

LGA Response to Cabinet Office consultation: 'Protecting the Debate: Intimidation, Influence and Information'



18 October 2018

About the Local Government Association

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross-party organisation, which works on behalf of councils to ensure local government has a strong, credible voice with national government.

We aim to influence and set the political agenda on issues that matter most to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

Key points

1. The LGA supports the proposed new electoral law and any additional efforts to tackle the intimidation of local political candidates. It is important that intimidation crimes against candidates and councillors are taken seriously by the police, the courts and the Crown Prosecution Service (CPS). The existing intimidation legislation needs to be properly and universally enforced, including on social media, so that there are enough convictions with significant sentences to deter offenders and give candidates and politicians confidence.
2. The proposed new electoral law needs to be part of a whole package of interventions to protect serving councillors and existing or prospective candidates from intimidation. More is still needed to highlight the seriousness of the issue and to deter those specifically targeting candidates and campaigners. Whilst having a penalty that prevents a person from standing for election is universal, it is only likely to be a disincentive for a person with political ambition.
3. The LGA recommends that clear and consistent guidance for the general public is developed on what is reasonable protest and comment versus what crosses a line into abuse, intimidation and harassment, and how the latter will be tackled.
4. The LGA recommends that the CPS produces specific guidance for prosecutors and the police on cases where existing public servants and standing candidates are victims of crime, such as intimidation, as a result of their role. Both the police and CPS should consistently take the issue seriously and bring forward prosecutions to try to tackle it.

Submission

5. The LGA agrees with clarifying and consolidating the offences related to undue influence so that it goes beyond physical violence, duress and trickery. It also agrees with extending the offence to include intimidation at polling stations.
6. The LGA understands the need to extend the requirement to provide an imprint to electronic material, including social media, and that this applies all year round, not only during elections. However, this does need to be proportionate, particularly with regards to local elections, and there are still issues to resolve regarding how materials are modified and spread via social media, and what this means for culpability and enforcement.
7. We recognise that the Cabinet Office has taken on board the importance of including local councillors and candidates with regards to intimidation in public life. The impact of undermining the democratic process at a local level is as significant as at a national level.
8. It is important not to give the impression that, by having a penalty that is only a disincentive to those wishing to stand for office, the majority of intimidation is undertaken by those seeking election. This is why robust enforcement of existing criminal legislation with criminal sanctions that would be a disincentive to anyone contemplating intimidation of a councillor or candidate should be a priority.
9. The consultation restricts any intervention to electoral law, applicable during an election period, rather than addressing on-going the intimidation of those taking public office. On-going intimidation is just as likely to prevent prospective candidates from standing for office, and can also mean public office holders do not stand again or even resign from their position. This also undermines our democratic process.
10. There is a growing issue of intimidation and harassment of councillors, notably on social media. This is completely unacceptable, and must be dealt with robustly at all levels – by the CPS, by the police, by councils; and, where relevant, by the social media companies that provide platforms for specific forms of abuse. There is anecdotal evidence from across the country that female leaders and councillors are subject to more abuse than their male counterparts. In order to better understand this problem, the LGA has included this issue in its 2018 councillor census.
11. We recognise that that both the CSLP and the Government want to base the new offence and sanctions within the framework of undermining democracy rather than as criminal behaviour. Still, the end game must be to tackle the issue of abuse and intimidation that is being reported by those holding public office.
12. While some councils have reported that their local police forces take the issue of intimidation very seriously, in other areas there seems almost to be a view that such abuse is part and parcel of being an elected official. Additionally, we are aware that the CPS has declined to take forward some cases relating to the harassment of councillors.
13. The LGA supports the CSPL in recognising the importance of nationally consistent enforcement and effective policing. In particular, the need to update the College of Policing Authorised Professional Practice (APP)

guidelines to include more on offences relating to Parliamentary candidates – although this should be extended to local candidates.

14. We also support the CSPL recommendation that local police forces should have adequate training to allow them to investigate offences effectively. There is a need for further guidance to make clear to national and local candidates what behaviour might constitute a criminal offence and how candidates might respond if they experience it.
15. The proposals set out in this consultation need to dovetail with the CPSL's consultation on their review into local government ethical standards. The LGA response to consultation is available <https://www.local.gov.uk/parliament/briefings-and-responses/lga-response-committee-standards-public-life-consultation-review>.