



House of Commons
House of Lords

Joint Committee on
Human Rights

**Democracy, freedom of
expression and freedom
of association: Threats
to MPs: Government
Response to the
Committee's First Report
of Session 2019**

**Fifth Special Report of
Session 2019–21**

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Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

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Publication

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The current staff of the Committee are Miguel Boo Fraga (Committee Operations Manager), Chloe Cockett (Senior Specialist), Busayo Esan (Inquiry Manager), Liam Evans (Committee Specialist), Alexander Gask (Deputy Counsel), Eleanor Hourigan (Counsel), Lucinda Maer (Commons Clerk), Liz Parratt (Media Officer), Nicholas Taylor (Committee Specialist), George Webber (Lords Clerk) and Dan Weedon (Lords Committee Assistant).

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Fifth Special Report of Session 2019–21

The Joint Committee on Human Rights published its First Report of Session 2019, *Democracy, freedom of expression and freedom of association: Threats to MPs* (HC 37/ HL 5) on 18 October 2019. The Government response was received on 9 March 2021 and is appended below.

Appendix: Government Response

Dear Committee Chair,

I am grateful to the Joint Committee on Human Rights for your enquiry and report on *Democracy, Freedom of Expression and Freedom of Association: Threats to MPs*. The Government's detailed response is attached at Annex B.

Threats made against those involved in political life are completely unacceptable, and this is an issue that we take extremely seriously. That is why the Government is fully committed to improving the safety and security of Members of Parliament, their family and staff. This report allows us to take stock of what we have already achieved working with partners, while highlighting areas for improvement.

Having been the target of shocking online abuse myself, I know just how frightening and upsetting these cases are. This type of behaviour has no place in our society and my own experience only adds to my determination that we do all we can to tackle this problem. The 2019 election period provided a valuable opportunity to consolidate and strengthen the respective roles of the organisations engaged in this crucial work.

We are absolutely determined to meet our manifesto commitment to ensure no one is put off from engaging in politics or standing in an election by threats, harassment or abuse, whether in person or online.

I hope this response provides helpful reassurance and information for the committee as we drive forward work to ensure safe participation and engagement in political life to protect our democracy.

Yours sincerely,

Rt Hon Priti Patel MP

Home Secretary

This is the Government’s response to the Joint Committee on Human Rights’ (JCHR) first report in the 2019 Session. In this report the JCHR made recommendations, including those on:

- The need for collaboration to tackle the issue of threats to MPs;
- The national prosecutorial approach to offences against MPs;
- The online abuse and harassment faced by MPs; *and*
- Policing around Parliament and beyond.

The Government is grateful to the JCHR for their consideration regarding this important issue. Our response to the recommendations posed to Government and its partners is set out below. For ease, these have been numbered as per the Conclusions and Recommendations section in the report itself (from page 51 onwards.)

Recommendation 4

Many different people and organisations need to be working to tackle the issue of threats against MPs and its impact on our democracy including the Police, the CPS, the leader of the House, the Equality and Human Rights Commission and many more. We need a process to bring this together and consider the right of MPs to get on with the job for which they were elected. We need to make sure that MPs are not at risk. We encourage all those involved to consider convening a Speaker’s Conference on this matter. (Paragraph 52)

Government Response

As the recommendation notes, numerous people and organisations work closely together to keep MPs safe. These stakeholders include, but are not limited to, relevant government departments (such as Home Office, the Cabinet Office, the Centre for the Protection of National Infrastructure, the National Cyber Security Centre and the Department for Digital, Culture, Media and Sport) the police, the Parliamentary Security Department and the Crown Prosecution Service.

This has led to several joint endeavours to reduce the risk to MPs, such as:

- A Director-level oversight group being established between the relevant government departments, the police, the Parliamentary Security Department and other relevant stakeholders to focus on and drive forward work being done to ensure the safety of MPs and our future priorities;
- Joint security guidance and briefings to provide advice and guidance to MPs to highlight the comprehensive range of security and assurance measures that are in place; and to emphasise the importance of reporting any safety concerns or threats to the police. This includes comprehensive and compulsory security briefings for newly elected MPs, led by Parliament with support from the Metropolitan Police Service’s Parliamentary Liaison and Investigation Team;

- A letter (on 14th October 2019) to all MPs co-signed by the Home Secretary and the then Deputy Speaker of the House of Commons (Chairman of Ways and Means and the Chair of the Consultative Panel on Parliamentary Security) to highlight the existing security measures, the additional measures available and to re-iterate the importance of reporting concerns or threats;
- An information pack titled Responding to intimidating behaviour: *Information for Parliamentarians* (produced and distributed by the Crown Prosecution Service) for parliamentarians and their staff to help them to recognise and report potentially criminal conduct; and
- The Director of Public Prosecutions and Commander Usher of the Metropolitan Police Service took part in a roundtable with Parliamentarians to listen to their experiences and concerns.

The Government has also established the Defending Democracy programme. This is a cross-Government initiative, led by the Cabinet Office, which draws together work and expertise. Its strategic objectives are to:

- Protect and secure UK democratic processes, systems and institutions from interference, including from cyber, personnel and physical threats;
- Strengthen the integrity of UK elections;
- Encourage respect for open, fair and safe democratic participation; and
- Promote fact-based and open discourse, including online.

Across this programme, we seek to work with people from a broad range of perspectives to inform our work. We regularly engage with a range of organisations, academics, regulators, political parties and others to collaborate with stakeholders and to inform our thinking.

The final part of this recommendation relates to a Speaker’s Conference being convened with interested partners to tackle the issue of threats against MPs and its impact on our democracy. This recommendation is for the Speaker.

Recommendation 6

Local police forces should record whether victims are MPs, Councillors or standing for public office, and whether crimes are related to the victim’s political work. This data should be held in an easily retrievable form and should be systematically shared with PLaIT and the Parliamentary Security Department. It is important that security services liaise closely with those responsible for MPs’ security and they should share with them relevant information that they come across in their work. (Paragraph 62)

Government Response

The Government agrees on the importance of there being accurate, clear and easily retrievable data and information and it being shared, within the relevant legal framework, to reduce the risk to those holding democratically elected posts. When necessary, relevant

information and intelligence is shared with the Parliamentary Security Department. To help achieve this the Government provided funding to the police for increased IT capability, to ensure all incidents involving MPs are recorded and to further enable trends and patterns to be identified. During the 2019 pre-election period all contact made with, and any incidents reported by, electoral candidates was also recorded.

All forces can see the data that relates to an incident that has been reported in their force area. The Metropolitan Police Service's Parliamentary Liaison and Investigation Team have a national overview of all incidents.

We will continue to work with and assist the police and other partners to identify best practice in the gathering and sharing of data, to reduce the risk to MPs; and to enable those democratically elected representatives to go about their business without the fear of intimidation or harassment.

In addition to our work with the police, candidates for public office—including candidates standing to become MPs or councillors—will soon benefit from further protection. Following the 2017 Committee on Standards in Public Life (CSPL) review commissioned by the former Prime Minister Theresa May, *Intimidation in Public Life*, the Government conducted a public consultation on the intimidation of candidates and campaigners and has since committed to legislating for a new electoral sanction. Under this new electoral sanction, someone convicted of intimidating a candidate or campaigner would receive a ban from standing for elective office for five years in addition to a fine or imprisonment, depending on the severity of the intimidation.

The new electoral sanction proposals are intended to protect candidates and campaigners from intimidation, both online and offline; deter individuals from carrying out acts of intimidation; and signal that intimidatory behaviour is a serious matter which must not be allowed to damage our democracy.

Taken together, these measures will protect political participation and debate and, ultimately, ensure voters can make an informed decision at the ballot box.

The new electoral sanction is one part of the Government's wider programme of work to counter political intimidation. Last year, the Government removed the requirement for candidates standing at certain local elections to include their home address on the ballot paper.

Recommendation 7

We regret the discontinuation of the Sessional Order requiring the Police to ensure clear passage for MPs to the House of Commons. It gave a clear signal that the right of access to Parliament, for everyone who has business there, was important. However, it did not give the Police the clarity that they need to prioritise the protection of democratic institutions and the importance of access to Parliament for everyone with business there. We therefore recommend that the Government include in a future Bill a statutory duty on the Police to protect the UK's democratic institutions and to protect the right of access to the Parliamentary estate for those with business there. Moreover, in making decisions about policing demonstrations around Parliament, or

activities on Parliament Square, the MPS and the GLA should consult with Parliament and should give greater emphasis to the importance of ensuring access to Parliament than it appears they have done up until now. (Paragraph 72)

Government Response

The Government recognises the need to balance the right to democratic expression with effective policing of Parliament. In particular, 2019 brought this to the fore with a number of demonstrations seen in and around the Westminster area.

Following the significant disruption caused by protests in London last year, the Government worked closely with the Metropolitan Police Service and the National Police Chiefs' Council to understand the effectiveness and efficacy of existing public order powers and to identify where the police need more powers to deal with protests which are peaceful but cause significant disruption. We have considered what can be done to make a real difference in the policing of such protests.

Recommendation 10

There have been repeated attempts to improve the legislation on policing around Parliament to ensure that the right to protest is balanced with the need not to disrupt the access to Parliament or Parliament's work. No matter how strict a legal regime is, it will be ineffective if not enforced. There is a case for considering both legislative change in control of the area around the precincts, and whether physical security should be enhanced by measures such as pedestrianisation. (Paragraph 77)

Government Response

The Government accepts the need for appropriate legislation on policing around Parliament, the efficient enforcement of this and the enhancement of physical security measures, where necessary.

The Government is leading on multi-agency work within this area. With regards to legislation (and as mentioned in the response to recommendation 7), we have worked with the National Police Chiefs' Council and the Metropolitan Police Service to understand the effectiveness and efficacy of existing public order powers and to identify where the Police need more powers to deal with protests which are peaceful but cause significant disruption. This has involved specific discussions about protests outside democratic institutions. As a result of this engagement, legislation is being brought forward through the Police, Crime, Sentencing and Courts Bill to:

- (a) Allow the police to place any necessary condition on a public assembly, as they can with a public procession;
- (b) Amend the offences relating to the breaching of conditions placed on a public procession or assembly by closing a loophole which some protesters exploit to evade conviction for breaching conditions, and increase the maximum sentences for the offence;
- (c) Broaden the range of circumstances in which the police can impose conditions on the use of noise at a public procession, public assembly or a one-person protest

to include where police reasonably believe the noise generated by persons taking part may have a significant detrimental impact on persons in the vicinity or cause a serious disruption to the running of an organisation.

- (d) Provide a power for the Secretary of State to make provision about the meaning of “serious disruption to the life of the community” or “serious disruption to the activities of an organisation which are carried out in the vicinity of the [procession/assembly/one-person protest]”; in regulations.
- (e) Replace the common law offence of public nuisance by a statutory offence covering any conduct which endangers the life, health, property or comfort of a section of the public or obstructs them in the exercise of their rights; as recommended by the Law Commission in their July 2015 Report on “Simplification of the Criminal Law: Public Nuisance and Outraging Public Decency”.
- (f) Enable a police officer to direct an individual to cease, or not start, obstructing the passage of a vehicle into or out of the Parliamentary Estate.
- (g) Provide a power for the Secretary of State to make a provision to define a new controlled area around the temporary locations of Parliament when both House relocate as part of the Place of Westminster Restoration and Renewal Programme, or for any reason (e.g. an emergency relocation due to events such as a fire or flood).

The Parliament Square Streetscape Project is a proposal to improve the public space in the area around the Palace of Westminster, Westminster Abbey and Parliament Square. This project is being jointly delivered by Westminster City Council and the Greater London Authority. This group has benefited from both Metropolitan Police Counter Terrorism Security Advisers and Counter Terrorism Security Coordinator advice and expertise drawing in Public Order and Parliamentary Security teams as required.

With regards to the potential for pedestrianisation, the Parliament Square Streetscape Project has been taken forward by Westminster City Council, the Greater London Authority, and Transport for London to consider how the public space in the area around the Palace of Westminster can be improved. A feasibility study has been completed to consider measures that could be taken to make it a safer, better space for all those who use the area and to physically protect those people in any subsequent enhanced public space. This could include a redefined road network, which would be similar to the conversion of Trafalgar Square from a large roundabout to the central pedestrianised area we see today, that connects the National Gallery on one side and a two-way working road system on the other; however, work is ongoing to explore ways to maintain access from appropriate directions as needed by those using this space and discussions regarding options, funding and next steps are ongoing between the key delivery and operational stakeholders.

So far, all parties have been supportive of the project and the potential benefits in regard to levels of protection from vehicle borne threats, if it goes ahead. HMG officials have been engaged throughout the feasibility study, given the potential Public Realm and security benefits of the scheme and will seek views of Ministers once more is known about the options, funding and next steps for the project. PSSP complements the work of the Westminster Ceremonial Streetscape Project (WCSP).

WCSP is another joint agency project but which is part-funded and in construction phase currently. It comprises permanent Hostile Vehicle Mitigation gates, bollards and walls blended in to the historic street-scene and once complete it will enable the restriction of vehicular traffic to the ‘Westminster ceremonial footprint’ for pre-planned events—the inner cordon of which comprises some two dozen locations and broadly encompasses the area around Buckingham Palace between Hyde Park Corner, Trafalgar Square and Parliament Square and is shut frequently (sometimes daily); and the WCSP outer cordon includes a wider area around the Palace of Westminster which is typically closed several times each year for important ceremonial occasions such as Remembrance Day and the State Opening of Parliament. Once installed, the gates can also be closed dynamically by the Police to lockdown the area to vehicular traffic at short notice.

Recommendation 11

We recommend that a joint group convened by the Metropolitan Police, and with representation from all authorities responsible, including from central Government, should consider and report on the framework for control of the area around the precincts by June 2020. (Paragraph 78)

Government Response

Whilst this is not a recommendation for Government, the Home Office has made the Metropolitan Police aware of this recommendation.

Recommendation 12

It is right that the security response should be based on the office that a person holds where that office gives rise to a security threat. However, there is also a need for security for those who are under a specific threat, not due to the ministerial office that they hold, but just because they are an MP. (Paragraph 79)

Government Response

The Operation BRIDGER scheme was introduced in 2015 in the wake of a number of threats to MP’s following the Parliamentary debates on Syria and updated following the tragic murder of Jo Cox MP in 2016. This is a nationwide police protective security operation, in conjunction with the Parliamentary Security Department, providing security measures for all MPs through:

- (a) A range of security advice and guidance; *and*
- (b) The installation of physical security measures at both home and constituency office addresses.

To help Parliament to promote and drive take-up of these services and support, a letter co-signed by the Home Secretary and the then Deputy Speaker of the House of Commons (Chairman of Ways and Means and the Chair of the Consultative Panel on Parliamentary Security) was sent to all MPs (on 14th October 2019) to highlight the existing security measures, the additional measures available and to re-iterate the importance of reporting concerns or threats.

The police and other relevant authorities also monitor cases where individuals have a specific threat to them, as we have seen with the recent prosecutions of:

- (a) Jack Barnes, who was found guilty after trial of harassing an MP. On 12 October 2020 he was sentenced to an 18-month community order and a restraining order was granted.
- (b) Robin Walmsley, who pleaded guilty to sending threatening and offensive messages to three elected officials. On 27 July 2020 he was sentenced to 12 months' imprisonment and made the subject of a restraining order.
- (c) Gerard Traynor, who on 25 July 2019 was sentenced to 22 months' imprisonment for sending offensive online messages to two Politicians.
- (d) Richard Hayes, who on 28 November 2019 was sentenced to five years' custody at Exeter Crown Court for sending 16 envelopes containing white powder, some of it labelled anthrax, to 15 politicians including MPs, MEPs and local councillors.

Recommendation 13

All local Police forces must recognise the seriousness of the threat facing MPs. There needs to be clear central guidance to Police forces about action to be taken to prevent harassment. (Paragraph 82)

Government Response

Following a rise in malicious communications and harassment the National Police Chiefs' Council issued a national guidance document to regional forces in 2019, in an effort to standardise and provide consistency of response to police investigations. This guidance provides a toolkit for dealing with communications with MPs in instances of: demonstrations at or near their home or surgery addresses which impact upon them, intimidation or harassment and/or the perpetration of criminal acts targeting them.

The Home Secretary wrote to all Police Chief Constables supporting the National Police Chiefs' Council guidance and encouraging it to be adopted by all police forces.

The Metropolitan Police Service's Parliamentary Liaison and Investigation Team share good practice and emerging trends or themes with local forces. For example, a recent court judgment in a harassment case was circulated so that police forces can see the level of evidence needed for a successful prosecution and the Crown Prosecution Service and magistrates' views on this evidence. On 9th September 2020, there was a national virtual Operation Bridger meeting, giving opportunities for The Speaker and the Head of the Parliamentary Security Department to address the police officers who are Operation Bridger single points of contact in their force about the online abuse and its effect on MPs,

In addition to work with MPs, there is work ongoing to prevent intimidation of candidates during an election. The Cabinet Office has undertaken a public consultation entitled 'Protecting the Debate: Intimidation, Influence and Information'. As a result of this, the Government is committed to:

- (a) introducing a new electoral sanction of intimidating candidates and campaigners,

when parliamentary time allows. Under this proposal, someone found guilty of intimidating candidates and campaigners would be banned from standing for office for five years;

- (b) clarifying the electoral offence of undue influence of a voter; and
- (c) introducing a digital imprints regime, these measures will require political parties, campaigners and others to clearly show who they are when promoting campaign content online, improving transparency for voters.

Recommendation 14

It is encouraging that the CPS both recognises the importance of robust free speech and the fact that criminal offences committed against MPs imperil both the democratic process and public service. We are pleased it is collecting and monitoring data on cases involving MPs and their staff. It will be important to ensure that there is indeed consistency of prosecutorial approach across the country. While the context in an individual case is all important, we do not consider there is a case for regional variation in prosecution policy: a crime is just as much a crime in Bognor as it is in Bath or Berwick. (Paragraph 87)

Recommendation 15

Guidance from the Police and CPS must ensure there is no unjustified variation of approach between different parts of the country, so that Police officers have clarity and support in making difficult judgments about where to draw the line. (Paragraph 88)

Government Response

The Government acknowledges the need for a unified prosecutorial approach across the country.

In support of this, the Crown Prosecution Service introduced a system to maintain central oversight of cases involving MPs, in order to build a clearer picture of the current climate. Crown Prosecution Service Areas record all cases in which the complainant is either a parliamentarian or member of their staff when the offence is connected to their public role and provide monthly reports to our Directors of Legal Services to identify any trends.

Following the roundtable with MPs, the Director of Public Prosecutions announced his intentions to work with the Police to develop a Community Impact Statement to demonstrate the impact that crimes targeted at MPs have on the individual, the community and on democracy. The Community Impact Statement will be taken into consideration when a prosecutor is considering whether a prosecution would be in the public interest. The Crown Prosecution Service and the MPS also met the Jo Cox Foundation to explore the possibility of their providing evidence for the Community Impact Statement. This work is ongoing.

This activity is in addition to the circulation of National Police Chiefs' Council national guidance to regional forces and ongoing sharing of best practice across Police Forces, as noted in the response to recommendation 13.

Recommendation 16

The increase in offences against MPs is reflected in a greater number of cases coming before the Courts. The Sentencing Council should consider the sentencing in these cases and consider whether there is need for a new sentencing guideline, to promote transparency and consistency in the sentencing of offences committed against MPs, and to recognise the threat to our democracy posed by such offending against MPs. (Paragraph 89)

Government Response

We have contacted the Sentencing Council and received the following response:

The Sentencing Council considered the issue of attacks on MPs and those working on their behalf as part of its 2019 consultation on Expanded explanations in sentencing guidelines. Relevant sentencing guidelines include an aggravating factor relating to a victim who is providing a public service or performing a public duty and the explanation (added in October 2019) for this factor makes it clear that an offence is made more serious by:

- i. *the fact that people in public facing roles are more exposed to the possibility of harm and consequently more vulnerable; and/or*
- ii. *the fact that someone is working in the public interest merits the additional protection of the courts.*

The Sentencing Council has considered the JCHR recommendation and is of the view that the above aggravating factor and expanded explanation in relevant sentencing guidelines are sufficient to ensure that courts take all relevant matters into account.

Recommendation 28

Companies should devote increased resources into ensuring their platforms are safe; the onus of removing offensive content should not be on the victims to report or the Police to investigate. The scale of social media companies' current activity in relation to dealing with these problems is insubstantial compared to the scale of the problem. Bearing in mind the scale of their profits, an increase in resources should not be impractical. (Paragraph 125)

Government Response

The Government appreciates the impact of online abuse and harassment on the welfare of all those affected by it, including Members of Parliament.

The Government recognises the particular importance of social media for Members of Parliament who rely on these services to communicate with their constituents and the public. Online abuse of any kind is unacceptable—it can dissuade people from going into public life and corrodes the values on which our democracy rests.

We have now published the full Government response to the Online Harms White Paper consultation. The response confirms that Ofcom will be named as the independent regulator, who will oversee the regulatory framework, setting clear safety standards,

backed up by mandatory reporting requirements and strong enforcement powers to deal with non-compliance. The full Government response will be followed by legislation, when Parliamentary time allows.

We expect companies to take action now, ahead of the regulatory framework coming into force. We have set out steps that we expect companies to take across a range of harms on a voluntary basis ahead of legislation being finalised. These include ensuring products and services are safe by design and that users who have experienced harm are directed to, and are able to receive, adequate support. While it is not for the Government to dictate how companies allocate resources internally, we have been clear that platforms need to do significantly more to address online abuse.

We are also ensuring that the criminal law is fit for purpose to deal with online abuse.

The Department for Digital, Culture, Media and Sport and the Ministry of Justice engaged the Law Commission on a second phase of their review of abusive and offensive online communications. This included considering whether co-ordinated harassment by groups of people online could be more effectively dealt with by the criminal law. The Law Commission is now consulting on proposed recommendations for reform. They will provide final recommendations in 2021, which we will carefully consider.

It is also important that users are empowered to understand and manage risks so that they can stay safe online. The Government's new online media literacy strategy will set out how we will equip users to recognise and deal with a range of deceptive and malicious behaviours online, including online abuse. We will publish the media literacy strategy in Spring 2021.

Recommendation 31

Political parties have a responsibility to make clear they do not endorse intimidation and abuse. They must create a climate which makes it clear that abuse is not tolerated, and failure to abide by a party's code of conduct is dealt with robustly and speedily. (Paragraph 141)

Government Response

As stated, when Government responded to the Committee on Standards in Public Life report in March 2018; the Government recommends that all registered political parties publish their own code of conduct, which should draw up a clear statement of the standards expected of its members, affiliated groups and activists, and how the party would uphold such standards in this code. Different parties may develop differently worded codes: we agree that what is important is the effective enforcement of the fundamental principles behind them.

It must be clear that a code does not stop political parties from holding each other to account in the spirit of democratic scrutiny; nor should it prevent elected representatives from the free (and often frank) expression of their political views as elected representatives. The legitimate exercise of freedom of speech and freedom of association, within the law, goes hand in hand with challenging intimidation which seeks to deprive others of their freedom of speech.