

Written evidence from David Banks¹ (TEC 02)

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

I request respectfully that your committee conducts a thorough investigation of the agency known as the Electoral Commission (EC), in particular its habits and its activities following and in regard to the UK's referendum on membership of the European Union.

I have been deeply concerned about this outfit for a long time. As an unpaid volunteer referendum campaigner, the EC conducted several spurious investigations against me over several months in 2017 and 2018, causing considerable distress to me and my family and debilitation to my work. The time taken to respond to the EC's many unjustifiable requests for information regularly took me away from my duties as a carer to my father and complication which

Towards the end of what I call a hounding by this agency, they then pursued a small fine for a trivial data entry error which, as they admitted, had no consequence either way to the outcome of my campaign. This I assume was an act to mitigate the appearance of what would otherwise have been a months-long hounding with no result.

During the course of the hounding, my father fell ill and after a series of medical errors he died. I am certain that I would have spotted and prevented one of this chain of errors had I not been under the cosh of a pointless EC investigation. I believe he would not have fallen ill in the first place.

Having spoken to people who worked at the EC at the time in question, I am even more appalled by what goes on there. The EC and the authorities at large need to be made aware that any of the more questionable choices the EC takes, whether intentionally or through subconscious bias, have a real effect on individual people's lives and possibly more importantly a real impact on the supervision of British democracy.

I list below some of the topics which have been of the most concern to me.

Their communication habits:

My residing memory of the EC is the disparity between their unwarranted persistence in investigating imagined offences compared with their non-availability in answering simple enquiries to do with their processes. At the beginning of their investigations, I was uncertain of what they were alleging. Yet they resisted a request for a two-way conversation to elicit their actual needs. I subsequently discovered that a two-way conversation had in fact taken place between them and campaigner-journalists of the remain side which appears to have been the stimulus for their hounding.

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During the investigation process, I would ask them what they meant in their letters and on what basis they were launching an investigation. Their responses were unclear, standoffish and high-handed. This was a contrast to their conduct before the referendum when they were polite albeit responses to requests for clarification were not always forthcoming.

Multiple simultaneous investigations:

The EC triggered four separate investigations against me, including one which was conducted by the Information Commissioner's Office following liaison between the EC and ICO. The ICO said over the phone that they had initiated their investigation at the request of the EC. This was denied by the EC. I still do not know why the ICO investigation took place or on what grounds. However, the ICO were for their part apologetic about the impact their pointless investigation had had on me and my family.

Later, two of the EC investigations were combined into one: the one about a small data entry error I had spotted and acknowledged from the very beginning and the one about their suggestion of supposed coordination with other campaign groups which they presented without grounds or evidence. Combining these two so-called investigations allowed them to say that the combined investigation had resulted in a small fine (albeit for the trivial data processing error).

The fourth investigation appeared to be a similar accusation of coordination but with the Better for the Country Ltd campaign, which had merely donated to my campaign. Like the other investigation, this investigation was presented without reasons or evidence. The EC was also unclear about what evidence they expected to receive from me to disprove their allegation. I still do not know why they entered into this investigation though I suspect it was an effort to fish for information about another group or individuals the EC were targeting. The unreasonable distress, inconvenience and professional debilitation this investigation caused was never warranted. The idea that they were simply trying to scrape around for information to build a case, an ultimately and inevitably unsuccessful one, against another campaigner is frankly sickening.

It is unsettling to say the least to face allegations from a statutory agency to which I must then provide information to prove my own innocence. It is a backward, inept and appalling way for them to do business.

Further to that, it was more than a year since the events had taken place. Would their hounding have simply continued if I had not kept the records which showed their allegations were false?

It was difficult to account for the behaviour of the EC.

At regular intervals, it appeared as if their requests for information were not actually designed to elicit information, given that the results were plainly so banal and inconsequential, but rather designed to occupy me in the pursuit of information.

The leadership of the EC.

Many members of the leadership of the Electoral Commission are known to have voiced leanings towards the pro-EU side in the referendum when those views have been spoken.

However, the EC's boss also promoted the idea that UK voters had been influenced by foreign interference and Russian bots, a concept which is now roundly discredited.

At the actual time of the EC's investigations, the EC's chairman John Holmes was hosted for a speaking engagement at one of the companies of the main financial backer of the Remain campaign where he said:

"Outside interference in a campaign is not just about hacking of electronic systems it can be selective release of stolen material designed to favour one side or another in an election or just to confuse voters or undermine faith in democracy. We know that Facebook and Twitter have been used for political advertising in the United States by Russian-based groups and it would be foolish to imagine that none of this has happened here."

The above conspiracy theories about bots and outside interference, since disproved, are not a way to run a statutory agency though it is useful that he announced them publicly so that we all know who and what we're dealing with.

It did frequently seem as though the EC had appointed itself as the investigations branch of newspapers which had come up with mad theories about 'outside interference', 'funny money' and 'bots'.

The EC's questions and allegations seemed to fit into this grand but distorted view of the world, promoted by the pro-EU Remain media, which claimed that British voters had been somehow manipulated into voting for their own independence. The theory was plainly ridiculous to anyone on the leave side but it gripped people on the remain side like a fever.

In addition to his speaking engagements at the company of the main Remain campaign donor, John Holmes is also a friend of former colleague of Tony Blair, on whose recommendation Holmes received his knighthood. Blair also stayed with Holmes on holiday while Holmes was ambassador to Portugal.

Holmes has also made infamous statements about his views on 'eurosceptic nonsense'.

I am not saying that Holmes was responsible for instigating the investigations which commenced in the months after his appointment or that he influenced the unreasonable conduct of the investigations.

I simply say the above about Holmes to highlight my concerns about the political demeanour of an organisation which believes it is perfectly acceptable to appoint as its leader someone with such political connections and such outspoken and wayward political views.

During his tenure as head of the Electoral Commission, Holmes has maintained regular contact with his former Civil Service colleagues including correspondences with the National Security Advisor and Cabinet Secretary Mark Sedwill. This was revealed in FOIs. He is yet to account fully for why such un-minuted meetings were necessary.

The timing of the investigation so long after the referendum

The EC's explanation for why they initiated an investigation more than a year after the events made no sense except that it followed bizarre accusations in Remain newspapers.

The EC claimed that the reason for the timing was that they took time to work through a backlog of referendum, but if that were truly the case and they had been so busy, why would they waste time making flawed accusation with no basis. Surely they had enough actual case work without dreaming up stuff about leave campaigns.

Threat of police action

When I told EC officials that their obtuse allegations made no sense and contained no evidence of wrongdoing, I asked what they would do if I chose to have no part in their stitch-up. At this point, they threatened police action and the confiscation of reports and computers. I would have welcomed this as the police would have them been furnished with information it would otherwise have been my laborious duty to compile.

However, the seizure of my property and the further time it would have taken threatened to further debilitate to my day job and care activities.

My 'interview' with the EC

At one point, the EC's letters were so odd that I asked to speak and exchange questions either over the phone or in person as I felt an iterative conversation would be mutually beneficial. Although this was rejected, I later received a request for an 'interview' where they could ask me questions but not vice versa.

A lengthy hours-long interrogation in the EC offices ensued. It was in a warm room and my solicitor understandably almost passed out. The EC officials started to repeat the same questions. The answers were appeared not to be what they expected. I had already answered all of their questions in writing at least once beforehand. When this utterly pointless ordeal was over, the EC was virtually mute. No further questions were forthcoming however they refused to say what they would do next or whether they were dropping their hounding. This meant the uncertainty over what they would try to pin on me next caused further distress.

Effects

The result of their pointless investigations was personal debilitation and thousands of pounds in costs which will never be repaid.

There was never any basis or public interest for their consistent months long investigation. When I asked of what they were accusing me, they provided no answers except a reference to a generic canon of legal text contained in the PPERA but still did not say specifically why this was relevant to me.

Conclusion

If only their persistence were evident in their real responsibilities of electoral supervision, then our local democracy would be in a better place. For instance, the UK still has a serious problem with vote fraud, illegal registration and double voting. Where are the EC efforts to end these problems?

We simply deserve better as a country. We deserve a better elections supervision process than that which is currently and hopefully temporarily represented by this deeply flawed Electoral Commission.

While this outfit is in charge of electoral supervision, I will have not have complete faith in the uprightness of the UK's electoral process.

June 2020