p> <p>Undermine respect for Officers in public meetings, the media or at any other time when dealing with Council business;</p>
<p>Only ask Officers to provide professional advice on matters that clearly arise from being an elected Councillor;</p> <p>Respect impartiality and integrity of Officers and do not compromise it</p> <p>Respect Officers' free (i.e. non-Council) time.</p>	<p>Ask Council Officers to improperly spend Council time or resources for political Purposes.</p> <p>Insist an Officer changes his/her professional advice</p>
Provide political leadership and direction, making timely decisions	<p>Get involved in day to day management</p> <p>Ask Officers to breach Council procedures or policy when acting on behalf of constituents</p> <p>Put pressure on an Officer on matters which have been delegated for Officer decision. A Member who behaves in this way may lead Officers to make decisions that are not objective and that cannot be accounted for</p>

MEMBERS AND OFFICERS DO'S AND DON'T'S

APPENDIX 2

Members Do	Members Don't
	Not to seek special or adverse treatment for themselves or any individual by use his/her position as a Member nor improperly to gain an advantage or disadvantage for his/herself or any other person when dealing with Council Officers
Apply appropriate confidentiality to information	
Report the least suspicion of fraud, corruption or impropriety	Instruct Officers to take actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code Of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.
Where relevant to casework or a decision, declare any special relationships/personal interests with constituents to relevant Officers and/or constituents. Where the relationship causes a conflict of interests, Members will ask another Ward Member to assist.	

When Acting in this Capacity Members

Do	Don't
Observe the law, standing orders, policies and procedures in relation to all appointments, discipline and Dismissal of Officers.	
Declare any interest they have and ensure that they act to protect the public interest	Take part in any process where friends, relatives or Members of their household are somehow involved
Maintain appropriate confidentiality	
Attend relevant learning and development	
Make decisions based on merit and with access to all the facts	Seek improperly to influence decisions
Promote equality	Canvass support for any candidate for a job
<i>Take continuing responsibility for their appointment decisions once the post holder is in place.</i>	

Bolsover District Council

Standards Committee

8 May 2018

Review of the Council's Constitution

Report of the Joint Head of Corporate Governance and Monitoring Officer

This report is public

Purpose of the Report

- To recommend proposed amendments to the Council's Constitution for consideration by the Standards Committee prior to submission as part of the Annual Review of the Constitution to Council for adoption.

1 Report Details

1.1 The Constitution is the Council's 'rulebook'. It sets out how the Council operates and how it makes decisions. Council approved its latest version of the Constitution at the Annual Council meeting in May 2017.

1.2 One of the functions of the Standards Committee is to undertake an annual review of the Council's Constitution to ensure it is up to date and in line with legislation and current circumstances. The Constitution Working Group at its meeting on 26th February 2018 considered a report which set out a number of areas that had been identified for review:

- Disabled Facilities Grants procedures
- Shared Services Consultation Protocol and other aspects of the Joint Working arrangements relating to Chesterfield Borough Council
- Terms of Reference for Bolsover Conservation Area Advisory Committee
- Terms of Reference for Pleasley Park and Vale Conservation Area Joint Advisory Committee
- Minute Books submission to Council
- Procedure Rules for Questions from the Public and by Councillors
- Role Profiles
- Employee Code of Conduct
- Terms of Reference for Licensing Committee and DFGs
- Procurement Rules/ Contract Procedure Rules
- Terms of Reference for the Housing Allocations Review Panel (HARP)

1.3 A number of comments were made at that meeting which are detailed below:

- Clarity required on 15 of Employee Code of Conduct re: Criminal Activity

- Part 21 1 and 2 of Code of Conduct – add in ‘in a Council Vehicle’ Clarity sought around drinking at work.
 - Minute Books – Must be circulated to members
 - Protocol on service requests to be included in induction for Members.
- 1.4 Amendments have been made to the proposals put to the Constitution Working Group (CWG) as per their comments and are now put to the Standards Committee for recommendation to Council.
- 1.5 Details of the proposed amendments in relation to each of these areas of the Constitution are attached at **Appendix 1**. This also outlines the rationale behind each proposal as previously given to the CWG.
- 1.6 Where revised versions of each section have been produced, these are also attached as **Appendices 2-5**, showing the tracked changes in comparison to the current documents.
- 1.7 Throughout the period of the review of the Constitution, a few additional areas have been brought to the Monitoring Officer’s attention which include:
- Protocol on Member/Officer Relations
 - Scheme of Delegation to Officers
 - Minor Wording Changes and Updating of Job Titles (Housekeeping)
- 1.8 The review of the Protocol on Member/Officer Relations is contained in a separate report on the agenda.
- 1.9 Proposals for changes to the Scheme of Delegation are detailed in **Appendix 6** to this report for Member’s consideration, with the amended tracked changes version attached at **Appendix 7**.
- 1.10 Amendments are also proposed which will correct and up-date terminology, numbering issues and references to job titles but will not amount to substantive changes to the rules or articles. These are not set out in full in the report, but a full revised version of the Constitution will be prepared to submit to the Annual Council meeting on 21 May 2018.

2 Conclusions and Reasons for Recommendation

- 2.1 To ensure the Council has in place a fit for purpose Constitution which complies with English law.

3 Consultation and Equality Impact

- 3.1 The Chief Executive, Chief Financial Officer, and Monitoring Officer have been consulted on the preparation of this document.
- 3.2 An Equality Impact Assessment has not been necessary as part of this review.

4 Alternative Options and Reasons for Rejection

- 4.1 Members may consider alternative options to each of the proposals put forward, where legally permitted.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Failure to ensure the Constitution meets legal requirements can leave the Council open to challenge, as does failure to comply with the provisions of the Constitution. It is therefore essential that Constitution is regularly reviewed and given robust oversight.

5.2 Legal Implications including Data Protection

- 5.2.1 The Council is required under the Localism Act 2011 to prepare and keep up-to-date a constitution that contains its standing orders, code of conduct, such other information that the Secretary of State may direct and such other information that the authority considers appropriate.

5.3 Human Resources Implications

There are no human resources implications arising from the proposals within this review.

6 Recommendations

- 6.1 That the Standards Committee give consideration to the proposed changes to the Constitution as detailed in **Appendix 1 – 5** (previously considered at Constitution Working Group) and make recommendations to Council for approval;
- 6.2 That the Standards Committee give consideration to the proposed changes to the Scheme of Delegation to Officers as detailed in **Appendix 6/7** and make recommendations to Council for approval as part of the final Review of the Constitution Report; and
- 6.3 That the Standards Committee note that the Member/Officer Protocol, if approved at this meeting will be recommended to Council for approval as part of the final Review of the Constitution Report.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <i>Capital - £150,000</i></p>	<p>No</p>
<input type="checkbox"/> <input type="checkbox"/>	

<p>NEDDC: Revenue - £100,000 Capital - £250,000 <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> Please indicate which threshold applies</p>	
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Affected</p>	None
<p>Links to Corporate Plan priorities or Policy Framework</p>	Demonstrating good governance

8 Document Information

Appendix No	Title
1	Summary of proposals and rationale - Pages
2	Employee Code of Conduct – Pages
3	Contract Procedure Rules – Pages
4	Council’s Petition Scheme – Pages
5	Article 11 on Joint Arrangements – Pages
6	Proposals for Scheme of Delegation to Officers Pages
7	Scheme of Delegation to Officers Pages
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
None.	
Report Author	Contact Number
Nicola Calver, Governance Manager.	01246 217753

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Employee Code of Conduct	<p>A new Employee Code of Conduct was approved by Council in 2009. A few sections of this Code were not included in the Constitution but have been available to employees.</p> <p>The Constitution has included some minor amendments over recent years reflecting changes in job titles and new legislation/policies.</p> <p>The proposed revised Employee Code of Conduct (Appendix 2) includes the additional sections from the previously approved version from 2009 and reflects other changes from the current Constitution version, as well as other minor wording changes to bring it up to date.</p> <p>In line with the requests of the Constitution Working Group clarity has been made around criminal activity and drinking at work.</p> <p>The proposed version does not alter in duties or responsibilities for employees. Union representatives have been notified of the current proposal and have no comments.</p>	The Employee Code of Conduct is contained in Part 5 of the Constitution – Pages 194-202 in the current Constitution.
Procurement Rules/ Contract Procedure Rules	<p>Minor amendments are proposed to the Contract Procedure Rules to reflect best practice, current working practices and the documentation that has been developed for the Council to use in procurement processes by the Council's procurement service at Chesterfield Royal NHS Foundation Trust. The revised document is attached at Appendix 3.</p> <p>The rules refer to EU legislation and EU set thresholds related to different types of procurement activities required. These requirements remain in place during the negotiations for United Kingdom's exit from the European Union. A further review will be undertaken at such time that these</p>	The Contract Procedure Rules are contained in Part 4 of the Constitution – Rules of Procedure – Pages 151-164 of the current version.

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	provisions and requirements are amended or brought under alternative national level legislation.	
Disabled Facilities Grants procedures	<p>A separate report has been submitted to Standards Committee explaining the proposal to alter the procedure for the approval of Disabled Facilities Grants (DFGs).</p> <p>This would remove the power from the Terms of Reference for Licensing Committee and add it as an Executive Function in the functions scheme. This reflects the legal requirement for the grants to be dealt with as a matter for the Executive.</p> <p>It is also proposed that mandatory DFGs be approved at officer level, with only discretionary applications being submitted to Executive.</p> <p>Executive and Licensing Members have been consulted on the proposal.</p>	<p>Executive Functions are contained in Part 3 of the Constitution, Responsibility for Functions – Pages 26 - 28 of the current Constitution.</p> <p>Licensing Terms of Reference are in the same Part – Pages 37 - 38.</p> <p>The Scheme of Delegation to Officers is currently in Part 4 of the Constitution – Pages 168-188, however it is proposed that this section be moved to Part 3 Responsibility for Functions.</p>
Petition Scheme	<p>The Constitution Working Group considered the Council’s Petition Scheme in 2016/17 and agreed to retain the contents of the Scheme.</p> <p>The current proposals (attached as Appendix 4) do not alter the procedures for submitting petitions or how they are dealt with, however they are designed to simplify the document and make it more accessible for the public to refer to. Much of the wording in the current scheme is repeated, which is considered unnecessary.</p>	The Petition Scheme is contained in Part 7 to the Constitution.

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	<p>One amendment to the scheme is to include matters subject to consultation in the list of issues excluded from the Scheme. This has been proposed following a review of practices across other authorities and to ensure that statutory consultation procedures are not undermined. Petitions submitted during consultation would be considered by the Council as part of that consultation response.</p> <p>The petition scheme for North East Derbyshire District Council and this scheme are very similar. A few amendments are proposed to align the wording further to aid officers in advising on the procedures and to provide consistency.</p>	
<p>Access to Minutes and Minute Books submission to Council</p>	<p>It is proposed that new procedures be put in place to enable Members to access copies of minutes to all Committees and Advisory Groups as soon as they are finalised and that Minute Books will no longer be produced and submitted to Council meetings.</p> <p>Copies of all Minutes will be uploaded to the Members' Extranet and Members will be emailed once they are available to view. Members may request paper copies of individual sets of Minutes from the Governance Team, rather than being sent copies of all Minutes that Members might not need.</p> <p>Members will also be provided with guidance on who to speak to if they have any questions arising from any Minutes circulated – i.e. the Committee Chair or Cabinet/Executive Portfolio Holder, or the lead officer who will be named after each Minute where there are actions arising. This way Members can access the information and ask the questions they</p>	<p>The Council Procedure Rules are contained in Part 4 of the Constitution – Rules of Procedure.</p> <p>Section 2.1 (I) would be removed if this proposal were to be agreed.</p>

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	<p>need to at the earliest opportunity, rather than waiting for a future Council meeting.</p> <p>Members may still raise questions at Council meetings via the procedure for Questions of Notice.</p> <p>If there are recommendations from Committees or Cabinet/Executive to Council, these will be submitted by way of a report which will allow for questions, answers and debate, in accordance with Council Procedure Rule 2.1 (i).</p> <p>It is no longer a common practice across local authorities for Minute Books to be prepared and submitted to Council meetings due to the availability of Minutes online and on Members iPads.</p> <p>Replacing the publication of Minute Books with these proposed arrangements will lead to a cost saving of approximately £150 per year printing and £150 per year postage (as it is usually included in the same envelope as the Council agenda however it sometimes has to be despatched separately). The proposal would also save around 30 hours of officer time in preparation.</p>	
Scheme Of Delegation To Officers	<p>A Revised Scheme of Delegation to Officers is necessary as a consequence of the Strategic Alliance Management Team (SAMT) restructure. This will be reported to the next meeting of the Standards Committee.</p> <p>The current Scheme of Delegation for Officers has also been adopted by North East Derbyshire District Council and any proposals to change will also be submitted to Members there for approval.</p>	The Scheme of Delegation to Officers is currently in Part 4 of the Constitution – Pages 168-188, however it is proposed that this section be moved to Part 3 Responsibility for Functions.

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	<p>It is proposed that this section be relocated within the Constitution, to form part of Part 3 Responsibility for Functions, rather than Part 4 Rules of Procedure. This is a more logical order, connecting the functions carried out by Officers with those by Committee, so should be easier to refer to in this location.</p>	
<p>Procedure Rules for Questions from the Public and by Councillors and Motions</p>	<p>Currently there are different deadlines for the submission of questions and motions on notice for Council meetings. For submitting questions from the public and also motions from Members is midday, seven clear days before the meeting. No time is specified for the deadline for Members to submit questions to Council; the procedure rules simply state seven clear days' notice must be given. The deadline has therefore been taken to be midnight.</p> <p>To provide greater certainty and to assist in the processing of the questions and motions on notice, it is proposed that the deadline for all of these submissions be set to midday.</p>	<p>The Council Procedure Rules are contained in Part 4 of the Constitution – Rules of Procedure.</p> <p>Rule 9.3 would be amended to include a deadline of midday on the day seven clear working days before the meeting.</p>
<p>Article 11 – Joint Arrangements</p>	<p>The proposed amendments to Article 11 on Joint Arrangements (Appendix 5) seek to simplify the details of the joint arrangements that are included in the Constitution. Currently a number of joint committees and partnerships are listed, but not all. For consistency, it is proposed that a provision be included to require Executive and Council to maintain a list and details of the joint arrangements that have been established and that these lists will be held by Governance, separately to the Constitution. This will ensure that up to date Terms of Reference are held and referred to, rather than waiting for the version in the Constitution to be amended at a future Council meeting.</p>	<p>Article 11 – Joint Arrangements is in Part 2 of the Constitution – Articles of the Constitution – Pages 13-15.</p> <p>As a consequence of this proposal, some Terms of Reference would be removed from Part 3 of the Constitution –</p>

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	<p>Partnership working, such as the Local Enterprise Partnerships and SCR Combined Authority, are also managed externally by other authorities or bodies and the Council relies upon these bodies to maintain Terms of Reference and other procedural documents.</p> <p>It is however proposed to include a description of the Strategic Alliance within this Article, as this is a significant arrangement of joint working</p>	Responsibility for Functions as set out below
Removal of Terms of Reference and Protocols for Committees or joint arrangements that no longer meet or have changed in format	<p><u>Joint Board/Shared Services Protocol etc</u></p> <p>As set out above, there is a lack of consistency with which joint arrangements are included in the Functions Scheme within the Constitution. Much of what is included related to joint working between Bolsover District Council, North East Derbyshire District Council and Chesterfield Borough Council, including Joint Board, Shared Services Scrutiny Panel and a Shared Services Consultation Protocol. Joint working between these three authorities has evolved over the years and the number of shared services covered by these arrangements is now only the Internal Audit Consortium. A separate committee exists for the management of the Chesterfield and District Crematorium – which is not mentioned in the Constitution.</p> <p>Joint Board meetings have reduced in frequency as a consequence of the reduction in its remit, to just two being scheduled in 2018/19 and the Shared Services Scrutiny Panel has only met once in the last 3 years, prior to the Building Control Service becoming part of the Derbyshire Wide building control company. As Chesterfield Borough Council is the lead authority managing the meetings of Joint Board, there is no need for all three Councils to retain the level of detail regarding meeting procedures as is currently contained in the Bolsover District Council Constitution.</p>	The Joint Working Protocol, Joint Board arrangements and the Shared Services Scrutiny Panel would be removed from Part 3 of the Constitution – Responsibility for Functions – Pages 63-68 and 71-75 of the current version.

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	<p><u>Bolsover Conservation Area Advisory Committee</u> It is proposed that the Terms of Reference for the Bolsover Conservation Area Advisory Committee be removed from the Constitution as this Committee has not met for many years.</p> <p><u>Pleasley Park and Vale Conservation Area Joint Committee</u> It is proposed that the Terms of Reference for Pleasley Park and Vale Conservation Area Joint Committee be removed from the Constitution as it no longer meets as a formal Committee but now meets as an advisory group. The Terms of Reference would be retained by Governance to continue supporting the meeting, but the meetings are organised on a more informal basis.</p> <p><u>Re-establishing a Committee or Advisory Group</u> The Terms of Reference for any Committees or Groups removed from the Constitution are retained in archived copies of previous versions of the Constitution. If any future decisions are made to re-establish any Committee or advisory group that is removed from the Constitution, these documents may be recalled and updated as necessary.</p>	<p>The Terms of Reference for the Bolsover Conservation Area Advisory Committee and the Terms of Reference for Pleasley Park and Vale Conservation Area Joint Committee are contained in Part 3 of the Constitution – Responsibility for Functions – Pages 49-52 of the current version.</p>
Revisions to Terms of References of Committees to reflect current working practices	<p><u>Housing Allocations Review Panel</u></p> <p>The Terms of Reference for the Housing Allocations Review Panel include provision for a list of cases to be considered by the Panel to be circulated to local members (at paragraph 10). This practice has not been followed for some years as it is not recognised as best practice for Members to be sent this personal data as a matter of course, rather than on a need to know basis. It is therefore proposed that this provision be removed.</p>	<p>Housing Allocations Review Panel is contained in Part 3 of the Constitution – Responsibility for Functions – Pages 51-55 of the current version</p>

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Removal of role profiles for obsolete roles	The role profile for the role of Chair of Scrutiny Management Board can be removed from the Constitution as this role no longer exists.	The role profiles are contained within Part 5 of the Constitution – Codes and Protocols. This role profile is on page 231 of the current version.

5.2 EMPLOYEE CODE OF CONDUCT

1. Standards

- (1) Local Government 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 agreed procedures 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 to the appropriate manager any impropriety or breach of procedure.
- (2) Employees are expected to undertake their duties on the basis of mutual trust, respect and courtesy. Conduct which undermines the satisfactory working of the establishment and is not in accordance with these principles will give rise to disciplinary action which could include dismissal.

2. Disclosure of Information

- (1) It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public. The Council itself may decide to be open about other types of information. Employees must be aware the types of information which are open and which are not. Managers must ensure their employees are well briefed on these matters. Employees must make themselves aware of their responsibilities under the Data Protection Act. If there is any doubt advice should be sought from the Data Protection Officer, Legal Services or Governance.
- (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. Any particular information received by an employee from a Councillor, which is personal to that Councillor and does not belong to the Council 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.
- (3) No employee shall communicate to the public the proceedings of any Council meeting from which the public are excluded, nor the contents of any document or other information relating to such a meeting, unless required by law or expressly authorised to do so by the Chief Executive Officer, Director or Assistant Director.
- (4) Employees should not communicate information acquired at work to the press, TV or radio without specific authority from a Heads of Service or Director. Where an employee communicates with the media in a capacity other than as an employee, the employee should make it clear that he/she is speaking for him/herself and should not name the authority.

3. Political Neutrality

- (1) Employees serve the Council as a whole. It follows 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.
- (2) Subject to the Council's conventions, employees may also be required to advise political groups. They must do so in ways that do not compromise their political neutrality. Guidance is contained within the Member/Officer Protocol and may also be obtained from Legal Services or Governance.
- (3) Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- (4) Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3(1) to 3(3).

4. Relationships

(1) Councillors

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

(2) The Local Community and Service Users

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.

(3) Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. 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) Employees who engage or supervise contractors or have any other official relationship with the contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare in writing that relationship to the appropriate manager.

5. Appointment and other employment matters

- (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 that 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 had/have a close personal relationship outside work with an applicant. A close personal relationship would be defined as one involving the employee with a relative, partner or friend as defined below:
- “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner (or ex-partner) of any of the preceding person,
 - “partner” means a member of a couple who live together,
 - “friend” means a person with whom one enjoys mutual affection and regard.

All employees participating as part of the interview panel will be required to sign a declaration they are not related, or have/had a close personal relationship, or association (whether positive or negative) with any of the candidates.

- (2) Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, or friend.
- (3) Every candidate for an appointment with the Council is required, when making such an application, to disclose whether to their knowledge they are related to any Member/employee of the Council. Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after the appointment is made that person will be liable to dismissal.

6. Outside Commitments

- (1) An employee’s off duty hours are their own concern but an employee must not allow private interests to conflict in any way with the duties of their employment with the Council or to cause any detriment to the interests of the Council or to undermine public confidence in that officer’s integrity.
- (2) No employee shall undertake additional work (whether paid or unpaid) outside of the Council without completing a Secondary Employment Form which is available from Human Resources and obtaining the prior approval of their Director or Assistant Director as appropriate. All such requests require the further approval of the Chief Executive Officer.

- (3) Where undertaking authorised additional work outside the Authority, employees must not use Council vehicles, tools, equipment or clothing.

- (4) Guidance for Directors and Managers on employees' outside interests and the need for Council approval is attached at Appendix 2.

7. Intellectual Property

Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

8. Personal Interests

- (1) Employees must declare, and submit in writing to the Chief Executive Officer, details of any non-financial interests that they consider could bring about conflict with the Council's interests.

- (2) Employees must declare, and submit in writing to the Chief Executive Officer, details of any financial interests that could conflict with the Council's interests.

- (3) Employees should declare to the Chief Executive Officer, membership of any organisation which is not open to the public and has no formal membership but to which the individual owes a commitment of allegiance and which has secrecy about rules, membership or conduct.

- (4) Employees must not, in respect of data held by the Council, access or deal with their own personal records/information/data or that of their family or close friends

9. Equality Issues

- (1) The Council is committed to a policy of equal opportunities in the full context of employment issues and all officers responsible for recruitment, training, promotion and career development shall select candidates irrespective of whether they have a 'protected characteristic'. 'Protected characteristics' covered by the Equalities Act 2010 are because of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation or any personal characteristic of the individual, whether the person possesses a particular characteristic or it is perceived they do.

- (2) All members of the community, customers, councillors and other employees have a right to be treated with fairness and equity.

- (3) Employees are expected to carry out their duties and responsibilities in accordance with the Council's Equalities Policy. Employees must not discriminate against or harass any member of the public or colleague on grounds of age, disability, gender reassignment, race, religion or belief, sex or sexual orientation.

10. Contracts, Procurement and Tendering

- (1) Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and 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.
- (2) Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- (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.
- (4) Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- (5) Employees should ensure that no special favour is shown to current or recent former employees or their friends, partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- (6) Employees must ensure that any action taken in respect of the tendering process, dealing with contractors or in the procurement of goods or services is compliant with the Council's Contract Procedure Orders and Financial Regulations.
- (7) Employees dealing with contractors should ensure that they do not use their professional relationship to obtain advantageous prices for themselves, which would not be available to all employees, or where the obtaining of this advantageous price would be to the detriment of the Council.

11. Corruption

It is a serious criminal offence for an employee to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

Employees must act in accordance with the Council's Guidance on Acceptance of Gifts and Hospitality in Appendix 1 of this Code.

12. Use of Financial Resources

- (1) Employees must ensure they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

- (2) Employees should be aware of and adhere to the Council's Standing Orders, Financial Regulations and Procurement rules. If any employee has concerns over the lawfulness of certain action they should raise their concerns with their Director or Assistant Director as appropriate, or Chief Executive Officer and Chief Finance Officer. For full details of how to raise concerns please refer to the Council's Whistleblowing Policy.
- (3) The Council's time, property and facilities, including the use of plant machinery, stationery, vehicles, offices and other assets may be used only for Council business.

13. Sponsorship – Giving and Receiving

- (1) Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiations or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. The Council now has in place an Advertising and Sponsorship Policy which should be considered before any sponsorship is taken. Further information may be obtained via the Advertising and Sponsorship Officer.
- (2) Where the Council wishes to sponsor an event or service neither an employee nor any relative, partner or friend must benefit from such a sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council 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. Safety

All employees have a duty to take care of their own health and safety and that of others who may be affected by their activities, acts or omissions. Failure to comply with Health and Safety Policies and Procedures, or to recklessly or negligently endanger themselves or others may be regarded as gross misconduct and will be grounds for disciplinary action.

15. Criminal activity

A criminal offence or incident committed in the course of employment or connected to it will be grounds for disciplinary action. A criminal offence or incident outside the course of employment may be grounds for disciplinary action if it renders the employee unsuitable for the requirements of his/her post. For the purpose of this Code, a definition of 'Criminal Offence' is: an act harmful not only to some individual but also to a community, society or the state ("a public wrong"). Such acts are forbidden and punishable by law.

16. Falsification of Records

Any act involving the deliberate falsification of records, qualifications, entries on flexi-time sheets, abuse of the flexi-time system, time sheets, bonus sheets, expense claims or similar document, will be grounds for disciplinary action.

17. Damage to Property

Employees must take good and reasonable care of the Council's property, equipment and other physical assets and of the property, equipment and other physical assets of fellow employees and of any other person where the Council is in a position of trust or has a duty of care.

18. Abuse of authority

(1) Employees have a position of trust and responsibility in respect of the effective and efficient operation of the organisation. Employees must not use an official position improperly or for a private advantage for themselves or another.

(2) An Employee must not in his/her official capacity, or any other circumstance, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or the Council into disrepute.

19. Co-operation

(1) Employees must comply with the reasonable and lawful instructions of their supervisors. Any act of insubordination could constitute grounds for disciplinary action

(2) Employees have a duty to obey lawful and reasonable instructions, to serve the Council, as their employer, personally and faithfully, to exercise reasonable care and skill in carrying out their work, to abide by the law and not to disclose confidential information after the employment ends.

20. Time Keeping/Attendance

(1) Employees must attend work regularly and punctually during their normal working hours.

(2) Employees unable to attend through illness or for any other reason must report this on the first and fourth days of absence by 9.00 am, or earlier where this is necessary for the efficient scheduling of cover.

(3) Employees absent through illness must not prolong their absence by neglecting to act on medical advice.

(4) Employees may not absent themselves without giving reason.

(5) Employees must complete a self-certificate for any absences of less than eight calendar days and produce documentary medical evidence to cover absences in excess of 7 calendar days.

(6) Employees should ensure that they are familiar with the Council's Absence Management Procedure.

21. Alcohol and drugs

(1) Employees must not use, sell, buy or possess illegal drugs (of any classification) or other such substances during working hours, or on Council property, or in a Council vehicle.

(2) Employees must not consume alcohol **during working hours, or on Council property, or in a Council vehicle** unless expressly authorised to do so by a Head of Service, Strategic Director or the Chief Executive Officer. **An example where this may be authorised is at a celebratory Council event.**

(3) Employees must ensure that their use of alcohol or drugs or other substances does not adversely affect work performance or the safety of any person, including themselves, who may be affected by their work activities and that it does not bring the Council into disrepute.

(4) Employees taking prescribed or over-the-counter drugs must ensure that their use does not knowingly adversely affect work performance or the safety of any person, including themselves, who may be affected by their work activities.

22. Rules

(1) This Code of Conduct outlines some general standards and employees must ensure that they are aware of any other rules that apply to their profession, position and workplace.

(2) Employees must familiarise themselves with and observe the requirements of the Council's Standing Orders, Financial Regulations, Computer Security Policy, Internet & email Policy, Harassment and Bullying at Work Policy and other policies, procedures, protocols, rules and guidance documents applicable to them and to their post.

(3) Any breach of this Code of Conduct may be regarded as a disciplinary offence.

1423. Interpretation

The Chief Executive Officer or Monitoring Officer will provide advice and guidance on the interpretation of this Code.

GIFTS/HOSPITALITY GUIDANCE

- (1) In many areas of the commercial world it is common practice to offer and accept gifts, hospitality and other benefits. This practice is frequently used to influence a decision when one company is seeking business with another and it is perfectly legal to do so – but it can be quite the contrary in public service.
- (2) The acceptance of gifts, hospitality or other benefits, even on a modest scale, may arouse suspicion of impropriety and extreme caution and discretion should be exercised in accepting either. In principle you should refuse any personal gift offered to you or your family by any person or company who has or seeks dealings of any kind with the Council.
- (3) The only reasonable exceptions to the guidance given in (2) above are:-
 - (a) Small gifts of a purely token value given by way of trade advertisements (e.g., calendars, diaries, articles for general use in the office).
 - (b) Small articles, again purely of a token value given at the conclusion of courtesy visits (e.g. to a factory).
 - (c) A small gift offered without warning and where refusal would give particular offence.
- (4) Should you receive an unexpected gift, which falls outside the categories (see 3 above) you should consult your Director or Assistant Director, as appropriate, who will decide the course of action. This may include:-
 - (a) returning the gift, ensuring that the donor is told in a polite way why this has been necessary;
 - (b) passing the gift on to some charitable cause if it is appropriate to do so;
 - (c) agree that the gift may be kept by the recipient.
- (5) Details of all gifts covered by the above categories must be recorded in a book kept for this purpose by the Assistant Director – Governance and Monitoring Officer.
- (6) Hospitality is sometimes offered to employees and it is not always possible or desirable to reject offers of a moderate nature. Examples of acceptable hospitality include a working lunch of a modest standard, provided to allow business discussion to continue.

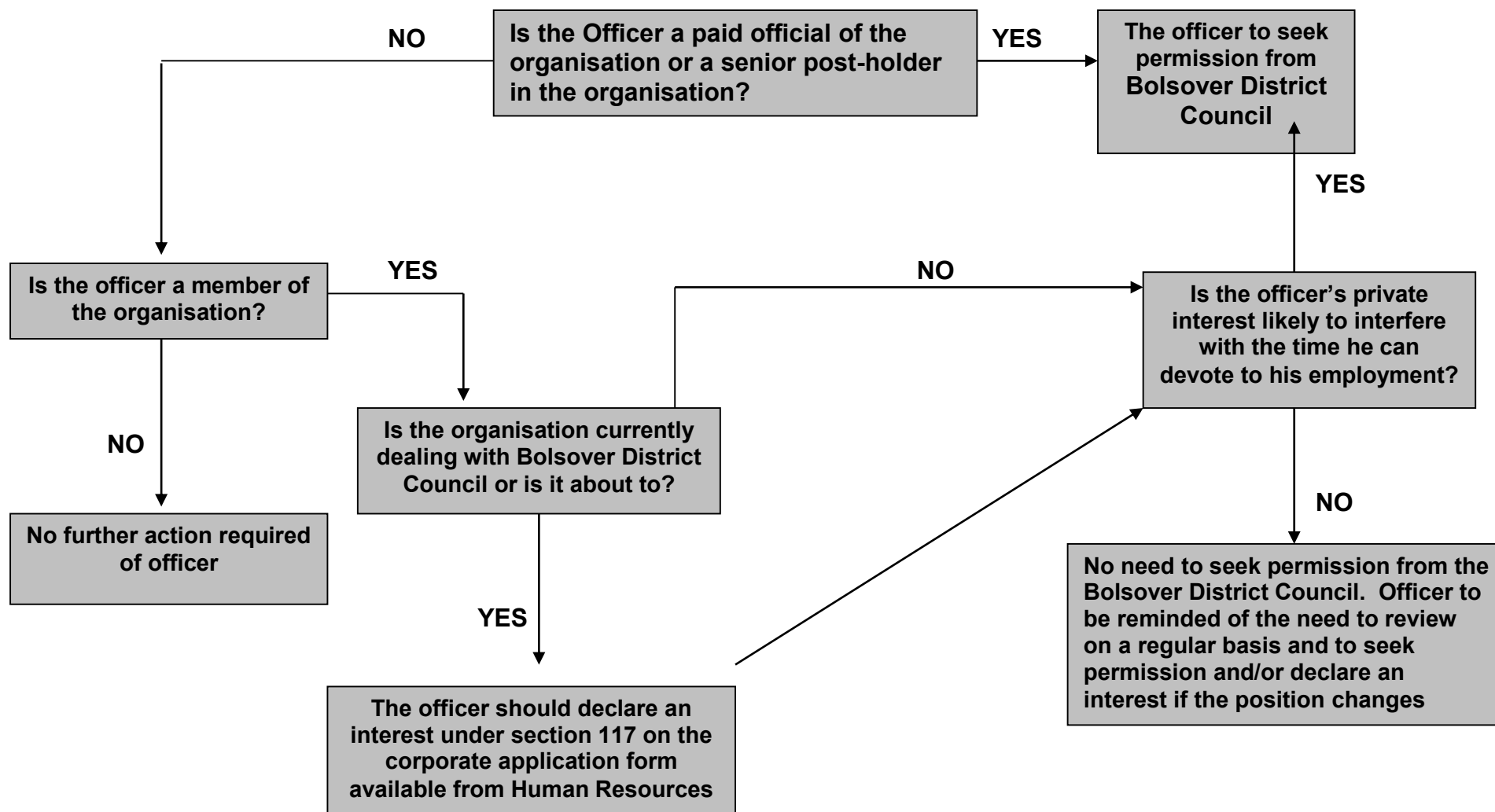
- (7) Some offers of hospitality are clearly unacceptable and these would include offers of holiday accommodation, individual offer of theatre tickets for yourself or your family and individual invitation to dinner.
- (8) You should be particularly cautious when any form of hospitality is offered by an individual or organisation seeking to do business with, or a decision from, the Council as acceptance might affect your relations with the party offering it and how this might be viewed. If in any doubt at all you should consult with your Director or Assistant Director as appropriate before acceptance. Directors/Assistant Directors must consult with the Chief Executive Officer.
- (9) Acceptance of offers of hospitality must be recorded in the book kept for the purpose by Legal Services.
- (10) These guidelines are intended as a general overview on the acceptance of gifts and hospitality but cannot cover every eventuality. If you are in any doubt you should consult your Director or Assistant Director, as appropriate, or the Chief Executive Officer.
- (11) **The procedure for registering offers of gifts and hospitality to officers will be as follows:**
- When a gift/hospitality arises it is the responsibility of the recipient to use the Gifts and Hospitality Declaration form which can be located on the intranet.
 - There will be two versions of the Declaration form –
 - **Gifts and Hospitality Corporate Declaration form**
– to be completed by all Bolsover District Council Employees
 - **Gifts and Hospitality Members Declaration form** –
to be completed by any District Councillor.
 - Note for officers only: Complete the relevant form and then get the Authorising Officer to sign the document (if the gift or hospitality is being accepted).

REMEMBER

- The entry needs to be made within a reasonable period of time from the offer of the gift or hospitality. **Members have 28 days to do this.**
- Members are required to declare any gift or hospitality that is above the value of **£50**. However, there is nothing to stop you from declaring any gift or hospitality that is below the stated value if you prefer to have this on record.

- The entry needs to be made within a reasonable period of time from the offer of the gift or hospitality.
- Give an approximate value of the offer. You can say “*de minimis*” or “*less than £10*” if the gift is small.
- Name the donor, including where the Authority provides hospitality.
- It must be clear from the entry whether the offer is accepted or refused.
- The name and extension number of the individual who received the offer must be provided on the form.
- A reason for acceptance must be given and the Line Manager’s authorisation (signature) obtained.
- Line Managers should not authorise their own acceptance of gifts and hospitality. The CEO, a Director or Assistant Director should be asked to authorise.
- Scan the signed and completed document and email the form to the Legal Support Officer.
- Place the original document in the internal post to the Legal Support Officer who is in the Legal Department at the Arc.
- The Legal Support Officer will store/receipt/reference all submitted entries by using electronic folders for each department.
- The Legal Support Officer will update the Corporate Inspection Spreadsheet with the entry as it is received.
- The paper version of the document will be stored in a lever arch file under its relevant department or in the Members’ Gifts and Hospitality.
- The Corporate Inspection Spreadsheet will run over a Corporate Year and will be checked annually by the Monitoring Officer, on behalf of the Standards Committee, to ensure that the system is being used and to monitor the frequency of any gifts and hospitalities during the Corporate Year.

GUIDANCE FOR MANAGERS AND OFFICERS' OUTSIDE INTERESTS AND THE NEED FOR THE COUNCIL'S APPROVAL



4.8 Contract Procurement Rules

4.8.1 Introduction

- (1) These Contract Procedure Rules (the Rules) provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that all procurement activity is conducted with openness, probity and accountability. Above all, the Rules are designed to ensure both that the Council complies with the statutory framework and obtains value for money including the required level of quality and performance from all contracts that are let. Every contract for the supply of goods and services and for the execution of works made by or on behalf of the Council shall comply with these Rules and the Public Contracts Regulations 2015 (“the Regulations”).
- (2) The Council has contracted with Chesterfield Royal NHS Foundation Trust to provide the Council with a Procurement Service (“the Procurement Service”). This includes advice on procurement and tendering procedures and the provision and management of the e-tendering system on the Council’s behalf.
- (3) E-procurement procedures shall be used wherever possible. These include e-tendering, purchase cards, etc. Where appropriate e-auctions may be used, so long as provision is made for this in the advert. Requests for quotations, pre-qualification questionnaires and invitations to tender should wherever practical be issued to tenderers by electronic means. Where e-tendering is utilised then this must be undertaken by way of the corporate e-tendering system which is managed on the Council’s behalf by the Procurement Service
- (4) Before any tendering exercise is considered, reference must be made to the Council’s procurement and equalities guidelines. The Council is committed to dealing fairly with all relevant discrimination groups as defined in the Equalities Act 2010. A failure to take into account special requirements for these groups in a tender would be a significant corporate failure, affecting the reputation and standing of the Council.
- (5) All procurement arrangements must ensure compliance with the Council’s responsibility in respect of the Freedom of Information Act, Environmental Information Regulations 2004 and the Data Protection Act and the General Data Protection Regulation.
- (6) Any employee who fails to comply with Contract Procedure Rules may be subject to disciplinary action.
- (7) A Glossary of Terms can be found at the end of this section.

4.8.2 Compliance with Contract Procedure Rules

- (1) The provisions contained in these Rules are subject to the statutory requirements of both the European Union and the United Kingdom. The letting and content of contracts shall conform to all statutory requirements and be subject to any over-riding directives of the European Union relating to contracts and procurement. These Rules cannot be waived, since a failure to comply with legislation may result in a legal challenge with consequent reputational and financial risk. If you are uncertain, advice should be sought from a member of the Procurement Service or the Monitoring Officer.
- (2) In estimating relevant contract values, officers shall have regard to the rules regarding aggregation. See Appendix A.

Partnerships

- (3) These Rules apply, in addition to other procurements, to any proposal for the Council to become involved in a joint venture or partnership, including the monitoring of any such arrangement.

Where Partnership arrangements, or working with other public bodies, are used in order to procure goods or provide services then consultation must take place with both the Monitoring Officer and the Chief Financial Officer prior to entering into such arrangements. Such arrangements should only be pursued on the basis that appropriate approval from the Council's statutory officers and from appropriate Council bodies have been secured prior to any formal commitments being given.

4.8.3 Normal Procedure

- (1) **These Rules relate to five categories of procurement based on the estimated value of the contract:**
 - a. £1 to £1,000
 - b. £1,001 to £5,000
 - c. £5,001 to £25,000
 - d. £25,001 to £50,000
 - e. £50,001 to £EU Threshold
 - f. Over the EU Threshold
- (2) **In all instances, goods, services or works should be obtained via the methods outlined below:**
 - a. in-house services (for example, printing and design etc.)
 - b. established corporate contracts or framework agreements
 - c. request for quotation

- d. Tender
- e. framework contracts established by Purchasing Consortia or other Local Authorities (following advice from the Procurement Service)
- f. for low-value purchases, Purchasing Cards can be used provided they are not used with the intention of undermining the use of approved or corporate contracts, or to circumvent the procedures set out within this document.

In considering whether to utilise any of the above options Officers must take into account the fact that their use is subject to EU and/or UK Statutory requirements.

- (3) **Orders and payments for goods, services and works shall be undertaken in accordance with the Financial Procedure Rules.**

- (4) **Before entering into a contract, the authorised officer must:**
 - a. Be satisfied that a specification (where appropriate) that will form the basis of the contract has been prepared (the specification should be retained on the appropriate contract file held within the service), and
 - b. Have prepared and documented an estimate of the cost of the contract including, where appropriate, any maintenance and on-going costs (the estimate should be retained on the appropriate contract file held within the service), and
 - c. Ensure that all evaluation criteria have been determined in advance, put into order of relative importance with weightings for each element and published in the tender pack; and
 - d. For contracts where there are clear risks, and for all contracts over £50,000, produce and maintain a documented risk register for the procurement process and for the eventual contractual relationship. As a minimum documentation should be maintained analysing all risks, identifying how they will be managed, and naming responsible officer(s).

- (5) **Before entering into a contract the authorised officer must:**
 - a. Be satisfied about the technical capability of such proposed contractor and be satisfied that s/he has the power and authority to enter into the contract; and

- b. Ensure that these Rules have been complied with, and that the proposed contract represents value for money; and
- c. For all contracts that exceed £50,000, the authorised officer shall undertake appropriate checks to ensure that the proposed contractor has the financial and resource capacity (taking account of contract value and risk) to perform the contract (unless the contractor has already been subjected to a recent satisfactory financial check). Financial vetting shall be undertaken by a designated financial officer, who shall advise on what, if any, security should be provided by the contractor.

(a) **Advertising**

All tenders shall be advertised and, where appropriate, full details should be available for download from the website <http://www.sourcederbyshire.co.uk/>. As part of the Government's Transparency Agenda details of all forthcoming contracts should be published on the Council's website at the earliest opportunity. Such details should be notified via email to the Chief Financial Officer. Where the contract value is above £25,000 details must also be published on the Government's Contracts Finder website. Details of such contracts must be provided to the Procurement Service who will arrange for appropriate advertising to be undertaken. Again such communication should be via email. Contract award notices shall also be published on the website and on Contracts Finder within 90 days of the contract being advertised.

- (6) Officers should consider whether the contract will be of benefit to other public sector bodies. If so consideration should be given to including text along the following lines in the advert;

"Tenderers should be aware that although the contracting authority for the purposes of this procurement is Bolsover District Council, one or more other local authorities and/or public bodies from the Counties of Derbyshire and Nottinghamshire may choose to access the concluded contract, without creating any obligation on behalf of any of them to do so."

Such text should only be incorporated with the approval of the Procurement Service.

- (7) All EU notices shall be referred, in advance of sending to the OJEU, to the Procurement Service to advise on wording.
- (8) Where the contract is over the OJEU threshold the Council must offer unrestricted and full direct free of charge access online to

the procurement documents from the date of publication of the notice in OJEU.

4.8.4 Exemptions to Contract Procedure Rules

- (1) Subject to statutory requirements tenders need not be invited in accordance with these Rules in the following cases:
 - a. In the case of the supply of goods:
 - i. the goods or materials are proprietary articles and, in the opinion of the appropriate Senior Officer (which should be put in writing and retained on the project file), no reasonably satisfactory alternative is available, and
 - ii. Exemptions under this rule have been notified to the Procurement Service.
 - b. The work to be executed or the goods or services to be supplied are controlled by a statutory body.
 - c. The work to be executed or the goods or services to be supplied constitute an extension to an existing contract and it is the view of the Senior Officer that it would not be in the interests of the service or the Council to tender the contract. The Senior Officer or his or her nominee should consult with the Procurement Service and a record of the decision must be placed on the project file.
 - d. The contract is for the execution of work or the supply of goods or services certified by the appropriate Senior Officer to be required so urgently as to preclude the invitation of tenders. The appropriate Portfolio Holder shall be kept informed of such decisions and a record of the decision shall be retained by the service and a copy sent to the Procurement Service.
 - e. The contract relates to commissioning, such as projects funded by external grant where, for example, there is no (or insufficient) marketplace to tender for the supply of goods, services or works required.
- (2) Nothing contained in the above exceptions exempts officers either from using the Council's internal services where appropriate, or from following established arrangements in Rule 4.8.3 Officers should ensure that the best possible balance of value for money and quality is obtained for the Council.
- (3) Tenders need not be invited where they have been undertaken by any consortium, collaboration or similar body, where the Council is able to access contracts. Officers should consult the

Procurement Service to ensure that any contracts let by such a consortium, collaboration or similar body are in accordance with UK and EU procurement directives and regulations.

- (4) Where the Council acts as lead body on a consortium or collaborative arrangement, the procedures for tendering contained within these Rules shall be followed

4.8.5 Contracting & Financial Guidelines

- (1) Officers should order goods and services that are required through an arrangement illustrated in Rule 4.8.3.(2) If, however, the Council or the consortium providing them do not have the goods or services or resources available to meet the reasonable needs of the service then an alternative supply may be sourced. In these circumstances the authorised officer must record why the goods or services have been procured through other means, and retain a formal copy of that document. In all circumstances a purchase order must be issued as required by financial regulations.
- (2) It is good practice (for all but small value and routine purchases) to obtain a written quotation. For further information on this, please contact the Procurement Service.
- (3) **Contracts £1 to £1,000**
Procurement of goods and services estimated to be for amounts up to £1000 shall be by oral or written quotation, and preferably from at least three suppliers unless an arrangement under 4.8.3.(2) has already been established for the goods, services or works required. There is no mandatory procurement involvement.
- (4) **Contracts £1,001 to £5,000**
Procurement of goods and services estimated to be for amounts in the range £1,001 to £5,000 shall be by written quotation from at least three suppliers, unless an arrangement under 4.8.3.(2) has already been established for the goods, services or works required. There is no mandatory procurement involvement.
- (5) **Contracts £5,001 to £25,000**
Procurement of goods and services estimated to be for amounts in the range £5,001 to £50,000 shall be by formal written request for quotation (RFQ) from at least three suppliers, unless an arrangement under 4.8.3. (2) has already been established for the goods, services or works required. There is no mandatory procurement involvement.
- (6) **Contracts £25,001 to £50,000**

Procurement of goods and services estimated to be for amounts in the range £25,001 to £50000 shall be by formal written request for quotation (RFQ) from at least three suppliers, unless an arrangement under 3.2 has already been established for the goods, services or works required. Details must also be published on the Government's Contracts Finder website, which must be done through the Procurement Service.

(7) **Contracts £50,001 to EU Threshold**

Procurement of goods and services estimated to be for amounts in the range £50,001 to EU THRESHOLD shall be by formal open Invitation to Tender (ITT), unless an arrangement under 4.8.3.(2) has already been established for the goods, services or works required, whereupon mini competition will be encouraged with all appropriate suppliers. For evaluation purposes, a standing invitation to the evaluation meeting shall be made to officers from Finance, Legal and Audit along with the relevant Portfolio Holder or substitute and the appropriate commissioning officer.

(8) **Contracts EU Threshold and above**

Procurement of goods and services estimated to be for amounts in the range EU THRESHOLD AND ABOVE shall be by formal open Invitation to Tender (ITT). Where contracts of this value are undertaken then appropriate professional support must be secured from either the Procurement Service or from an appropriately qualified external advisor. Both the Monitoring Officer and the Chief Finance Officer must be made aware of the position.

In considering whether or not a procurement exercise is subject to OJEU requirements you must consult with Legal Services. In particular you should consider whether extensions to a contract, or operating it for a period in excess of one year will breach OJEU financial limits. Where any contract has a value above or approaching OJEU limits it is the responsibility of the client officer to ensure that appropriate legal advice is secured throughout the tendering and contractual process.

(9) **SME Participation**

To facilitate SME participation in awards of contracts consideration should be given to dividing contracts into smaller lots where appropriate. Where a decision is taken not to divide a contract into lots then the responsible officer must maintain a written summary of the reasoning underlying that decision.

4.8.6 Probity

- (1) In every instance appropriate written documentation must be retained together with the rationale for the decision making process. This documentation shall meet as a minimum the requirements specified in the 2015 Public Contract Regulations. In addition any information that may be required for submitting annual reports to the Government or other agencies must be maintained.
- (2) Documentation in either paper or electronic format must be appropriately filed and retained for an appropriate period of time. The Council's Document Retention Policy will provide appropriate background guidance but ultimately the senior officer involved must determine the retention period.
- (3) All contracts for goods, services and works must be registered on the Contracts Register and the original contract documents held centrally and securely in Legal Services.
- (4) Tenderers may be offered a debrief, to assist them in preparing future bids. The relevant officer should also keep a record of all debrief requests and responses.
- (5) In accordance with EC Procurement Directive 2004/18/EC, any company responding to an EU tender shall be excluded from the tender process if it, or its directors have been convicted of; corruption, bribery, cheating the revenue, fraud or theft, fraudulent trading, an offence in connection with taxation, an offence under Counter Terrorism legislation or money laundering. Where a service has information relating to the above, contact the Monitoring Officer or the Procurement Service for advice.

4.8.7 Receipt and Custody

- (1) Tenders are managed by way of a corporate e-tendering system operated on the Council's behalf by the Procurement Service. This provides a clear electronic audit trail of the tender process.
- (2) Responses to pre-qualification questionnaires (PQQs) and quotations (RFQ's) are not deemed to be tenders and should be returned to the originating officer, either via hard copy or electronically via email or e-tendering system.

4.8.8 Opening and Evaluation of Tenders

- (1) Where e-tendering is used, all tenders will be submitted to and held in a secure electronic vault. This may only be opened

by the Procurement Service after the due date for tenders has closed.

- (2) The lead officer of the evaluation team is responsible for ensuring that the team is adequately resourced to ensure compliance with the Public Contract Regulations and with accepted good practice. A report outlining the results of the evaluation process will then be presented to Executive, if necessary, to approve the award of the contract.

4.8.9 Extension of Deadline for Receipt of Tenders

Where a tender is submitted in competition and is received after the specified time then it shall be disqualified. Before the specified time has been reached, the Monitoring Officer may determine whether to extend the deadline.

4.8.10 Acceptance

- (1) Contracts shall be evaluated and awarded in accordance with the evaluation criteria issued with the tender documentation. Only those tenders that comply with the evaluation criteria shall be considered for acceptance. Tenders must be evaluated on the basis of “most economically advantageous” tender (MEAT) that complies with the requirements of tender documents, is not excluded by virtue of Regulation 57 of the Regulations and meets the selection criteria. Cost-effectiveness and price quality ratio may be taken into account when determining MEAT.
- (2) A tenderer who submits a qualified or conditional tender shall be given the opportunity to withdraw the qualification or condition without amendment to the tender. If the tenderer fails to do so the tender must be rejected.
- (3) Prior to final contract award, the contractor must provide evidence of adequate insurance to cover both public and employers’ liability, and produce such evidence during the life of the contract at the reasonable request of the authorised officer.
- (4) For all procurements covered by the EU Directives, a statutory minimum standstill period after the award decision is issued is required to allow companies an opportunity to challenge the decision. The standstill time depends on the circumstances and is set out in Regulation 87 of the Regulations.
- (5) A voluntary waiting period is operated for procurements below the EU threshold, at the discretion of the Procurement Service.
- (6) The notification of the award decision to unsuccessful bidders, based on the most economically advantageous tender, must be issued in line with the timescales of the standstill period and should contain:

- the award criteria;
- the reasons for the decision, including the characteristics and relative advantages of the successful tender and the score (if any) obtained by the recipient and the successful tender;
- the name of the winning tenderer;
- confirmation of the dates and duration of the standstill period.

For all sub-OJEU threshold contracts, the following details of contracts that have been awarded should be advertised on the Contracts Finder website:

- name of contractor;
- date contract entered into;
- contract value;
- whether contractor was SME or VCSE.

- (7) All contracts must be notified to the Procurement Service, including performance monitoring information, with a copy to the Chief Finance Officer.

4.8.11 Nominated/Named Sub-Contractors and Suppliers

It is recommended that contracts are awarded to a single entity or lead contractor, who in turn will take contractual responsibility for the performance (and risks) for all sub-contractors and supply-chains. This reduces the risk of the Council becoming party to disputes between contractors.

4.8.12 Engagement of Consultants

- (1) An authorised officer may only appoint external consultants or advisors providing professional or consulting services if such services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the service. Where such services are available in-house, the authorised officer must consult with a Senior Officer before taking any decision to make an external appointment.
- (2) Consideration should be given to using appropriate framework agreements for business, professional, and ICT consultancy services. Advice should be sought from the Procurement Service.
- (3) External consultants and technical officers engaged to supervise contracts must follow these Rules as applicable and their contracts for services must state this requirement.

- (4) Procurement plans and / or tenders prepared by external consultants on behalf of the Council **must** be referred to the Monitoring Officer or Chief Finance Officer, for approval and advice.
- (5) The relevant officer is required to submit a Request for Service form (found on the intranet) to the Head of Procurement in respect of all consultancy and advisor contracts where the value of the contract is above £5,000. In estimating relevant contract values, officers shall have regard to the rules regarding aggregation. See appendix 'A'
- (6) All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide without delay any or all documents and records maintained by them relating to the services provided on request of the authorised officer, and lodge all such documents and records with the Authorised Officer at the end of the contract.
- (7) The authorised officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.

4.8.13 Contract Conditions

Every contract for goods or services regardless of value shall be in writing and shall specify:

- (1) the work, materials, matters or things to be furnished had or done;
- (2) the price to be paid, with a statement of discounts or other deductions; and
- (3) the time, or times within which the contract is to be performed.

Every contract over £50,000 shall be in a form approved by the Team Manager - Solicitor or their nominee.

4.8.14 Extending Existing Contracts

- (1) The Authorised Officer, subject to the budget being available, and after consultation with the appropriate Senior Officer, may extend a contract subject to the extension being within the scope of the original scheme (subject to Rule 4.8.4 1 (c)).
- (2) If the original contract was subject to the EU procurement regulations, the contract can only be extended if it meets one or more of the six statutory grounds as set out in Regulation 72 of the Regulations.

4.8.15 Performance Bonds and Guarantees

- (1) In the case of all contracts valued above £50,000 the authorised officer shall determine, based on advice from the Chief Finance Officer, the degree of security (if any) required to protect the Council from a contractor default. This may be a performance bond or some other form of financial or performance guarantee.
- (2) Where an order is placed with an in-house service and work forming part of that order is sub-contracted to an external company, then the provisions of Rule 4.8.15 (1) will apply.
- (3) Where a performance bond and/or parent company guarantee is required, then the tender documents must provide for this.

4.8.16 Liquidated Damages

Any contract which is estimated to exceed £100,000 in value or amount, and is for the execution of works, or for the supply of goods or materials by a particular date or series of dates, shall provide for liquidated damages. The amount to be specified in each such contract shall be determined by a Senior Officer in consultation with Legal Services.

4.8.17 Further Information

- (1) **Agreements shall be completed as follows:**

Total value	Method of Completion	Solicitor to the Council
Up to £50,000	Signature	Senior Officer?
£50,001 and above	Sealed	See (3) below

- (2) **Signature**

The Authorised Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

- (3) **Sealing**

Where contracts are completed by each side adding their formal seal, the affixing of the Council's seal will be attested by the Monitoring Officer together with the Chairman or in their absence, the Vice-Chairman of the Council, or in their absence, another Councillor.

An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose. The seal must not be affixed without the authority of the Council, Executive, a committee or under delegated powers. A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end; or
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
- where there is any doubt about the authority of the person signing for the other contracting party; or
- the Total Value exceeds £50,000

(4) **Archiving and lodgement of records**

The original sealed contract must be deposited with the relevant department and recorded on the Contracts Register.

Appendix A - Financial Thresholds and Aggregation Rule

Contract Value		Process	Award Procedure based on	Contract Opportunity Publication/Route	Documentation
From	To				
£0	£1,000	Oral quotation	At least 3 oral quotations	No mandatory procurement involvement	Employee identifying need to record details on quotation database.
£1,001	£5,000	Written quotation	Minimum of three written quotations	No mandatory procurement involvement	Employee identifying need to record details on quotation database.
£5,001	£25,000	RFQ (Request for quotation)	Three written quotations based on a RFQ document with simplified Ts&Cs	No mandatory procurement involvement.	Must be based on a written specification provided to the supplier by the Council. Quotation may be delivered by e-mail or provided through an electronic RFQ system. Council Ts&Cs must be accepted.
£25,001	£50,000	RFQ (Request for quotation)	Three written quotations based on a RFQ document with simplified Ts&Cs	Mandatory procurement involvement. Advertised in Source Derbyshire and the electronic RFQ system (INTEND). Contracts over £25,000 also published on Contracts Finder.	Must be based on a written specification provided to the supplier by the Council. Quotation may be delivered by e-mail or provided through an electronic RFQ system. Council Ts&Cs must be accepted.
£ 50,001	Up to EU Threshold as amended each year	Formal tender	Full tender process	Mandatory procurement involvement. Advertised in Source Derbyshire and Contracts Finder, if appropriate INTEND, Specialist publication if appropriate	ITT documentation as relevant with sealed bids which may be submitted via an electronic tendering process. Must be based on a written specification provided to the supplier by the Council. Council Ts&Cs must be accepted.
EU Threshold	above	Formal tender	Full tender process	Mandatory procurement involvement. OJEU, Advertised in Source Derbyshire , if appropriate INTEND, Specialist publication if appropriate	PQQ and ITT documentation as relevant with sealed bids which may be submitted via an electronic tendering process. Must be based on a written specification provided to the supplier by the Council. Council Ts&Cs must be accepted.

NB The Contract Value shall be calculated as follows: The estimated or proposed contract value is the value or consideration for the contract as a whole (not an annual value) and any contract with an option to extend the contract period will be valued to include also any provision for such extended period (e.g. a three year contract with an option to extend for a further two years will be valued as the consideration for a five year contract).

Appendix B - Glossary of Definitions;

Authorised Officer Means any officer who by the nature of his or her job, or as directed by a manager, is authorised to place orders.

Code of Practice Means the Council's Code of Practice for Procurement including accompanying guidance.

Contract Means any form of contract, agreement or other arrangement for the supply of goods, services or works.

Goods Covers all supplies and materials that the Council purchases or obtains.

Senior Officer Means one of the following: Chief Executive, Strategic Directors and Assistant Directors.

Services Includes all services which the Council purchases or obtains including advice, specialist consultancy work, agency staff, etc.

Works Includes all construction and repairs in respect of physical assets (buildings, roads, etc.).

7 PETITIONS SCHEME

Petitions

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. .

Paper petitions can be sent to:

Chief Executive
Bolsover District Council
The Arc
High Street
Clowne
Derbyshire
S43 4JY

Petitions can also be presented to a meeting of the Council. These meetings take place on a four weekly basis, dates and times can be found at www.bolsover.gov.uk

If you would like to present your petition to the Council or would like your Councillor or someone else to present it on your behalf, please contact Sarah Sternberg – Monitoring Officer on (01246) 217057 or email her on MonitoringOfficer@ne-derbyshire.gov.uk 10 days before the meeting and they will talk you through the process. If your petition has received 1000 signatures or more it will also be scheduled for a Council debate and if this is the case we will let you know when this will happen.

Who can submit a petition?

Any person regardless of age who lives, studies or works in the District is able to submit a petition.

Merging petitions

Where the Council receives petitions relating to the same issue we will consider amalgamating the signatories only with the approval of the petition organisers.

What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- the contact details for the petition organiser (lead petitioner) so the Council knows who to contact (The contact details of the petition organiser will not be placed on the website.)

- the name, address, postcode and signature of any person supporting the petition.
- Date the petition is submitted.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reasons.

Issues specifically excluded from the Petition Scheme

The following matters are specifically excluded under the Petitions Scheme and will not be considered under the scheme:

- Any matter relating to a planning application or decision.
- Any matter relating to a licensing decision, including licensing applications under the Licensing Act 2003 and the Gambling Act 2005.
- Any matter which is currently or imminently subject to a consultation exercise
- Any matter which has been subject to a statutory consultation exercise, and the consultation exercise has now closed, such as the Local Plan or other local development plan documents.
- Any matters relating to complaints against Councillors under the Code of Conduct.
- Any matter where there is an existing right of appeal.
- Statutory petitions such as requesting a referendum on having an elected mayor.
- Any matter which is substantially the same as a petition submitted in the previous 12 months.
- Any matter which is considered to be vexatious, discriminatory, abusive or otherwise inappropriate.
- Any matter which is considered to be “exempt” under the Local Government Act 1972, Access to Information Act 1985, the Data Protection Act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

We will notify you of the reasons for your petition not being dealt if it is excluded under one or more of the above grounds.

What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. The petition will also be published on our website except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

How will the Council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but will usually include one or more of the following:-

- writing to the petition organiser setting out our views about the request in the petition.
- considering the petition at a Council meeting (where there are over 1000 signatures);

The Council may take other actions, such as holding public meetings or consultations, explore options to tackle the matter in conjunction with our local partners, or we may refer the petition for consideration by one of the Council's Scrutiny Committees*.

*Scrutiny committees are committees made up of Councillors who are responsible for scrutinising the work of the Council – in other words, a committee that has the power to hold the Council's decision makers to account.

Where a petition relates to specific wards or area the relevant ward members will be informed when a petition is received and how it will be considered.

If your petition is about something over which the Council has no direct control (for example a local hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with local partners through the Local Strategic Partnership (LSP) and where possible we will work with these partners to respond to your petition. For information on the LSP partners visit: www.bolsoverpartnership.org . If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you.

If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

Full Council Debates

If a petition contains more than 1000 signatures it will be debated by the full Council unless it is a petition asking for a senior Council Officer to give

evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.

The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of up to 30 minutes.

The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the Council's Executive (Cabinet) are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Where the Council has received several different petitions it may be necessary to limit the number to be heard at a particular meeting of the Council but we will inform you if this is the case.

Officer Evidence

Your petition may ask for a senior Council Officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council Officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 350 signatures, the relevant senior officer will give evidence at a public meeting of one of the Council's Scrutiny Committees. The senior staff that can be called to give evidence include:

- Chief Executive
- Strategic Director
- Monitoring Officer
- Chief Finance Officer

You should be aware that the Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant Portfolio Member, ward member or other appropriate member to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the Committee by contacting the Scrutiny Officer on 01246 242385 up to three working days before the meeting.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that one of the Council's Scrutiny Committees review the steps that the Council has taken in response to your petition. This will be the relevant Scrutiny Committee when your matter has been considered by Council, or an alternate Scrutiny Committee when your matter has been dealt with by the relevant Scrutiny Committee. It is helpful for everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate. To request a review, please contact the Monitoring Officer on (01246) 217057 or email her on MonitoringOfficer@ne-derbyshire.gov.uk within 28 days of the response you have received to the petition.

The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, referring the matter to the corporate complaints procedure, making recommendations to the Council's Executive and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website.

PETITIONS FORM

The Council has a petitions scheme which sets out how local people can submit a petition to highlight issues of concern within their local area. It sets out what essential information needs to be included and how the Council can respond to the issues raised.

The form is intended to assist the public in setting out the issues relating to their petition but other formats are also acceptable.

Purpose of petition
Ward/Area the Petition Issues Cover
What action do you wish the Council to take in relation to this issue?
Would you like the opportunity to present this petition to a meeting of the Council? YES/NO (cross out the word that does not apply)
Would you like your Ward Councillor to present the petition on your behalf? YES/NO (cross out the word that does not apply)
Contact details of the Petition Organiser (Lead Petitioner) Name: (Please print)

Address (including postcode)
Contact telephone number:
Email address:
Signature of Lead Petitioner:
Date of Petition:

Please complete and return this form to:

Governance
Bolsover District Council
The Arc
High Street
Clowne
Derbys
S43 4JY

Article 11 - Joint Arrangements

11.1 Arrangements to promote well-being

- (1) The Council may work with other councils, public bodies, commercial and voluntary organisations to promote the economic, social or environmental well-being of the District.

11.2 Joint Arrangements

Joint arrangements for Council Functions

- (1) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities or to advise the Council. Such arrangements may involve the appointment of a joint committee with those other local authorities.

Joint arrangements for Executive Functions

- (2) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with those other local authorities and will reflect the political balance requirements set out in the Local Government and Housing Act 1989.
- (3) Except as set out below, the Executive may only appoint Executive Members to a joint committee and those Councillors need not reflect the political composition of the local authority as a whole.
- (4) The Executive may appoint members to a joint committee from outside the Executive if the joint committee has functions for only part of the area of the Council, and that part area is smaller than two-fifths of the Council by area or population. In such cases, the Executive may appoint to the joint committee any Councillor who is a member for a ward, which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.
- (5) The Council and the Executive must maintain a list and details of the joint arrangements they have established.

11.2 Access to information

- (1) The Access to Information Rules in Part 4 of this Constitution apply to joint committees.

- (2) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information arrangements is the same as that applied to the Executive.
- (3) If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.4 Delegation to and from other Local Authorities

- (1) The Council or the Executive may delegate non-executive functions to another local authority or, in appropriate circumstances, the Executive of another local authority.
- (2) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.
- (3) All functions can be delegated in this way unless prevented by law.

11.5 Contracting Out

In certain circumstances where legislation permits, functions may be contracted out.

11.6 Strategic Alliance

- (1) The Council has formed a Strategic Alliance with North East Derbyshire District Council, in place since 2011. A shared chief executive and management team lead the transformation programme covering both councils.
- (2) To assist in the development of the transformation programme and to provide oversight, both councils have established a politically balanced Strategic Alliance Joint Committee, comprising nine members from either council and chairmanship will rotate annually between both councils. The Joint Committee has no decision-making powers but may make recommendations back to the respective councils. The Terms of Reference for the Joint Committee are contained in Part 3 – Responsibility for Functions.

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised												
Scheme Of Delegation To Officers	<p>A Revised Scheme of Delegation to Officers and is necessary as a consequence of the Strategic Alliance Management Team (SAMT) restructure.</p> <p>The amendments and additions to the Scheme are set out below:</p> <table border="1" data-bbox="607 528 1624 1382"> <thead> <tr> <th data-bbox="607 528 1115 603">Amendments to the Delegation Scheme</th> <th data-bbox="1115 528 1624 603">Rationale</th> </tr> </thead> <tbody> <tr> <td data-bbox="607 603 1115 751">The majority of changes have been replaced the old posts with the title of the new posts carrying out the relevant functions.</td> <td data-bbox="1115 603 1624 751">To implement the new Strategic Alliance Management Team (SAMT) structure.</td> </tr> <tr> <td data-bbox="607 751 1115 975">The wording of the delegation to the Joint Chief Executive Officer regarding the power to suspend or revoke a taxi driver’s licence has been amended</td> <td data-bbox="1115 751 1624 975">To reflect changes to the Taxi/Licensing Policy</td> </tr> <tr> <th data-bbox="607 975 1115 1050">Additions to the Delegation Scheme</th> <th data-bbox="1115 975 1624 1050">Rationale</th> </tr> <tr> <td data-bbox="607 1050 1115 1310">Carrying out Rights of Way functions (including the diversion of footpaths) - Strategic Director - Place</td> <td data-bbox="1115 1050 1624 1310">This has been previously carried out under a general delegation, but it is considered clearer and more appropriate to include this in the scheme as a specific delegation.</td> </tr> <tr> <td data-bbox="607 1310 1115 1382"><i>Neighbourhood Planning</i></td> <td data-bbox="1115 1310 1624 1382">This would only be exercised by an Officer when time does now</td> </tr> </tbody> </table>	Amendments to the Delegation Scheme	Rationale	The majority of changes have been replaced the old posts with the title of the new posts carrying out the relevant functions.	To implement the new Strategic Alliance Management Team (SAMT) structure.	The wording of the delegation to the Joint Chief Executive Officer regarding the power to suspend or revoke a taxi driver’s licence has been amended	To reflect changes to the Taxi/Licensing Policy	Additions to the Delegation Scheme	Rationale	Carrying out Rights of Way functions (including the diversion of footpaths) - Strategic Director - Place	This has been previously carried out under a general delegation, but it is considered clearer and more appropriate to include this in the scheme as a specific delegation.	<i>Neighbourhood Planning</i>	This would only be exercised by an Officer when time does now	The Scheme of Delegation to Officers is in Part 4 of the Constitution – currently Pages 168-188.
Amendments to the Delegation Scheme	Rationale													
The majority of changes have been replaced the old posts with the title of the new posts carrying out the relevant functions.	To implement the new Strategic Alliance Management Team (SAMT) structure.													
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Additions to the Delegation Scheme	Rationale													
Carrying out Rights of Way functions (including the diversion of footpaths) - Strategic Director - Place	This has been previously carried out under a general delegation, but it is considered clearer and more appropriate to include this in the scheme as a specific delegation.													
<i>Neighbourhood Planning</i>	This would only be exercised by an Officer when time does now													

APPENDIX 6

Area of Review	Proposal and Rationale		Sections of the Constitution to be revised
	<p>Determining action on a neighbourhood plan following receipt of the Examiner’s report (including sending it for referendum). - Strategic Director - Place</p>	<p>allow for the matter to be submitted to Executive. There are specific timescales for each stage in the Neighbourhood planning process. The Council must determine the action to take on a Neighbourhood Plan proposal within 5 weeks of the receipt of the Examiner’s Report.</p>	
	<p><i>Neighbourhood Planning</i> Making the Neighbourhood Plan after a successful referendum result. - Strategic Director - Place</p>	<p>After a successful referendum result, a Neighbourhood Plan must be taken into account in all development decisions immediately, however there is still a legal requirement that the Plan be ‘Made’ as a formality. Recent practice has been that this function has been delegated to the Joint Chief Executive by Executive when it has considered the Examiner’s report, however it is proposed that this be included as a specific delegation to the Joint Strategic Director – Place to avoid the need for this to be agreed on a case by case basis.</p>	

APPENDIX 6

Area of Review	Proposal and Rationale		Sections of the Constitution to be revised
	<p>Approving Disabled Facilities Grants and other applications/ functions under Housing Grants, Construction and Regeneration Act 1996, the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 and related legislation. - Joint Strategic Director - Place</p>	<p>This has been previously carried out under a general delegation, but it is considered clearer and more appropriate to include this in the scheme as a specific delegation.</p>	
	<p>Delegation of authorisation of persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings. - Joint Chief Executive Officer Monitoring Officer</p>	<p>Contained with the Function Scheme but more appropriate to include in specific delegations to the Joint Chief Executive and the Monitoring Officer in the Delegation Scheme.</p>	
	<p>Two additions to the general powers delegated to Joint Strategic Directors and Joint Heads of Service (at paragraph 9) have also been made, which are not new powers but cross reference powers contained with the Functions Scheme and arising from the Financial Procedure Rules.</p>	<p>To ensure all delegated powers with the Constitution are referred to within the Scheme of Delegation Scheme</p>	

APPENDIX 6

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	<p>The current Scheme of Delegation for Officers has also been adopted by North East Derbyshire District Council and these proposals to change will also be submitted to the Standards Committee and Council there for approval.</p> <p>The revised Scheme of Delegation to Officers is attached as Appendix 7.</p>	

4.10 SCHEME OF DELEGATION FOR OFFICERS

Formatted

1. Introduction

- 1.1 This scheme has been adopted by Bolsover District Council and North East Derbyshire District Council and sets out the extent to which the powers and duties of the Councils are delegated to officers under the Local Government Act 1972, the Local Government Act 2000 and all other powers enabling delegation to officers. It is adopted with the intention of giving a streamlined, clear and simple decision-making process. It should be interpreted widely.
- 1.2 Under this scheme officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the relevant Portfolio Holder on executive functions and the relevant Chairman of the regulatory committee when the matter falls within the remit of that committee.
- 1.3 All references to legislation shall be deemed to include any subsequent amendments to such legislation.
- 1.4 Officers shall consult the local Ward Member(s) when they exercise any delegated powers specifically affecting their ward and when the matter is likely to be politically sensitive or contentious unless legal reasons prevent this. Officers must take account of the views of the relevant Ward Member(s) before exercising their delegated power.
- 1.5 Under section 101 of the Local Government Act 1972 the Council may authorise an officer of the authority to commission and monitor work for and on behalf of the Council by people who are not officers of the authority and such people will be bound by this scheme, and the obligations contained in it, at all times when engaged on Council business (for example Environmental Health).
- 1.6 References to powers of 'the Council' include functions of the executive.
- 1.7 Any reference to a function shall be deemed to include a reference to all statutory powers relating to that function and shall be deemed to include authority to exercise all such powers.
- 1.8 All delegations are intended to be cumulative. Each delegation may be read on its own unless it is specifically expressed to be subject to another.
- 1.9 All delegations to officers are subject to:
 - Statutory requirements
 - Contract ~~Standing Procedure Rules~~ Orders
 - Financial Regulations/Finance Rules
 - Consideration of the policies and plans of the relevant Council
 - The Employee Code of Conduct and adopted protocols

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- The requirements of the Strategic Alliance Management Team in relation to the overall management and co-ordination of the Council's affairs
 - Any financial limits set out in any budget agreed by Council and in accordance with Financial, Contract and Property Procedure Rules
 - The Budget and Policy Framework set by Council and any other Council policy having regard to any report by the Head of Paid Service, the Monitoring Officer or the Officer designated under section 151 of the Local Government Act 1972
 - Any provision contained within this Constitution
- 1.10 Where an officer has delegated powers, the Council or the Cabinet/Executive or a Committee (as appropriate) can still exercise that power in a particular case if it considers it appropriate to do so. Equally it is always open to an Officer not to exercise delegated powers but to refer the matter up as appropriate.
- 1.11 The Chief Executive Officer, Executive Strategic Directors and Assistant Heads of Service Directors are all joint posts within the Strategic Alliance. However, the word "Joint" has been omitted from the scheme descriptions.

2. Exclusions

- 2.1 This Scheme does not delegate:
- Any matter which by law may not be delegated to an officer
 - Any matter which is specifically excluded from delegation by this scheme, by a decision of the Council, the Cabinet/Executive or a Committee or Sub-Committee.

3 Authorisations to other Officers

Officers with delegated powers may in writing authorise another officer or officers to exercise those powers. Such authorisations may be subject to limitations and conditions. The officer with the delegated powers must keep a register of all authorisations granted. Copies must also be sent to the Governance Manager.

4 Reserve Delegations

- 4.1 The delegated powers held by a post may be exercised by the line manager of that post (or by their line manager) if:
- that post is vacant
 - the post-holder is not at work for any reason

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5 Consultation

- 5.1 Officers shall consult as appropriate and have due regard to the advice given. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated power must consult someone else whom he/she considers to be an appropriate substitute. In particular, consultation must take place with legal, finance and human resources as appropriate.

6 Restriction on delegations to ~~Assistant Directors and Heads of Service (BDC)~~

- 6.1 Each delegation to a ~~n Assistant Director/~~ Head of Service is subject to a limitation that it shall not be exercised if the Head of Paid Service, or a ~~Executive Strategic~~ Director, or the Monitoring Officer, or Section 151 Officer, has given a direction to that effect.
- 6.2 The Head of Paid Service, or a ~~Strategic Executive~~ Director, may exercise any delegated power possessed by a ~~Assistant Director/~~ Head of Service whilst a direction is in force with respect to that delegation.
- 6.3 A ~~Strategic Executive~~ Director may exercise any delegated power possessed by the Chief Executive if that post is vacant or the post holder is absent.
- 6.4 In the absence of a ~~Executive Strategic~~ Director, a ~~n Assistant Director/~~ Head of Service within that Directorate may exercise any delegated power possessed by that ~~Executive Strategic~~ Director.

7 Transfer of Functions

- 7.1 Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet/Executive or a Committee/Sub Committee.
- 7.2 Where a service is restructured, the Chief Executive shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer.

8 Proper Officers

- 8.1 In addition to the specific powers delegated to Chief Officers, local government legislation specifies that certain officers must have responsibility for a number of specific functions as set out in the various acts of parliament. Each officer with such responsibility is known as the "Proper Officer" in relation to that task. The list of Proper Officers is approved by the Council and is attached at Appendix One.

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8.2 The Council is also required to appoint certain officers known as Statutory Officers to take responsibility for functions specified in local authority legislation. These functions are in addition to the Scheme of Delegation and are set out below.

9 General powers delegated to all ~~Executive-Strategic~~ Directors and ~~Assistant Directors~~ Heads of Service

9.1 To exercise within approved budgets all matters of day to day administration and operational management of the services and functions for which they are responsible.

9.2 To take all necessary action to achieve and implement the objectives and actions set out in approved policies, strategies, plans and decisions of Council or committees.

9.3 To sign licenses and notices relevant to their service areas subject to consultation with the Monitoring Officer.

9.4 To make decisions on any objection submitted which relates to a proposal, application or other matter within their service area, subject to Committee Terms of Reference.

9.5 Service of any statutory notices affecting their service area subject to consultation with the Monitoring Officer where appropriate.

9.6 To exercise the Council's powers to enter land and premises (and to authorise others to enter land and premises) for the purposes of any of the Council's functions which the officer has responsibility for enforcing or investigating.

9.7 To instruct the Council's Legal Service with respect to any legal matter concerning their department or services.

9.8 To exercise the Council's power to publish information about its services including deciding the content of any publication.

9.9 To decide the terms upon which services will be provided to the public (which may include providing services on different terms to different individuals or classes of individuals).

9.10 To exclude people from Council premises where they consider this to be warranted in the interests of health and safety or for the maintenance of order. The Chief Executive must be informed of any decision to exclude under this paragraph.

9.11 To deal with the following employment matters in accordance with Council procedures:

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- 9.11.1 The employment of all employees below ~~Assistant Director~~ Head of Service level including determining the most appropriate means of recruitment and selection;
- 9.11.2 Formulation, review and revision of person specifications and job descriptions for posts within their service areas;
- 9.11.3 Application of conditions of service including the authorisation of leave of absence, purchase of annual leave (Bolsover District Council only) and payment of honoraria;
- 9.11.4 Suspension or dismissal of employees below ~~Assistant Director~~Head of Service level;
- 9.11.5 Re-grading of posts below ~~Assistant Director~~ Head of Service level following job evaluation;
- 9.11.6 Determination of job sharing applications;
- 9.11.7 Waive any part of the notice required to be given by an employee to terminate employment.
- 9.12 To authorise payments for overtime in accordance with Council procedures.
- 9.13 To deal with procurement matters acting at all times within the Council's Financial and Contract Procedure Rules.
- 9.14 To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate.
- 9.15 To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property.
- 9.16 To commission goods, services and works within approved budgets.
- 9.17 To deal with media enquiries and press releases in conjunction with the Communications Manager/Officer who will contact the relevant Members.
- 9.18 To represent the views of the Council in responding to consultations with the Council by any outside body where it is expedient to do so or where the period for a response does not allow the consultation paper to be reported to Members, subject to contacting the relevant Portfolio Holder or the Leader and Deputy Leader where the matter is politically contentious and where appropriate reporting to Executive/Cabinet/Council subsequently.
- 9.19 To work with partners to achieve and implement the objectives and actions set out in the approved Corporate Plan, Service Plans, Business Plans, policies, strategies or other plans.

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9.20 To carry out any duties or responsibilities as contained with the Financial Finance (NEDDC) or Financial Regulations (BDC).

9.21 To carry out any functions contained within section 2 – Council Functions and section 3 – Local Choice Functions of the Functions Scheme (NEDDC).

10. Specific Delegations

10 Chief Executive Officer	
Delegations	Exceptions
10.1 To act as Head of Paid Service for the Council in accordance with the duties set out in Section 4 of the Local Government Act 1989.	Suspension of Monitoring Officer and Section 151 Officer limited to suspension for a maximum of 2 months.
10.2 To guide and where appropriate direct Executive Strategic Directors and Heads of Service Assistant Directors in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.	
10.3 To express the views of the Council with regard to Local Government and the functions associated with it, within the general policy laid down from time to time by the Council or its Committees and to act thereon.	
10.4 To take such action as he/she considers appropriate in an emergency following consultation with the Leader and/or Deputy Leader as he/she considers the circumstances will allow. Any decisions taken under this paragraph shall be reported by the Chief Executive Officer to the next meeting of Council explaining the reasons for the decision.	
10.5 If there is an urgent need for a commercial decision, the Chief Executive Officer, following consultation with the Leader and/or	

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<p>Deputy Leader shall make the decision and endorsement will be sought from the Executive or Council as appropriate.</p>	
<p>10.6 To act and perform all functions and duties of Electoral Registration Officer, Returning Officer, Deputy Returning Officer, Local Returning Officer, Acting Returning Officer and Local Counting Officer in all elections and referenda.</p>	
<p>10.7 To formulate and co-ordinate advice on strategic and corporate policy and value for money issues.</p>	
<p>10.8 To authorise officers who are not solicitors to represent the Council in legal proceedings in the Magistrates' Court.</p>	
<p><u>10.9</u> To authorise persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings</p>	
<p>10.9-10 To consider and co-ordinate any investigation by the Local Government <u>and Social Care</u> Ombudsman or the Housing Ombudsman.</p>	
<p>10.101 To consider and report on any report of the Local Government <u>and Social Care</u> Ombudsman or the Housing Ombudsman and to decide on and implement the action to be taken and to approve and make compensation payments on the recommendation of the Ombudsman whether or not a budget exists following consultation with the Leader and Deputy Leader up to a maximum of £5,000 in respect of each recommendation.</p>	
<p>10.124 To progress the Strategic Alliance by taking any action necessary to facilitate it including but not limited to redundancies which may result from the implementation.</p>	

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<p>10.132 To implement shared services with other local authority or public sector bodies by taking any action necessary to facilitate the arrangements including but not limited to redundancies which may result from the implementation.</p> <p>10.143 To make authorisations of officers from other services at Bolsover District Council to carry out appropriate statutory powers within North East Derbyshire.</p> <p>10.154 To make authorisations of officers from other services at North East Derbyshire District Council to carry out appropriate statutory powers within Bolsover District Council.</p> <p>10.165 To issue/grant such authorisations as may be necessary to enable any employee to undertake with full legal force the full range of their duties subject to such authorisation remaining only in force until the next ordinary meeting of the Committee have authority to issue/grant such authorisations.</p> <p>10.176 (i) To Authorise another local authority to carry out the licensing enforcement function in respect of hackney carriage vehicles and private hire vehicles for the Council as well as the Council retaining those functions and;</p> <p>(ii) To authorise the enforcement officers of that local authority to issue notices relating to enforcement, make decisions, or do anything required in respect of hackney carriage and private hire licensing enforcement function.</p> <p>10.187 Following consultation with the Leader and/or Deputy Leader and relevant Portfolio Holder, to make and revoke appointments to outside bodies.</p>	
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<p>10.189 To exercise any of the powers delegated to an <u>Strategic Director or Head of Service</u> Executive Director or Assistant Director.</p> <p>10.1920—To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.</p> <p>10.201 Following consultation with the Section 151 Officer, delegation in respect of points 1.3 and 1.4 of the <u>Local Government Pension Scheme</u> transfers policy.</p> <p>10.224 Following consultation with the Executive Director of Operations Assistant Director—Finance, Revenues and Benefits Section 151 Officer, if they see fit to accept transfers (in respect of an individual employees application to transfer in pension from a previous scheme), to the local government pension scheme outside the 12 month period, in those cases where the scheme member had not been informed of the time limit.</p> <p>10.232 Following consultation with the Bolsover District Council Leader and Deputy Leader, to select Members to sit on any appeals hearing dealing with the hearing and determination of appeals relating to employment (including those relating to dismissal or other disciplinary action, sickness absence, pensions and grievance).</p> <p>10.243 Following consultation with the Leader or Deputy Leader and on recommendation of the Monitoring Officer, to approve expenditure in pursuance or determination of any employment related disputes including settlement agreements.</p> <p>10.254 Following consultation with the Leader and Deputy Leader to</p>	
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<p>authorise the making of a compulsory purchase order pursuant to any of the statutory powers enabling the Council so to do and including the exercise by the Council of such powers on behalf of a Parish or Town Council where so requested.</p> <p>10.256 To amend the Polling Place Scheme between reviews, following consultation with the Leader and Deputy Leader.</p> <p>10.276 To exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);</p> <p>10.287 To determine all staffing matters including but not limited to:</p> <ul style="list-style-type: none">(i) determining matters relating to structure (additions, reductions post title changes and other changes to the establishment)(ii) the appointment, dismissal, suspension or discipline of staff save that in relation to the Chief Executive Officer, the Executive Strategic Directors and the Assistant Heads of Service Directors this does not include the appointment and dismissal.(iii) Approving secondments and temporary appointments of any staff. <p>10.298 Where the decision of the Chief Executive Officer taken under 10.276 above will incur additional expenditure which cannot be met by approved budgets, then the matter will be referred to the Executive/Cabinet, provided that the remit of the Executive/Cabinet shall be limited to decisions on financial matters only.</p>	
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<p>10.2930 To authorise the making of Public Space Protection Orders under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014, following consultation with the Leader or Deputy Leader of the Council and relevant ward members, and to incur any necessary expenditure to create, manage or revoke Public Space Protection Orders.</p> <p>10.301 Following consultation with the Licensing Section, Legal Services and the Chair of the Licensing Committee, to suspend or revoke any Private Hire or Hackney Carriage Driver's Licence with immediate effect, on grounds of public safety, in such cases where it would be inappropriate to refer the matter to Licensing Committee for consideration. <u>Following consultation with the Licensing Section, Legal Services and the Chair of the Licensing Committee, to suspend or revoke any Private Hire or Hackney Carriage Driver, Vehicle or Operator Licence in such cases where it would be inappropriate to refer the matter to Licensing Committee for consideration. Where permitted by law, this may be with immediate effect on the grounds of public safety.</u></p>	
<p>11. Strategic Director - Place Executive Director of Transformation</p>	
<p><u>Delegations</u></p>	<p><u>Exceptions</u></p>
<p>11.1 <u>To act as the Emergency Planning lead.</u></p> <p>11.2 <u>To guide and where appropriate direct Assistant Directors Heads of Service in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.</u></p> <p>11.3 <u>To deputise for the Chief Executive Officer in his absence and exercise any powers delegated to him.</u></p>	

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<p><u>11.4 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.</u></p>	
<p><u>11.5 Following consultation with the Leader and the relevant Portfolio Holder, to determine the action the Council will take on a neighbourhood plan proposal following receipt of the examiner's report, in accordance with rule 18 of the Neighbourhood Planning (General) Regulations 2012, where there is insufficient time for the matter to be submitted to Cabinet /Executive to meet the statutory deadline.</u></p>	
<p><u>11.6 Following a consultation with the Leader and the relevant Portfolio Holder, to make a neighbourhood development plan where more than half of those voting in an applicable referendum have voted in favour of the plan.</u></p>	
<p><u>11.7 To carry out Rights of Way functions for which the Council is responsible in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).</u></p>	
<p><u>11.8 To approve applications and carry out associated functions pursuant to the Housing Grants, Construction and Regeneration Act 1996, the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 and related legislation (including Disabled Facilities Grants)</u></p>	<p><u>Applications for discretionary Disabled Facilities Grants must be submitted to Executive (BDC)/ Cabinet (NEDDC).</u></p>
<p><u>12. Strategic Director - People</u></p>	
<p><u>Delegations</u></p>	<p><u>Exceptions</u></p>
<p><u>12.1 To act as the Safeguarding lead.</u></p>	
<p><u>12.2 To guide and where appropriate direct Heads of Service in the exercise of their delegated functions in order to achieve the overall</u></p>	

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<p><u>corporate aims and objectives of the Council.</u></p> <p><u>12.3 To deputise for the Chief Executive Officer in his absence and exercise any powers delegated to him.</u></p> <p><u>12.4 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.</u></p>	
<p><u>11.2. Executive Director (Operations)Assistant DirectorHead of Finance and Resources and Section 151 Officer,Revenues and Benefits</u></p>	
<p>Delegations</p>	<p>Exceptions</p>
<p>11.1 To guide and where appropriate direct Assistant Directors in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.</p> <p>11.2 To deputise for the Chief Executive Officer in his absence and exercise any powers delegated to him.</p> <p><u>12.1 To act as the Section 151 Officer for the Council in accordance with the duties set out in the legislation.</u></p> <p><u>12.2 Have responsibility for the proper administration of the financial affairs of the Council.</u></p> <p><u>12.3 After consulting with the Head of Paid Service and the Monitoring Officer, as Section 151 Officer to report to the Council Meeting (or to the Cabinet/Executive in relation to an Executive Function) and the External Auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is lawful and is likely to cause a loss or deficiency or if the Council is likely to enter an item of account unlawfully.</u></p> <p>11.3 To determine whether an employee who has left the employment of the Councils shall be granted early</p>	

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<p>release of pension subject to Council approval of the budgetary implications.</p> <p>To act as the Section 151 Officer for the Council in accordance with the duties set out in the legislation.</p> <p><u>12.4</u> To approve the Draft Statement of Accounts prior to consideration by External Audit.</p> <p>11.5 After consulting with the Head of Paid Service and the Monitoring Officer, as Section 151 Officer to report to the Council Meeting (or to the Cabinet/Executive in relation to an Executive Function) and the External Auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is lawful and is likely to cause a loss or deficiency or if the Council is likely to enter an item of account unlawfully.<u>12.5</u> To determine whether an employee who has left the employment of the Councils shall be granted early release of pension subject to Council approval of the budgetary implications.</p> <p>11.6 Have responsibility for the proper administration of the financial affairs of the Council.</p> <p><u>12.6</u> After consultation with the relevant Portfolio Holder to authorise the write-off of bad debts up to an approval limit of £2,500. Larger debts will be included in a report for information to the Executive/Cabinet.</p> <p><u>12.7</u> Following consultation with the Leader and Deputy Leader, to agree extended rent free periods up to 5 years where major building works are undertaken by tenants on Pleasley Vale Business Park.(Bolsover District Council only)</p> <p><u>12.8</u> To authorise any amendments to the list of named officers that may prove necessary during the course of the</p>	
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<p>financial year in relation to the duties identified in accordance with s.223 of the Local Government Act 1972.</p> <p><u>12.9 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.</u></p>	
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~~12. Executive Director of Transformation~~

Delegations	Exceptions
<p>12.1 To guide and where appropriate direct Assistant Directors in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.</p> <p>12.2 To deputise for the Chief Executive Officer in his absence and exercise any powers delegated to him.</p> <p>12.3 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.</p>	

Growth Directorate

<p>13. Assistant Director <u>Head of Corporate Governance and Monitoring Officer, Solicitor to the Council and Monitoring Officer</u></p>	
Delegations	Exceptions
<p>13.1 To act as Monitoring Officer for the Council in accordance with the duties set out in Section 5 of the Local Government Act 1989.</p> <p>13.2 To institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.</p>	

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13.3	Authority to sign documents in legal proceedings, contracts, contracts in accordance with the Contract Procedure rules whether under seal or not, any document necessary in legal proceedings on behalf of the Council and Information and complaints, and lay them on behalf of the Council for the purpose of Magistrates' Court proceedings unless statute provides otherwise.	
13.4	Instruction of Counsel and to retain the services of costs specialists, parliamentary agents or outside solicitors and to obtain expert advice on any matter affecting or likely to affect the interests of the Council.	
13.5	To negotiate and settle claims and disputes without recourse to court proceedings.	
13.6	To represent the Authority and secure the appearance of an advocate on the Authority's behalf in any legal proceedings.	
13.7	To conduct, authorise and co-ordinate investigations into complaints under the Members Code of Conduct and make reports or recommendations about them to the Standards Committee.	
13.8	To advise whether decisions of the Cabinet/Executive are in accordance with the Budget and Policy Framework.	
13.9	To provide advice on the scope of powers and authority to take decisions, financial impropriety, probity and Budget and Policy Framework.	
13.10	Monitoring and advising upon all aspects associated with the Regulation of Investigatory Powers Act (RIPA).	
13.11	To monitor the use of the Gifts and	

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<p>Hospitality Registers and to maintain and sign acknowledgement of entries in the Gifts and Hospitality Register.</p> <p><u>13.12 To authorise persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings</u></p>	
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Proper Officer Provisions

The relevant post holders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

Legislative Provision	Function	Proper Officer
Local Government Act 1972		
S.83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Chief Executive Officer Monitoring Officer
S.84(1)	Receipt of notice of resignation of elected member	Chief Executive Officer
S.88(2)	Arranging a Council meeting to appoint a Chair of the Council	Monitoring Officer
S.89(1)	Notice of casual vacancy	Chief Executive Officer
S. 96	Disclosure of Members Interests	Monitoring Officer
S.100 (except 100(D))	Admission of public (including press) to meetings	Monitoring Officer
S.100(B)(2)	The officer who may exclude from agendas any information which is likely to be dealt with in the absence of press and public	Monitoring Officer
S.100(B)(7)	The officer to supply copies of documents to newspapers	Monitoring Officer
S.100(C)(2)	The officer to prepare a written summary of the proceedings at committees and sub-committees	Monitoring Officer
S.100(D)(1)(a)	The officer to prepare a list of background papers for inspection.	Monitoring Officer

Proper Officer Provisions

The relevant post holders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

S.100(D)(5)(a)	The officer to include in the list of background papers those documents which have been relied on.	Monitoring Officer
S.100(F)(2)	The officer to determine when a document should not be open to inspection because it discloses exempt information.	Monitoring Officer
S.115(2)	Receipt of money due from officers	Executive Director (Operations) <u>Head of Finance & Resources and S.151 Officer</u>
S.146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities	Executive Director (Operations) <u>Head of Finance & Resources and S.151 Officer</u>
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs	<u>Head of Finance & Resources and S.151 Officer</u> Executive Director (Operations)
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs - Deputy	Assistant Director of Finance, Revenues and Benefits, Chief Account (BDC) and Chief Account (NEDDC)
S.191	Officer to whom an application under S.1 of the Ordinance Survey Act 1841 will be sent	Executive Director (Operations) <u>Head of Corporate Governance and Monitoring Officer</u>
S.225	Deposit of documents	Monitoring Officer
S.228(3)	Accounts for inspection by any member of the Council	Executive Director (Operations) <u>Head of Finance & Resources and S.151 Officer</u>
s. 234	The officer required to give, make or issue any notice, order or other document under any enactment and to sign the same.	Chief Executive Officer
S.229(5)	Certification of photographic	Legal Service Team Manager

Proper Officer Provisions

The relevant post holders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

	copies of documents	(Solicitor)
S.236(9) and (10)	Sending of copies of byelaws to parish councils, parish meetings and County Council	Legal Service Team Manager (Solicitor)
S.238	Certification of byelaws	Chief Executive Officer
S.248	Officer who will keep the Roll of Freeman	Chief Executive Officer
Schedule 12 Government Act 1972		Local
Para 4(2)(b)	Signing of summons to Council meeting	Monitoring Officer
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Monitoring Officer
Schedule 14		
Para 25	Certification of resolution passed under this paragraph	Chief Executive Officer
Schedule 16		
Para 28	Deposits of lists of buildings of special architectural or historic interest	Chief Executive Officer
Local Government Act 1974		
S.30(5)	To give notice that copies of an Ombudsman's report are available	Monitoring Officer
Local Government (Miscellaneous Provisions) Act 1976		
S.41(1)	The officer who will certify	Monitoring Officer

Proper Officer Provisions

The relevant post holders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

	copies of evidence of resolutions and minutes of proceedings	
Local Authorities Cemeteries Order 1977		
Regulation 10	To sign exclusive rights of burial	Executive Director (Operations) Chief Executive Officer ? Strategic Director – Place Head of Property and Commercial Services
Representations of the People Act 1983		
S.8	Registration Officer	Chief Executive Officer
S.8	Deputy Registration Officer	Assistant Director of Governance and Monitoring Officer Head of Corporate Governance and Monitoring Officer Head of Elections Elections Manager (BDC) Elections Manager (NEDDC)
S.35	Returning Officer for Local Elections	Chief Executive Officer
S.35	Deputy Returning Officer for Local Elections	Head of Corporate Governance and Monitoring Officer Assistant Director of Governance and Monitoring Officer Head of Elections Elections Manager (BDC) Elections Manager (NEDDC)
S.24	Acting Returning Officer for a Parliamentary Election	Chief Executive Officer
S.24	Deputy Acting Returning Officer for a Parliamentary Election	Head of Corporate Governance and Monitoring Officer Assistant Director of Governance and Monitoring Officer

Proper Officer Provisions

The relevant post holders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

		Head of Elections Elections Manager (BDC) Elections Manager (NEDDC)
S.82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Chief Executive Officer
Local Elections (Parishes and Communities) (England and Wales) Rules 2006		
Rules 5	Officer to receive the request for election to fill a casual vacancy in a Parish Council.	Chief Executive Officer
Local Government Act 2000		
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Chief Executive Officer except as specifically provided in this scheme
The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012		
Regulation 3	Recording of Executive decisions made at meetings of the Executive or Cabinet.	Monitoring Officer
Regulation 5	Inspection of documents following Executive decisions	Monitoring Officer
Regulation 6	Inspection of background papers	Monitoring Officer
Regulation 9	Individual Executive decisions	Monitoring Officer
Regulation 11	Access to agenda and connected reports	Monitoring Officer
Regulation 12	Publicity in connection with Key Decisions	Monitoring Officer
Regulation 15	General exception relating to Key Decisions	Monitoring Officer

Proper Officer Provisions

The relevant post holders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

Regulation 17	Members' rights of access to documents	Monitoring Officer
Regulation 21	Confidential/exempt information and exclusion of public from meetings	Monitoring Officer
Building Act 1984		
S.78	Signing of Notices	Building Property and Contracts Manager <u>Head of Property and Commercial Services</u>
Public Health (Control of Disease) Act 1984		
S.31	Certification by officer of need for disinfection of premises	Assistant Director of Planning and Environmental Health <u>Head of Housing and Community Safety</u>
S.32	Certification by officer of need to remove person from infected house	Assistant Director of Planning and Environmental Health <u>Head of Housing and Community Safety</u>
Public Health Act 1936		
S.85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Assistant Director of Planning and Environmental Health <u>Head of Housing and Community Safety</u>
Public Health Act 1961		
S.37	Control of any verminous article	Assistant Director of Planning and Environmental Health <u>Head of Housing and Community Safety</u>
Localism Act 2011		
S. 81	Administration of Community Right to Challenge	Monitoring Officer
S.87	Maintenance of List of Assets of Community Value	Monitoring Officer
Freedom of Information Act 2000		

Proper Officer Provisions

The relevant post holders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

S. 36	Qualified Person	Monitoring Officer
Local Government and Housing Act 1989		
S.2(4)	Recipient of the list of politically restricted posts	Monitoring Officer
S.3	Employers certificate for exemption from politically restricted posts	Monitoring Officer
S.4	Head of Paid Service	Chief Executive Officer
S.5	The Monitoring Officer	Assistant Director of Governance
S. 5	Deputy Monitoring Officer	Team Manager (Contentious) (Solicitor) Governance Manager Principle Solicitor(BDC-only)
S.15	Officers to receive notices relating to membership of political groups	Monitoring Officer
S. 19	Keeping the Register	Monitoring Officer
Local Government (Committees and Political Groups) Regulations 1990		
	For the purposes of the composition of committees and nominations to political groups	Monitoring Officer
Local Authorities (Standing Orders) (England) Regulations 2001		
	Officer who will give written notice of appointment or dismissal of officers listed in Schedule 2, Part11, paragraph 3	Chief Executive Officer
General Data Protection Regulation (EU) 2016/679		
Article 37	Data Protection Officer	Information, Engagement and Performance Manager

Proper Officer Provisions

The relevant post holders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

BDC STANDARDS COMMITTEE WORK PROGRAMME 2018/19		
Meeting date	Item	Comments
2 July 2018	RIPA Policy Review Complaints Update Work Programme	
15 October 2018	Public Perception of the Standards Regime in Local Government Local Government Ombudsman Annual Report Complaints Update Work Programme	
14 January 2019	Review of Constitution Part 1 Gifts & Hospitality Review Complaints Update Work Programme	
15 April 2019	Whistleblowing Review of Constitution Part 2 Complaints Update Work Programme 2019/2020 Work Programme	