

Written evidence from Alan Halsall (TEC 01)

Public Administration and Constitutional Affairs Committee The work of the Electoral Commission inquiry

Although we don't often think about it, we all know that our lives can change in a moment. Of course we never imagine it will happen to us. My life changed on the 17th July, 2018, when I was named in an Electoral Commission report into the funding of the Vote Leave campaign during the Brexit referendum. The report also referred me to the Metropolitan Police with a request for a criminal investigation.

So how did this happen? Did I do anything wrong or was the whole investigation a simple mistake? Is there anything that can be learned from what was, for me, a bitter and frightening experience?

The story begins two years earlier, when I was approached by Matthew Elliot, Founder and CEO of Vote Leave. Vote Leave was hoping to get accreditation from the Electoral Commission to become the main Brexit Grouping in the referendum, which would allow them to spend up to £7 million. He asked if I would take the position of Responsible Person on the Vote Leave campaign, which means you have formal responsibility for reporting any donations received by the campaign and managing all expenses and providing a signed declaration to that effect for the Electoral Commission.

I had first met Matthew some months before and had taken on the position of Joint Chair of Business for Britain, a Eurosceptic group Matthew founded and which eventually became Vote Leave. As a volunteer, I wanted to do everything I could to help Vote Leave get its accreditation with the Electoral Commission, because we faced some serious competition from rival Brexit supporting groups. I took advice from one of the Vote Leave lawyers to make sure I understood the responsibilities of the role and, trusting to the intrinsic fairness of the British electoral system, I accepted the position.

The role of Responsible Person is analogous to that of an MP's election agent in a General Election, but with one very important difference. After a General Election, most election agents continue to be supported by the political party they represent. After the Brexit referendum there was no reason for Vote Leave to continue as an organisation. That didn't mean I was entirely on my own, but it did mean that if something went wrong, I would have to trust to people's good will and generosity to help resolve the situation.

During the referendum campaign, I chaired weekly meetings at the Vote Leave head office. On a day-to-day basis, the campaign's full-time executive team were entrusted to conduct all the checks and balances we had agreed and make sure they were correctly applied. I worked closely with our Finance Director, Antonia Flockton, and her team, who gave me every support and answered all my questions. At the end of the day, it was my responsibility to ensure compliance and confirm that all expenditure was correctly accounted for, with strict limits on the

discretionary spend of Vote Leave staff. Crucially, I had to confirm we did not spend more than the £7 million limit set under the legislation and I would be required to sign a declaration to that effect within six months of the referendum vote.

In early June of 2016, we were concerned we might not raise enough money from donations to spend up to that £7 million legal limit. Then, at the last minute, we received a £1 million donation, which meant we now had *more* money than we were permitted to spend within the legal limit. We had previously taken advice from the Electoral Commission and had confirmed with them that we were permitted to make donations to other organisations. Those donations would not form part of our own spending or count towards our £7 million limit. This was clear advice that donations would not have to be accounted for on the Vote Leave expense declaration. The important proviso was that there should be no 'common plan' agreed with the recipient of any donation from Vote Leave.

Vote Leave made the decision to donate some of our excess funds to other organisations that were campaigning to leave the European Union. It was a decision that would have enormous personal repercussions.

When we won the referendum there was a short period of celebration and absolute elation. We thought the work was done. But it soon became clear that some politicians and Remain campaigners were determined to overturn the result. Encouraged by the Remain lobby in the media, they saw an opportunity to attack the Vote Leave campaign, making allegations that we had made the donations as part of an organised campaign plan that had been agreed with the recipients. If this had been true we would have been in breach of our spending limit.

The Electoral Commission came under pressure to investigate and I received my first letter from their Senior Investigator, dated the 5th August 2016. I was asked to provide additional information about four donations we made to Darren Grimes between the 13th and 21st June. Darren Grimes was a young Eurosceptic who had set up his own campaign group called BeLeave, which was focused on persuading younger voters. I was asked if I considered any spending was incurred working together with Mr Grimes and if so how I intended to report it. I responded to their questions and confirmed that the donation was made without any preconditions and was not part of any collaboration.

I received a further letter from the Electoral Commission on the 24th August and responded with a three page letter, with various appendices attached, answering all the questions they raised. Thankfully, I had the support and assistance of Antonia, who continued to work with me, even though she had left Vote Leave and was no longer being paid by them. Without her continued help I would never have had the resource to respond to their questions.

In October 2016, the Electoral Commission confirmed they were happy with our responses. On the 30th November a BuzzFeed article quoted them as stating they had considered and undertook enquiries into Vote Leave and Darren Grimes to determine whether there was a common plan and they had concluded these enquiries on the 4th October 2016. They found

no evidence that Darren Grimes and Vote Leave worked together in any way that broke the law.

On the basis of this conclusion to the two month investigation by the Electoral Commission and my own knowledge of the facts, I was confident that the Vote Leave expense declaration I signed off in December 2016 was accurate and that the donations we had made to other groups were not part of our expenditure. We had not exceeded our £7 million limit.

I felt my job was done and I could get on with the rest of my life. We had won the referendum and I had contributed in a very small way to our success. Little did I know what was to come.

It's not easy to get to the truth on how events unfolded after the Electoral Commission had indicated they were satisfied with our response to their questions. I have been told that Claire Bassett, the CEO of the Electoral Commission, was contacted on the 30th January 2017 by a Remain supporter who said they had a list of potential lines of enquiry into Vote Leave's donations to the BeLeave campaign. Shortly after she received this letter, the same Senior Investigator who conducted the October 2016 enquiry wrote to me again, and, as I now know, also wrote to AIQ, the digital media agency that had worked for Vote Leave, and to Darren Grimes. They asked further detailed questions about the BeLeave donations.

It is hard to prove it, but there seems to have been an orchestrated campaign to put pressure on the Electoral Commission to keep investigating until they found the answers the Remain campaigners wanted them to find. It seemed unimportant to the Electoral Commission that we had already provided answers to the very same or similar questions just three months earlier. Antonia responded, once again, to the Electoral Commission on behalf of Vote Leave and myself. I now know that both AIQ and Darren Grimes also responded in detail to their enquiries.

On the 28th March, 2017, the Electoral Commission confirmed, for the second time, that they had no reasonable grounds to suspect anything untoward with my reporting of our expenditure, or any reason to think Vote Leave had discussed a 'common plan' with Darren Grimes. They declared the matter closed and, some nine months after the referendum and having put considerable personal effort into answering their questions, I felt happy the matter was finally concluded.

It was at this point that the Remain supporter, Jolyon Maugham, decided to focus the attention of his Good Law Project on Vote Leave. In September 2017, he applied for a Judicial Review of the Electoral Commission's decision to accept that our donation to BeLeave was not a referendum expense of Vote Leave. He argued that the Electoral Commission erred in law by not concluding these were 'common plan expenses'. The Electoral Commission responded robustly to this claim and stated, yet again, in a letter to the Good Law Project dated the 12 October 2017, that all the information in their possession was consistent with there being no

common plan. The Electoral Commission stressed in this letter that it had seen no evidence of any agreement between Vote Leave and BeLeave designed to evade the spending rules.

Despite this robust response from the Electoral Commission, the Good Law Project somehow managed to get a judicial review of the Electoral Commission's decision. Once again, we had to spend considerable time and money responding to the unfolding situation.

While all this was happening, on the 20th November 2017, some seventeen months after the Referendum, the Electoral Commission launched a third enquiry into our donations to BeLeave. Why? As far as we were aware, there were no new facts to justify reopening the investigation. The only thing that had changed was they had been threatened with a judicial review of their decision. Did they lose their nerve? Were they trying to persuade the Good Law Project there was no need for a judicial review, or perhaps their Remain views were now overcoming the need to be even-handed? Only the people at the Electoral Commission can honestly answer that question. I have drawn my own conclusions.

Our lawyers consistently asked the Electoral Commission to provide their rationale for launching this third enquiry. Between November 2017 and March 2018, they wrote to the commission seven times seeking clarity on the information justifying the investigation, with no satisfactory response. Even now, no satisfactory reason has ever been given. At one point the Electoral Commission claimed there was new evidence, but was then forced to admit that the trivial information they were referring to had been in their hands since July 2016. This is important because their own rules require them to have new evidence to justify the launch of further investigations. Those rules were put in place to prevent members of the Commission from acting irresponsibly and to protect ordinary people from becoming the subject of an unjustified investigation that could put their reputations at risk.

What we didn't appreciate at the time was that, once the third enquiry had been made public, significant new information mysteriously appeared and was submitted to the Electoral Commission. Again, it is difficult to say for sure exactly what happened, but this further attempt to incriminate Vote Leave certainly appears to have been co-ordinated by someone, or by some group of persons. It must also have cost them a lot of money, because these new submissions included a fifty-page legal opinion from Matrix Chambers, dated March 2018, and written by two QC's. The new 'evidence' came from three, self-styled 'whistle-blowers', who quickly developed a constructive working relationship with the Electoral Commission, meeting with them and their lawyers on the 22nd March. In the main, the most serious allegations contained in the whistle-blowers' statements were not credible or were simply personal opinions, but this did not stop the Electoral Commission agreeing in that meeting to the co-ordinated release of their allegations to selected media outlets on the 25th March, followed by a press conference the next day. Clearly the Electoral Commission understood the age-old adage very well; mud sticks.

On the basis of these suspect allegations, the Electoral Commission decided that our donations to BeLeave were 'common plan' expenses and therefore should have been reported by myself as Vote Leave's Responsible Person. On the 5th June 2018 they issued a notice proposing the maximum fine allowed - £20,000 - against Vote Leave as a penalty for exceeding the £7 million

spend. At the same time, they sent us the Matrix legal opinion and the full details of the whistle-blower's statements, so at least we had the opportunity to understand the basis of the accusations. We were given 28 days to respond and put our side of the story, but were not given the chance to meet with members of the Electoral Commission, in stark contrast to the way our accusers had been treated.

When our lawyers examined the whistle-blowers' statements it soon became clear that all was not as it seemed. One of the whistle-blowers had never worked for Vote Leave and one had done a small amount of consultancy work but left prior to the campaign getting its official designation. A third person had worked at Vote Leave only briefly as a volunteer and had contradicted himself in a voluntary statement he made about this matter to a senior Vote Leave official in 2016. He also made a number of claims about Vote Leave that we were able to establish were incorrect.

Vote Leave provided the Electoral Commission with over four hundred pages of evidence to refute these new claims. My own lawyer submitted further evidence and there were additional representations from lawyers representing three former senior Vote Leave executives. Shortly after our responses were submitted, the Electoral Commission published their final report. Given the short time-frame, we concluded they had not made a detailed analysis of our extensive evidence. They simply announced that Vote Leave, and by implication myself, were guilty.

The report was sent to us at 6.45am on the 17th July. By 7.10am, the CEO of the Electoral Commission, Clare Bassett, was on the Today programme on Radio 4 to announce their findings. They did not even have the courtesy to notify us they were going on the BBC. In her interview, Clare Bassett asserted that Vote Leave had refused to be interviewed by the Electoral Commission, which was patently false. It is a matter of record that we contacted the Commission and requested an opportunity to speak to them about the allegations and answer their questions.

The report was the lead story on the news throughout that day. I was named, alongside Darren Grimes. I was accused of having dishonestly or recklessly signed a false declaration of spending on the Vote Leave return of December 2016. Both myself and Darren Grimes were reported to the Metropolitan Police with a request for a criminal investigation.

This was the moment when I became aware I would be subject to a police investigation for a potential serious criminal matter. I am still not sure of the rationale in publicising my name all over the world, but I well recall my feelings at that time. It was a deeply upsetting moment. My reputation was questioned and now, some two years after the referendum, the real nightmare had started.

It was clear I was facing a serious, personal crisis. The Electoral Commission allegations against me were extremely serious and I was now a suspect in a criminal enquiry, a fact that was now well-known to all my colleagues and family. It was not what I had expected when I volunteered

to be the Responsible Person for Vote Leave. I knew I was innocent and now I had to somehow prove that to the Metropolitan Police.

From the outset, I felt confident the police would approach this matter in a very different way to the Electoral Commission and I would be allowed, at last, to give my side of the story. I was sure they would not simply rely on statements from three people with very little knowledge of the facts of the case, who had waited nearly two years to come forward, even though the Remain supporters in the media had made sure the Electoral Commission investigation into Vote Leave was heavily featured in the news for most of that time. I also hoped the police would understand the evidence had to show a 'common plan', which most lawyers view as a rather different test from the one applied by the Electoral Commission. I was sure they would go further than the Electoral Commission to test the evidence and consider alternative interpretations.

The police investigators were soon expressing their frustrations with the Electoral Commission, complaining about incomplete disclosure and the Commission's failure to supply all the relevant documents. They also complained that a large number of documents received were not indexed or organised in a systematic or logical fashion, with no schedule of all used or unused material held by the Electoral Commission. The police are under an independent obligation to review all material relevant to a criminal investigation, including material that might reasonably be considered capable of undermining the prosecution or assisting the defence. According to the police, there were concerns that the Electoral Commission's approach to the gathering and disclosure of evidence may not have complied with either the letter or the spirit of the Criminal Procedure and Investigation Act of 1996.

In June 2019, various Remain MPs threatened a judicial review of the police investigation, trying to put political pressure on them to speed up. The politicians questioned why no criminal charges had been brought against me. But in July 2019, nearly a full year after the Electoral Commission report that called for a criminal investigation, the police took the view that the Electoral Commission had still not disclosed all of the documents in its possession or control that were potentially relevant to its investigation.

All the while, the allegations of criminal behaviour against myself and Vote Leave continued unabated. Vote Leave had, by this time, decided it made sense to pay the £20,000 fine imposed by the Electoral Commission that related to our spending declaration. Vote Leave had wanted to appeal, but myself and my three colleagues, who were all working voluntarily, would have had to cover the costs personally. In the Darren Grimes appeal case, which he crowd-funded and won, the legal costs of the Electoral Commission were £435,000, which didn't include the Government's slice of the pie for VAT.

That is the reality of defending your reputation in court. The Electoral Commission used the very best and the most expensive lawyers, which were paid for out of public funds. The Vote Leave directors felt that crowd funding was not an option for the organisation, as we could face costs of up to £1 million if we appealed, and even more if we won the appeal and then the Electoral Commission appealed that decision. But it is important to note that Vote Leave continues to deny any wrongdoing.

In the meantime, my own case continued its tortuous path. I was interviewed by the police under caution in October 2019, another experience I never imagined would become part of my life story. The investigating officers were extremely courteous, but I knew how serious my situation was. Prior to this interview, my lawyers had given the Police twenty-four pages of representations, with both legal and factual argument, with an additional 359 pages of supporting documents.

It is strange how we are affected by a personal crisis. I can't say I've ever had the patience to read a detailed, legal document more than once. But I read those pages many times over. I could not see any evidence that might possibly justify the Electoral Commission reporting me to the police, my name dragged through the mud on on the Today programme and across the world's media, even though I had not been found guilty of anything. And yet still I could not be sure how the story would end. That is not something that is easy to deal with, particularly when those doubts are with you night and day for almost two years.

Finally, on the eve of VE Day, the 8th of May 2020, the police confirmed I had no case to answer and there would be no further action. My ordeal was over. It took nearly four years of constant worry and cost me many thousands of pounds in lawyers' fees. It took up many hours of reading, considering Electoral Commission evidence and instructing lawyers accordingly. And, sadly, it severely affected my personal reputation.

To return to that important question. Why? How did it all happen? You should draw your own conclusions, but I firmly believe what happened to me was motivated by the desire to make Vote Leave pay for winning the Brexit Referendum. There were people with money and power who wanted to change the result by any means possible. If they could somehow convince people we had overspent on the campaign, they hoped they could overturn the result. They failed. Unfortunately, I just happened to be in the firing line.

And what was the cost? For me, personally, the cost has been terrible. But perhaps you think I deserved what happened? Perhaps you didn't approve of the Vote Leave campaign and what we hoped to achieve? But if you are thinking that I deserved this then you are missing the point of the story. I am an honest, innocent man who gladly volunteered to help in a campaign that went to the very heart of the future of our country. You may not agree with my political opinions, but I got involved in that campaign with the very best of intentions and a desire to do my part in contributing to a democratic public debate around Brexit. I ask you, having read this story, would any of you now volunteer to do the same?

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