



House of Commons  
Digital, Culture, Media and  
Sport Committee

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# The Online Harms White Paper

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**Twelfth Report of Session 2017–19**

*Ordered by the House of Commons  
to be printed 26 June 2019*

## The Digital, Culture, Media and Sport Committee

The Digital, Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Digital, Culture, Media and Sport and its associated public bodies.

### Current membership

[Damian Collins MP](#) (*Conservative, Folkestone and Hythe*) (Chair)

[Clive Efford MP](#) (*Labour, Eltham*)

[Julie Elliott MP](#) (*Labour, Sunderland Central*)

[Paul Farrelly MP](#) (*Labour, Newcastle-under-Lyme*)

[Simon Hart MP](#) (*Conservative, Carmarthen West and South Pembrokeshire*)

[Julian Knight MP](#) (*Conservative, Solihull*)

[Ian C. Lucas MP](#) (*Labour, Wrexham*)

[Brendan O'Hara MP](#) (*Scottish National Party, Argyll and Bute*)

[Rebecca Pow MP](#) (*Conservative, Taunton Deane*)

[Jo Stevens MP](#) (*Labour, Cardiff Central*)

[Giles Watling MP](#) (*Conservative, Clacton*)

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/dcmscom](http://www.parliament.uk/dcmscom) and in print by Order of the House.

### Committee staff

The current staff of the Committee are Chloe Challender (Clerk), Mubeen Bhutta (Second Clerk), Mems Ayinla (Second Clerk), Lois Jeary (Committee Specialist), Andy Boyd (Senior Committee Assistant), Keely Bishop (Committee Assistant), Anne Peacock (Senior Media and Communications Officer), Lucy Dargahi (Media Officer), and Lorna Christie (POST).

Christian Schwieter acted as specialist adviser to the Committee.

### Contacts

All correspondence should be addressed to the Clerk of the Digital, Culture, Media and Sport Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6188; the Committee's email address is [cmscom@parliament.uk](mailto:cmscom@parliament.uk)

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# Chapter 1: The Online Harms White Paper

1. The Government published its White Paper on Online Harms on 8 April 2019. This followed the publication of our own Final Report on *Disinformation and 'fake news'* on 18 February 2019, and the Government's response to that report on 9 May 2019.
2. We were pleased to see that a large number of our recommendations were taken up in the White Paper. In particular, the establishment of an independent regulator for online harms, and the requirement for social media companies to comply with a 'duty of care', satisfied two of our most important proposals.
3. However, a significant gap exists between our recommendations and the White Paper: there is scant focus on electoral interference and online political advertising, both of which we highlighted as requiring urgent action. Our response to the White Paper will therefore concentrate on this issue, with additional comments on regulation.

## Legislation on digital campaigning

4. In our Final Report, we set out why we believe that electoral law is not fit for purpose and needs to be updated to reflect changes in digital campaigning techniques.<sup>1</sup> We were disappointed with the White Paper's take-up of this issue. The limited measures that were included—for example, a code of practice to tackle disinformation by using fact-checking services (particularly during election periods)—do not specifically address the Committee's recommendations that a category should be introduced for digital spending on campaigns; and that information about all political advertising material should be searchable in a public repository, among others.<sup>2</sup> Nor was action promised on other of our headline recommendations. For example, we recommended that the Government include in the White Paper analysis about the targeting of voters by foreign players, and whether current legislation to protect the electoral process from malign influence is sufficient.<sup>3</sup> It did not do so, beyond the emphasis on measures to tackle disinformation under the new duty of care.<sup>4</sup> Nor did the Government acknowledge the role and power of unpaid campaigns and Facebook Groups that influence elections and referendums (both inside and outside the designated period), as we recommended.<sup>5</sup> These were key recommendations and we believe the Government has a duty to provide a proper response.
5. The Information Commissioner agreed about this significant omission, telling us in evidence on 23 April that she was "surprised and disappointed that there was not more focus on [...] electoral interference, and on the need for more transparency in political advertising." Elizabeth Denham said:

Considering the work that has been done by this Committee and by our office, which has been taken up in many other jurisdictions around the

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1 DCMS Committee, Eighth Report of 2017-19, 18 February 2019 [Disinformation and 'fake news': Final Report](#) para 211

2 [Disinformation and 'fake news': Final Report](#) paras 211-215

3 [Disinformation and 'fake news': Final Report](#) para 249

4 Under the new duty of care, companies will need to take measures to minimise the spread of harmful disinformation or misleading content, including using fact checking services during election periods and improving transparency of political advertising.

5 [Disinformation and 'fake news': Final Report](#) para 20

world, it is surprising and concerning to me that the Government have not done a comprehensive examination of political advertising and the oversight that is needed in this space.<sup>6</sup>

Ms Denham went on to say, “It is a gap that really needs to be addressed by Government and Parliament.”<sup>7</sup>

6. The Government has also looked at proposals to protect the electoral system via a separate, Cabinet Office-led consultation called *Protecting the Debate: Intimidation, Influence and Information*. The Cabinet Office published its response to this consultation in May. We were pleased to note that the Government agrees with us that an imprint should be required on digital election material whenever that material is published; this was another prominent recommendation in our Final Report.<sup>8</sup>

7. The Government said in its Response to our Final Report that it “will bring forward the technical proposal” for the regime on digital imprints “later on this year.”<sup>9</sup> However, we are concerned about how long it may take in practice for digital imprints to be enshrined in legislation. The timetables for our other proposals are not encouraging: for example, the Response states that statutory codes on digital campaigning electoral expenses “should come into force for the next major elections scheduled to take place in 2021 and 2022.”<sup>10</sup> A general election could, of course, happen at any time.

8. The Electoral Commission agrees with us about the urgency of tackling digital imprints. The Commission told us that it wants to see the draft legislative provisions of the Government’s proposal “as soon as possible”, adding that it has been discussing with Cabinet Office officials how to put new regulations into practice, and which types of election material they would cover, since 2018.<sup>11</sup>

9. Asked about digital payments and donation practices by parties, the Electoral Commission told us in the evidence session of 18 June about the potential utility of looking to anti-money laundering regulations to improve the transparency of political party financing. The Commission’s Director of Regulation, Louise Edwards said:

It might need some thought, but the anti-money laundering regulations require [...] additional checks over and above simple permissibility, what is known as know-your-customer checks. These are all very sensible, very straightforward procedures that we think could be put in place with most political parties to take that further step. At the moment, they are not a requirement on political parties. It seems to us that that is a very straightforward area that could be considered.<sup>12</sup>

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6 [Q31](#)

7 [Protecting the Debate: Government Response](#), p.6

8 A digital imprint is a banner appearing on an online advert, making clear information about the publishing organisation and who is legally responsible for the spending.

9 [Government Response to Final Report](#) Recommendation 22

10 [Government Response to Final Report](#) Recommendation 23

11 [Letter from the Electoral Commission, 17 May 2019](#)

12 Oral evidence on 18 June. [Q 127](#), HC 2204

10. We wrote to the Minister for the Cabinet Office asking for further clarification on timing of updates to electoral law on 17 May (see Appendix 1), but have not received a response addressing our points.

Note: The Committee wishes to clarify that after publication it came to light that a letter dated 6 June 2019 was sent by Kevin Foster MP, Minister for the Constitution, responding to the Committee's points. The letter has subsequently been reported to the House of Commons and [published](#).

11. We welcome the limited measures in the White Paper to improve digital aspects of elections, including a code of practice to tackle disinformation, for instance by using fact-checking services during election periods. However, we agree with the Information Commissioner that the White Paper “leaves a gap that Government and Parliament must now address.” The White Paper does not tackle a number of the urgent changes that we outlined in our Final Report, particularly that a category should be introduced for digital spending on campaigns; and that information about all political advertising material should be searchable in a public repository. There was no acknowledgement of the risks of foreign investment in elections, for example via digital payments, or of the role and power of unpaid campaigns and Facebook Groups that influence elections and referendums (both inside and outside the designated period). The steps taken voluntarily, for example, by Facebook to identify political advertising and those associated with it have been very limited and do not adequately meet public concerns.

12. While the Government did agree in its response to our Final Report that statutory codes on digital electoral expenses should be introduced, the fact that they will not come into force until “the next major elections scheduled to take place in 2021 and 2022” is a matter of concern for us. It is crucial that other measures, particularly imprints on digital election materials, are brought in as soon as possible and certainly by the end of this year.

13. The Government cannot work on the basis of elections not taking place before 2021. Were an election or referendum to take place later this year, campaigns would be fought using electoral law that is wholly inadequate for the digital age. We have catalogued the (unresolved) consequences of this during the 2016 EU Referendum campaign in our Interim and Final Reports on disinformation and ‘fake news’.

14. As a result, we believe that urgent legislation should be brought forward at once to bring electoral law in line with digital campaigning techniques. This could be done via a standalone bill dealing with transparency in political advertising, using the measures we recommended in our report. We would like the Government to respond to us by the 24 July with a commitment to move swiftly ahead with this particular aspect of legislation before it proceeds with other aspects of online harms, during the current parliamentary Session.

15. To underline the urgency of legislating on digital aspects of elections, we plan to take further evidence on the subject during July 2019, including taking advice on how such legislation might be drafted. We are also interested in exploring how anti-money laundering regulations may be adapted to ensure political parties can be held accountable for their financing practices in the era of digital payment systems, and ask the Government to consider this in its response to us. In particular, we are dissatisfied

that a political party can participate in an election without satisfying the Electoral Commission that it has appropriate financial procedures in place to satisfy electoral law. This is especially significant given the present inability to challenge the outcome of the election of a candidate who has benefited from illegal payments in securing his or her election. We are certain that the Government will agree with us that public confidence in the integrity of our democracy is of imperative importance. We hope that it will work with us, and with Parliament as a whole, to introduce legislation as a matter of priority before the end of this year.

## Independent regulation

16. We welcome the White Paper’s announcement of an independent regulator that will implement, oversee and enforce the new regulatory framework. This framework will include a new statutory duty of care to make companies take more responsibility for the safety of their users and tackle harm caused by content or activity on their services.

17. We agree with the Government that the regulator must have sufficient resources and the right expertise and capability to perform its role effectively. We believe that there is a need to go beyond fining powers; we were heartened to see in the White Paper that the Government is consulting on powers that would enable the regulator to disrupt the business activities of a non-compliant company.

18. We believe that alongside the creation of a new regulator, attention must be given to boosting the powers of existing regulatory bodies, which are still not sufficient. We stand by our recommendation in our Final Report that the Government should explore ways to strengthen the Electoral Commission’s investigation and enforcement powers, and to reform the election petitions process. We were disappointed with the Government’s Response, especially the statement that “it is critical we ensure that any regulation is proportionate.”<sup>13</sup> We have also been a firm supporter of the work of the Information Commissioner’s Office, calling in both our Interim and Final reports for its powers and funding to be further boosted. We note that the Government Response to our Final Report merely states that the Government is “committed to ensuring that the ICO is a world-class regulator” without any further specific commitments.<sup>14</sup> This is disappointing.

**19. Much of the new regulator’s success will depend on its enforcement powers. We urge the Government to take an ambitious approach to equipping the regulator with sufficient means, including adequate sanctions. This must go beyond fines to include the ability to disrupt the activities of businesses that are not complying, and ultimately custodial sentences. We remind the Government of our calls to extend the powers and funding of existing bodies’ resources, including investigation and enforcement powers—especially those of the Electoral Commission and the Information Commissioner’s Office.**

20. The exact nature of the new regulator is not clear. But what is apparent is the likely magnitude of its responsibilities, with the ability to police a highly extensive range of online harms. It will need to have the capacity to act with significant flexibility; to move quickly; but also to have an adaptable range of powers to tackle a whole spectrum of

13 [Government Response to Final Report](#), recommendation 24

14 [Government Response to Final Report](#), recommendation 51

transgressions, from removing hate crime in a short timeframe, to large-scale actions encompassing entire companies. Organisations of all sizes will be in scope, from SMEs to Facebook and Google.

21. The scale of the new “super-regulator” for online harms, and the range of powers that it will need at its disposal, will be unprecedented. There are few comparable models to follow in other countries. The regulator must have complete integrity and be beyond reproach by those it will police, including tech companies. It must be—and must be perceived to be—utterly impartial. Over the last eighteen months we, and many others, have made clear that this must include complete independence from government.

22. An essential part of this integrity will be demonstrable impartiality in the regulator’s leadership. Select committees can act as important guarantors of independence and confidence in the public appointments process. For example, the Treasury Committee gained powers in 2010 to bolster the independence of the new Office for Budget Responsibility, by obtaining a statutory veto over the appointment and dismissal of the three members of the Budget Responsibility Committee who, between them, form the OBR’s leadership.<sup>15</sup>

23. We are particularly keen to secure an arrangement in statute, rather than on an advisory basis, given our previous experience with pre-appointment hearings, and the unwillingness of the Government to listen to our recommendations about candidates. At the beginning of last year, we undertook pre-appointment scrutiny of the Government’s preferred candidate for the new Chair of the Charity Commission. We disagreed with the Government’s choice, for well-evidenced reasons that we set out clearly in communications and a report, published in February 2018.<sup>16</sup> However, notwithstanding our unanimously agreed report, the Government proceeded with the appointment. This follows an equally dismissive Government response to the Education Committee’s objection to the preferred candidate for the Chief Inspector of Ofsted in July 2016. These decisions do not instil confidence in the Government’s willingness to listen to Parliament’s views on public appointments.

24. **As a result, we call on the Government to demonstrate its commitment to public confidence in the new online harms regulator by giving the DCMS Committee a similar power to that accorded to the Treasury Committee, namely a statutory veto over the appointment and dismissal of the chief executive of the new regulator. The legislation being brought forward this autumn provides the perfect opportunity to put this in place ahead of the appointment of the chief executive of the new regulator. We ask the Government to respond by the end of July confirming its support for the Committee’s role in the appointment process, including the provision of a statutory veto.**

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15 The economic forecasts (upon which the Budget and Autumn Statement depend) had, before 2010, been produced by HM Treasury’s in-house forecasting team. In 2010 the Coalition Government delegated these powers to the OBR.

16 <https://publications.parliament.uk/pa/cm201719/cmselect/cmcmds/509/509.pdf>

# Appendix 1

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## *Letter from Chair to Rt Hon David Lidington MP, Minister for the Cabinet Office, 17 May 2019*

Dear David,

### Changes to electoral law

In February, my Committee published its final report on Disinformation and ‘fake news’. The Government issued its response earlier this month, following the publication of the White Paper on Online White Harms on 8 April.

In our report, we set out why we believe that electoral law is not fit for purpose and needs to be changed to reflect changes in campaigning techniques.

We were disappointed about the response. The White Paper lacks focus on electoral interference and online political advertising. The Information Commissioner agreed, telling us in evidence on 23 April that she was also “surprised and disappointed”. The limited measures that were included - a code of practice to tackle disinformation, for instance by using fact-checking services (particularly during election periods) - do not specifically address the committee’s recommendations that all online political campaign materials should state their source and advertiser; that a category should be introduced for digital spending on campaigns; and that information about all political advertising material should be searchable in a public repository.

Your department published its response to the consultation on *Protecting the Debate: Intimidation, Influence and Information* earlier this month. While, again, not all our recommendations were addressed, we were pleased to note that the Government agrees that an imprint should be required on digital election material, whenever that material is published.

However, no timeline has been set for these changes; Jeremy Wright told us in evidence that legislation on online harms will be brought in the new session, but we cannot work on a basis of elections taking place in 2022.

Were an election or referendum to take place later this year, campaigns will be fought using electoral law that I think we can all agree is no longer fit for purpose. My Committee has catalogued the (unresolved) consequences of this during the 2016 EU Referendum campaign.

Public confidence in the integrity of our democracy is of imperative importance. As a result, I believe that the Government should introduce emergency legislation to make changed in electoral law. A standalone bill dealing with transparency in political advertising, using the measures we recommended in our report, could easily be introduced very soon.

We know what needs to be done, and we cannot risk electoral disruption during any imminent democratic event. I would appreciate an opportunity to discuss this with you at your earliest convenience.

Yours sincerely,

DAMIAN COLLINS MP, CHAIR, DCMS COMMITTEE

# Formal minutes

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**Wednesday 26 June 2019**

Damian Collins, in the Chair

Clive Efford      Ian C Lucas  
Simon Hart      Giles Watling  
Julian Knight

Draft Report (*The Online Harms White Paper*), proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 24 read and agreed to.

Appendix agreed to.

*Resolved*, That the Report be the Twelfth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No.134.

[Adjourned till Tuesday 2 July 2019 at 10.00 a.m.]

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2017–19

First Report	Appointment of the Chair of Ofcom	HC 508
Second Report	The potential impact of Brexit on the creative industries, tourism and the digital single market	HC 365 (HC 1141)
Third Report	Appointment of the Chair of the Charity Commission	HC 509 (HC 908)
Fourth Report	Combatting doping in sport	HC 366 (HC 1050)
Fifth Report	Disinformation and 'fake news': Interim Report	HC 363 (HC 1630)
Sixth Report	BBC Annual Report and Accounts 2017–18: Equal pay at the BBC	HC 993
Seventh Report	BBC Annual Report and Accounts 2017–18: Equal Pay at the BBC: BBC Response to the Committee's Sixth Report of Session 2017–19	HC 1875
Eighth Report	Disinformation and 'fake news': Final Report	HC 1791 (HC 2184)
Ninth Report	Live Music	HC 733
Tenth Report	The launch of the Sub-Committee on Disinformation	HC 2090
Eleventh Report	Changing Lives: the social impact of participation in culture and sport	HC 734
First Special Report	Appointment of the Chair of the Charity Commission: Government Response to the Committee's Third Report of Session 2017–19	HC 908
Second Special Report	Combatting doping in sport: Government Response to the Committee's Fourth Report of Session 2017–19	HC 1050
Third Special Report	Failure of a witness to answer an Order of the Committee: conduct of Mr Dominic Cummings	HC 1115
Fourth Special Report	The potential impact of Brexit on the creative industries, tourism and the digital single market: Government Response to the Committee's Second Report of Session 2017–19	HC 1141

Fifth Special Report	Disinformation and 'fake news': Government Response to the Committee's Fifth Report of Session 2017–19	HC 1630
Sixth Special Report	Mr Kramer's failure to comply with the Committee's Order of the 19 November 2018	
Seventh Special Report	Disinformation and 'fake news': Final Report: Government Response to the Committee's Eighth Report of Session 2017–19 Electoral Commission response to Disinformation Report	HC 2184