

EMBARGOED TO 00.01 HRS WEDS 2 AUGUST 2023

New report calls for urgent action to defend UK's democratic space – before it's too late

Defending our Democratic Space, published today, documents cumulative threats over more than a decade to vital elements of our democracy that enable people to have a voice, amplify that voice to decision-makers, and help hold politicians to account. It calls on politicians to reverse that trend, warning failure to do so will undermine their legitimacy and ability to deliver for the British people, and ultimately damage democracy itself.

It also calls on the not-for-profit sector to take a leadership role to raise awareness of the importance of our democratic space¹, build new alliances within and beyond civil society, and work with others to create a shared vision for it. Research undertaken for this report suggests it is possible to find common ground across political divides on big issues like integrity, accountability, and transparency.

The report is based on discussions with charities and grassroots campaigners, thinktanks, Parliamentarians and others, including people across the political spectrum. The message is clear: the overall problem is serious, growing, and largely going unnoticed. One interviewee likened it to a boiled frog who fails to realise the water is slowly getting warmer until it is too late. Former Prime Minister, Sir John Major, publicly warned last year about many of the threats contained in this report, and said it was critical for politicians to uphold and protect 'the values we have as individuals, and the trust we inspire as a nation.'²

The water may not yet be boiling but polls already show people don't think politicians listen or deliver for them and are concerned about their loss of integrity and transparency.³ Many also actively support charities and other civil society organisations and can't understand why they are under political attack. They know they are a vital conduit for their views on issues that matter to them, helping to create good policies, services, and laws through advice and campaigning, working with others to curate and create our common culture, and sometimes challenging the government in the courts when laws are broken. They appreciate the critical role of the media and judiciary in ensuring all voices are heard and government is held to account, and wonder when they too are attacked. People are shocked that the Government 'cancels' experts who have criticised their policies.

Sue Tibballs, CEO of the Sheila McKechnie Foundation which co-authored this report, said:

'In the run up to the next election, all political parties need to step up and commit to policies that will protect those precious aspects of UK democracy that enable people, and those who represent them, to have a voice and a say. Too many people already feel they're not listened to by their elected representatives, that their everyday concerns are ignored, and that they lack control. Attacks on the ability of charities to campaign and raise issues with the government or restrictions on the right to peaceful protest can only make this worse.'

Caroline Slocock, Director of Civil Exchange which co-authored this report, said:

'Successive UK administrations have shown a loss of integrity and respect for the law and democratic institutions, eroding transparency, accountability and trust. Some politicians and commentators are even portraying judges, lawyers, charities, campaigners and parts of the media as a block to democracy, rather than vital elements of it. We're calling on charities to

create a broad coalition of interests across the political spectrum and sectors to defend and re-imagine a democratic space where people's voices count and our democratic institutions are truly accountable.'

Civicus, which monitors trends worldwide, this year put the UK on the same alert as Poland, Hungary, and South Africa.

Threats to our democratic space mentioned in the report include:

- New laws that mean ordinary people wanting to protest peacefully about a new road or library closure may now be put off by the thought of being arrested; or that a teenager feeling they have no choice but to protest about inaction on global warming may face a criminal record that will damage their future career.
- Ministers making widespread use of powers to make laws that cannot be amended by Parliament and receive limited scrutiny, and which can even overturn Parliament's express wishes – for example, the Government used powers in the Public Order Act to redefine 'serious disruption' as 'more than minor', effectively overruling a successful House of Lords amendment to the Act itself that ruled this out.
- Many charities being afraid to speak up about problems they see, partly because of the chilling effect of the Lobbying Act 2014, partly because of restrictions when they receive government money, and partly due to the hostile, so-called 'culture war' rhetoric they increasingly encounter.
- Government attempts in 2020 to curtail the independence of museums and galleries to curate their own exhibitions, on the grounds that they are 'motivated by activism or politics'.
- Reduction in access to legal aid for the public, an increase in costs and financial risks for charities seeking judicial review of certain government decisions, and the restriction of access to judicial review as an appeal route for some types of case.

A fuller list is included in the appendix.

The report points to longer-term drivers behind these trends, such as the disproportionate influence of big business and media moguls or the polarising effect of social media, which are likely to remain whichever administration is in power.

ENDS

For more information, please contact Chloe Hardy at chloe.hardy@smk.org.uk or 020 3687 3182. Sue Tibballs (07971 167232) and Caroline Slocock (0780 7771255) are available for interview.

NOTES FOR EDITORS

1. The 'Democratic space' is a new term invented to capture the space in which people and civil society organisations help shape the policies, services, laws, and culture that affect everyone's lives

2. *In democracy we trust?*, speech by Sir John Major at the Institute for Government on 10 February 2022.

3. For example, IPPR polling published in 2022 found a dramatic fall in trust in politicians, with two thirds of the public saying politicians are 'merely out for themselves' and only 4 per cent thinking Parliamentarians are doing their best for their country ([Revealed: Trust in politicians at lowest level on record](#), 5 December 2022. Similar concerns are reflected in polling included in [Public Preferences for Integrity and Accountability in Politics](#), Constitution

Unit, March 2023; and [Talking politics: support for democratic reform](#), IPPR, June 2023. For more information, see pages 26 and 35 of *Defending our Democratic Space*.

About the report

Defending our democratic space: a call to action reflects research conducted throughout 2022 by SMK and Civil Exchange. It included 32 interviews, four roundtables, co-hosting of a wider event, and numerous follow-up conversations with participants and funders.

Discussions involved people from civil society and beyond – charity and not-for-profit leaders, people from grassroots campaigns and movements, representatives from charitable foundations, thinktanks, the museums and galleries sector, the trade union movement, and individuals who are Parliamentarians or former senior civil servants. Interviewees included people across the political spectrum. New threats and commentary were also monitored during this period. Initial work was supported by a group of charitable foundations. This report was supported by the Funders Initiative for Civic Space (FICS).

The Sheila McKechnie Foundation (SMK) is a charity that supports change-makers, bringing the latest thinking and tactics for social change to life in its training and consultancy. It acts as a powerful champion for the right to campaign. And it brings the campaign community together to grow solidarity, and to share knowledge and ideas. It has been monitoring the impact of threats to civil society for more than five years. (England and Wales Charity No. 1108210, Scotland Charity No. SC044207)

Civil Exchange is a not-for-profit think tank which exists to strengthen civil society and help government and civil society work better together. Between 2011 and 2017 it published a series of reports with the Baring Foundation documenting threats to the independence of the voluntary sector and it has been continuing to monitor the relationship between government and civil society ever since, working with SMK since 2022.

APPENDIX: EXAMPLES OF THREATS TO DEMOCRATIC SPACE IN THE UK

Threats to the not-for-profit or social sector

- The introduction of ‘gagging’ clauses in government contracts to deliver public services restricting their ability to comment publicly on those services.¹
- The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (commonly known as the Lobbying Act), and its extension to more campaigners in the Election Act 2022, which has had a chilling impact on charity campaigning.²
- ‘Anti-advocacy’ clauses were introduced in 2016 as a result of changes to the standards applying to government grants.³ Although some aspects were subsequently softened after widespread criticism, these still effectively prevent the public sector from funding charities to advise them on policies, a standard practice up to that point and the norm in government for most sources of external advice.⁴
- Ill-founded complaints made by backbench MPs to the Charity Commission about charities, including the National Trust, Barnardo’s, the Runnymede Trust, and others, which were thrown out but only after time-consuming investigations.
- Perceived politicisation of the Charity Commission through a number of key appointments, including William Shawcross and then Baroness Stowell, who in public statements seemed to encourage the view that charities should avoid ‘controversial’ campaigning.
- An increasingly negative environment for some charities, reinforced by the coverage of some sections of the press, and sometimes accompanied by concerted campaigns, for example against the National Trust and the RNLI.
- Government attempts in 2020 to curtail the independence of museums and galleries to curate their own exhibitions, on the grounds that they are ‘motivated by activism or politics’.⁵

Threats to wider civil society

- The Police, Crime, Sentencing and Courts Act 2022 gives extensive and unprecedented new powers to the police to restrict protests.
- The Public Order Act 2023 gives police even further powers to restrict protests, effectively criminalising certain kinds of peaceful protests. This has been heavily criticised by the UN High Commissioner for Human Rights as ‘deeply troubling’.⁶
- Limiting of the right to strike through the Strikes (Minimum Service Levels) Bill, which adds additional restrictions on an already highly regulated sector and, it has been argued, also breaches the ECHR and ILO Conventions.⁷

¹ *Work Programme charities hit out about ‘gagging’ clauses*, Third Sector, 9 January 2012:

<https://12ft.io/proxy?q=https%3A%2F%2Fwww.thirdsector.co.uk%2Fwork-programme-charities-hit-against-gagging-clauses%2Fcommunications%2Farticle%2F1111065>

² *The Chilling Reality*, Sheila McKechnie Foundation, June 2018: https://smk.org.uk/wp-content/uploads/2020/08/SMK_The_Chilling_Reality_Lobbying_Act_Research.pdf

³ Cabinet Office press release, 6 February 2016: <https://www.gov.uk/government/news/government-announces-new-clause-to-be-inserted-into-grant-agreements>

⁴ *Quakers call for end to gagging clauses*, Quakers in Britain, 19 October 2018, including text from charity leaders in a letter to the Times: <https://www.quaker.org.uk/news-and-events/news/quakers-call-for-end-to-gagging-clauses>

⁵ *Museums risk funding cuts if they remove controversial objects, culture secretary warns*, Independent, 27 September 2020: <https://www.independent.co.uk/news/uk/politics/statues-british-museum-government-funding-black-lives-matter-oliver-dowden-b651318.html>

⁶ *UN rights chief urges UK to reverse ‘troubling’ Public Order Bill*, Reuters, 27 April 2023: <https://www.reuters.com/world/uk/un-rights-chief-urges-uk-reverse-troubling-public-order-bill-2023-04-27/>

⁷ *The Strikes (Minimum Service Levels) Bill: appetite for destruction*, PLC Magazine, Jan/Feb 2023: <https://www.penningtonslaw.com/news-publications/latest-news/2023/the-strikes-minimum-service-levels-bill-appetite-for-destruction>

- A new law designed to reduce an alleged 'cancel culture' in universities was said by freedom of expression campaigners when it was introduced to be both unnecessary and likely to have the opposite effect.⁸
- The Government has introduced new rules which require speakers on public platforms to be vetted by civil servants for 'problematic' opinions, which have included criticism of government policy, and experts have been 'de-platformed' even where their criticisms have no relevance to the issues being discussed.⁹
- The Elections Act 2022, which introduced voter ID, despite there being no evidence of widespread voter fraud, which many see as an act of voter suppression of those who are least likely to vote already.¹⁰
- Restrictions on the freedom of individuals and groups, particularly from racially minoritized backgrounds, because of poorly designed or implemented anti-terrorism measures. We have been told that PREVENT has had 'a huge chilling effect on who is deemed acceptable to engage in democratic debate and to be seen on public platforms and to be an actor within civic spaces'.

Threats to wider elements of the democratic space

- The side-tracking of Parliament by government, most notably the proroguing of Parliament to prevent Parliamentary accountability over Brexit, which was later judged unlawful by the Supreme Court.
- Lying to Parliament, which holds the Executive to account, of which former PM Boris Johnson was found guilty by Parliament on 19 June 2023, following a critical Privileges Committee report.
- Several recent pieces of legislation have included so-called Henry VIII clauses, e.g. the Retained EU Law (Revocation and Reform) Bill that, if passed, would give Ministers the power to make laws to replace EU-derived laws without full Parliamentary scrutiny or possibility of amendment. Another example is the Public Order Act, which the Government used in June 2023 to pass a regulation that allowed it to redefine 'serious disruption' as 'more than minor', effectively overruling a successful House of Lords amendment to the Act itself that ruled this out. This is now being challenged legally by the charity, Liberty.
- In July 2023, the High Court ruled that the Government had acted unlawfully and irrationally in introducing a new regulation allowing agency workers to be used to fill in behind striking workers without first consulting, as it is required to do under the Employment Agencies Act 1973, before making any regulations.¹¹
- Government failure to comply with international law and obligations, e.g. the now abandoned Northern Ireland Protocol Bill, which broke the Brexit treaty signed by the same government, or the current Illegal Migration Bill, which by the Government's own account has a more than 50% chance of breaking international law and has been condemned by the UNHCR.¹²
- Lack of respect for the Nolan Principles in public life (selflessness, integrity, objectivity, accountability, openness, honesty, leadership), most notably in relation to the so-called Partygate scandal. These also require that decision and policymakers

⁸ *Campus free speech law in England 'likely to have opposite effect'*, Guardian, 12 May 2021:

<https://www.theguardian.com/education/2021/may/12/campus-free-speech-law-england-likely-opposite-effect>

⁹ Expert banned from UK government event for tweets that criticised Tories: Dan Kaszeta is one of at least eight speakers banned by opaque vetting scheme in 'attack on free speech', Guardian, 23 May 2023:

<https://www.theguardian.com/politics/2023/may/23/dan-kaszeta-banned-from-uk-government-event-for-tweets-criticised-tories>

¹⁰ *New Tory Leader Must "Get Hold Of The Reins" Of Public Trust in Elections Rules, Watchdog's Former Chief Warns*, Politics Home, July 2022. <https://www.politicshome.com/news/article/electoral-commission-no-longer-independent-bob-posner-criticism>

¹¹ *Unions win High Court battle over government's 'unlawful and irrational' decision to implement agency worker regulations*, Thompson Law, 13 July 2023: <https://www.thompsons.law/news/news-releases/our-firm-news/unions-win-high-court-battle-over-government-s-unlawful-and-irrational-decision-to-implement-agency-worker-regulations>

¹² UNHCR Statement on UK Asylum Bill, 7 March 2023: <https://www.unhcr.org/uk/news/statement-uk-asylum-bill>

pursue transparent and accessible decision-making, which itself requires a decent standard of collaboration and partnership with civil society.

- The politicisation of appointment to regulators. In the past few years, the Office for the Commissioner of Public Appointments (OCPA) was forced to intervene to prevent overtly political membership of appointment panels for chairs of the BBC, the British Film Institute, and the Office for Students.¹³ William Shawcross was appointed Commissioner for Public Appointments, despite concerns about his party politicisation of the Charity Commission role.¹⁴ The boards of museums and arts institutions have been similarly targeted.
- The Elections Act 2022 gave the Secretary of State the right to direct the Electoral Commission, until then an independent body, and which has an enforcement role against political parties.
- Reduction in access to legal aid for the public, an increase in costs and financial risks for charities seeking judicial review of certain government decisions,¹⁵ the restriction of access to judicial review as an appeal route for tribunals in the Judicial Review and Courts Act 2022, particularly affecting migration and asylum cases,¹⁶ and the denial of access to the courts in the Illegal Migration Bill for people arriving through irregular routes.

The media

The media are an important enabler of a healthy democratic space but, to an extent, have also been part of the problem. A long-standing issue highlighted by some of our interviewees is the lack of independence and diversity in the 'mainstream' British press, with several titles owned by offshore media moguls wielding disproportionate power in the civic space. These titles have often exerted their power to amplify negative rhetoric, for example, the Daily Mail's front-page headline, Enemies of the People in 2016, after it was ruled by three judges that Brexit could not be implemented without the consent of Parliament. At the same time, Local media, once a vital part of public transparency and accountability, has shrunk to nothing in some parts of the country and is struggling elsewhere.

There have been concerns about threats to the independence of the BBC due to the close links of members of the BBC's Board to the current government and the process of their appointments. In 2023, for example, the BBC Chair, Richard Sharp was forced to resign, because of his failure to declare that he had helped the Prime Minister who appointed him to get a loan. At the same time the BBC has had its funding cut. Another 'public interest' broadcaster, Channel 4, was at one point threatened with privatisation by Ministers with suspicions that this was politically motivated because of criticisms of the Government by Channel 4 News.

Culture Wars

Many of the people we spoke to are also concerned about the increasing hold of so-called 'culture wars' thinking on political and public debate, which has created an intemperate environment in which it is becoming ever harder for both individuals and not-for-profits to debate differences of view or shape a common culture. Some charities have come under

¹³ *Watchdog stopped ministers breaching neutrality code in top BBC and BFI hires*, Guardian. November 2021.

<https://www.theguardian.com/politics/2021/nov/07/watchdog-ministers-neutrality-code-top-bbc-bfi-hires>

¹⁴ *Johnson continues his war on Whitehall with new nomination for powerful job*, openDemocracy. July 2021.

<https://www.opendemocracy.net/en/opendemocracyuk/william-shawcross-nomination-commissioner-public-appointments/>

¹⁵ *New cost limits for planning challenges and environmental claims*, Norton Rose Fulbright, July 2017:

<https://www.nortonrosefulbright.com/en-gb/knowledge/publications/05ed6e85/new-cost-limits-for-planning-challenges-and-environmental-claims>.

¹⁶ *Judicial Review Reform*, The Law Society, 28 April 2022: <https://www.lawsociety.org.uk/topics/human-rights/judicial-review-reform>

EMBARGOED TO 00.01 HRS WEDS 2 AUGUST 2023

direct fire, particularly from certain sections of the media, and the not-for-profit or social sector, along with other key institutions in our democratic space, such as the judiciary and lawyers, and the media, are increasingly being lumped together and portrayed by Ministers and populist politicians as blocks to what the Government is trying to achieve rather than key elements of democracy.