

Dealing with the bad apples: The Recall of MPs Act 2015

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Much has been said of the recent trend towards democratic backsliding and declining accountability in the United Kingdom and beyond. One phenomenon arguably pushing back against such forces, however, is the ability of the electorate to depose an elected representative pursuant to a recall petition and the triggering of a new election. Recall petitions have been defined as “a direct democracy procedure that allows the appropriate authority and/or a specified number of citizens to demand a vote for the electorate on whether an elected holder of public office should be removed from that office before the end of his or her term”.¹ The origins of recall can be traced back to the founding of the United States of America,² whilst the idea was also endorsed more radically by Karl Marx.³ Literature addressing recall is now growing, reflecting the steady diffusion of recall procedures in democratic countries in recent years.

In the UK, recall has been implemented through the Recall of MPs Act 2015, soon reaching its first decade of existence. In essence, the Act allows for a Member of Parliament to be recalled by their constituents and for a by-election to be triggered if any one of three conditions is met. First, if that MP is convicted of any offence and handed a sentence of imprisonment in the UK of less than one year;⁴ second, if the MP is suspended from the House of Commons following a recommended sanction from the Committee on Standards of at least 10 sitting or 14 calendar days;⁵ or third, if the MP is convicted of the specific offence of making false or misleading Parliamentary allowance claims.⁶ A recall petition may then be opened in the MP’s constituency for six weeks where, if 10% of registered voters sign by the deadline, the seat is declared vacant and a by-election is subsequently held.

The Act came into force in March 2016 to a lukewarm reception. Some felt that the threshold to trigger a recall petition would be too high, making the mechanism ineffectual,⁷ whilst for others there was a concern that it would be open to abuse by vested interests.⁸ Relatively little was known about the mechanism until its first successful use in 2019, when Fiona Onasanya was recalled.⁹ Since then, a further three successful recall petitions and subsequent by-elections have taken place,¹⁰ placating some of the Act’s earlier critics, with some now even suggesting that the threshold for recall is too low while highlighting the lack of alternative sanctions.¹¹

¹ V. Beramendi et al, *Direct Democracy: The International Idea Handbook* (Stockholm: International IDEA, 2008), p.109.

² M. Qvortup, “Total Recall: Revocation of Electoral Mandates” in *The Referendum and Other Essays on Constitutional Politics* (Oxford: Hart, 2019); M. Qvortup, “*Hasta La Vista*: A Comparative Institutional Analysis of the Recall” (2011) 47(2) *Representation* 161, 163.

³ L. Whitehead, “The Recall of Elected Officeholders: The Growing Incidence of a Venerable, but Overlooked, Democratic Institution” (2018) 25(8) *Democratization* 1341, 1345.

⁴ Recall of MPs Act 2015 s.1(3). All appeals must have been exhausted and the sentence must be custodial, including a suspended sentence.

⁵ Recall of MPs Act 2015 s.1(4). According to s.1(7) this includes “any committee of the House of Commons concerned with the standards of conduct of individual members of that House”.

⁶ Recall of MPs Act 2015 s.1(9). This is for committing an offence under s.10 of the Parliamentary Standards Act 2009. All appeals must have been exhausted but a sentence does not have to be custodial.

⁷ P. Wintour, “Bill Giving Voters Power to Recall their MP ‘falls Scandalously Short’” *The Guardian* (11 September 2014).

⁸ F. Dobson, “Power to the People? This Recall Bill will do no such thing” *The Guardian* (21 October 2014).

⁹ UK Parliament, “Peterborough MP Fiona Onasanya Removed in First Successful Recall Petition” (1 May 2019) <https://www.parliament.uk/business/news/2019/may/peterborough-mp-fiona-onasanya-removed-in-first-successful-recall-petition/>.

¹⁰ See N. Johnston and R. Kelly, “Recall Elections” *House of Commons Library* CBP 5089 (20 February 2024) <https://researchbriefings.files.parliament.uk/documents/SN05089/SN05089.pdf>.

¹¹ C. McKeon, “MPs Complain Threshold for Recall Petition is too low, says Mordaunt” *The Independent* (6 February 2024).

As a rare example of direct democracy in the UK, the mechanism raises questions concerning the balancing of interests between the electorate and Parliament, as well as more specific questions concerning natural justice and fairness during the process. These issues have been politically contentious in recent high-profile cases, particularly Owen Paterson and Boris Johnson, both of whom stood down before recall could be triggered.¹² This article attempts to address some of these issues, ultimately arguing that whilst reforms should be considered, the legislation can be seen as a positive recent development enhancing political accountability.

Recall Petitions in the United Kingdom

Prior to the Recall of MPs Act 2015, limited options were (and remain still) available to depose a sitting MP outside of a general election, naturally reflecting the importance of representative democracy and the need for confidence and stability in the United Kingdom's political system. The reforms to establish mechanisms to control and even remove sitting MPs have largely occurred due to high profile incidents and scandals.

Before the 2015 Act, the sole statutory mechanism for deposing a sitting MP for their particular conduct, albeit by means of disqualification rather than recall, was found in the Representation of the People Act 1981. This disqualifies any person serving a jail sentence of more than a year in the UK or the Republic of Ireland from being an MP,¹³ barring them from standing, but also that any sitting MP to be convicted of a crime entailing a prison sentence of greater than one year is automatically removed from office,¹⁴ with a by-election to follow. This Act was passed following the election of Bobby Sands—who was at the time on hunger strike in HM Prison Maze serving a lengthy sentence for firearms possession—in the April 1981 Fermanagh and South Tyrone by-election. Conditions for disqualification are also provided in other legislation, for example the House of Commons Disqualification Act 1975 which concerns an individual's other offices rather than personal conduct.¹⁵

Expulsion from the House of Commons pursuant to parliamentary privilege for serious misconduct is also possible, last occurring in 1954 when Peter Baker was expelled for forgery. Finally, MPs can also be subject to political mechanisms such as deselection or expulsion from their party, or being pressured to resign. Other, temporary, political remedies such as withdrawal of the party whip are frequently used, demonstrated by the fact that 18 MPs sit as Independents at the time of writing.

The parliamentary expenses scandal that emerged in 2009 provided the immediate impetus for reform. First, the Parliamentary Standards Act 2009 established the Independent Parliamentary Standards Authority to regulate MPs' pay, allowances and financial interests, signifying the first time that a body external to Parliament had such control over parliamentary affairs. Moreover, the Conservative Party, Labour Party and the Liberal Democrats all committed to some kind of recall procedure in their respective manifestos for the 2010 General Election.¹⁶ Following the formation of the Coalition Government, a white paper and draft Bill emerged in 2011.¹⁷ However, progress stalled, in part due to the House of Commons Political and Constitutional Reform Committee criticising the Bill due to the restricted recall mechanism and questioning if it was even necessary.¹⁸ It was not until October 2014 that momentum was

¹² An MP cannot directly resign their seat and is instead appointed to one of two offices of the Crown, disqualifying them from membership of the House of Commons.

¹³ Representation of the People Act 1981 s.1.

¹⁴ Representation of the People Act 1981 s.2(2).

¹⁵ House of Commons Disqualification Act 1975 s.1.

¹⁶ *The Conservative Manifesto 2010: Invitation to Join the Government of Britain* pp.65-66; *The Labour Party Manifesto 2010: A Future Fair for All* p.9:2; *Liberal Democrat Manifesto 2010: Change that Works for you—Building a Better Britain* p.89.

¹⁷ HM Government, *Recall of MPs Draft Bill* Cm.8241 (December 2011).

¹⁸ House of Commons Political and Constitutional Reform Committee, *Recall of MPs* (Session 2012-13, HC 373), p.3.

rekindled, and the Bill progressed through the legislative process relatively easily before the 2015 General Election.

That said, some parliamentarians had concerns that the Bill did not go far enough and left the electorate without a genuine recall mechanism, with the former MP Zac Goldsmith putting forward alternative proposals. First, Goldsmith presented a Private Members Bill in September 2014: the Recall of Elected Representatives Bill.¹⁹ Soon after, Goldsmith proposed amendments to the Government's Recall of MPs Bill during the Committee stage, which would, in his words, have established a "genuine voter-led system of recall with tight caps on spending and a high enough threshold to prevent vexatious abuse".²⁰ Goldsmith's proposals would have required 5% of constituents to serve notice of recall without the need for an MP to have committed a serious offence, 20% of constituents to sign for a referendum to be held, and then, if a majority of voters so chose, a by-election would be held.²¹ His Bill also proposed that recall petitions could be applied to other elected offices such as elected councillors and mayors,²² as well as members of the devolved legislatures, subject to the constraints of these being devolved matters.²³ Ultimately, the Bill did not progress beyond first reading.

Despite the concerns about the limited involvement of constituents, the Recall of MPs Act 2015 established a mixed recall mechanism, as the three conditions to initiate recall do not involve the public. The Act's first, albeit unsuccessful, use came in 2018, when Ian Paisley Jr, representing North Antrim, was suspended by the House of Commons for 30 sitting days due to undeclared holidays and lobbying on behalf of the Sri Lankan government.²⁴ The subsequent recall petition failed to receive the required number of signatures as just 9.4% of registered voters approved the recall, meaning a by-election was not called, and Paisley was able to return to parliamentary duties following his suspension. This failure to reach the 10% threshold prompted some to criticise the Act's credibility and future,²⁵ but the unique sectarian political circumstances in Northern Ireland may have impacted the petition, as well as an inadequate number of petitions stations.²⁶

The first successful use of the mechanism came in 2019 when Fiona Onasanya, representing Peterborough, was sentenced to three months imprisonment for perverting the course of justice.²⁷ The recall petition was signed by nearly 28% of constituents, far exceeding the threshold, resulting in a by-election in which Onasanya did not stand. The Labour Party retained the seat with a significantly reduced majority. Shortly after, Christopher Davies, representing Brecon and Radnorshire, was also subject to a recall petition after being convicted of submitting false invoices.²⁸ After 19% of constituents signed the recall petition, Davies was chosen to stand again as the Conservative Party candidate in the subsequent by-election but lost to the Liberal Democrats candidate.

The first significant reform to the recall mechanism came in October 2021 and concerned what was widely criticised as a loophole in the second condition for recall, namely a recommendation from the Committee on Standards for an MP's suspension. The loophole arose in 2018, when the Independent Complaints and Grievance Mechanism was established

¹⁹ UK Parliament, *Recall of Elected Representatives Bill* (Session 2014-15) <https://bills.parliament.uk/bills/1495>.

²⁰ HC Deb 27 October 2014 Vol.587 Col.58.

²¹ Recall of Elected Representatives Bill cl.1.

²² Recall of Elected Representatives Bill cl.27.

²³ Recall of Elected Representatives Bill cl.28.

²⁴ N. Johnston, "The First Use of a 'Recall Petition' in the UK" *House of Commons Library* (10 August 2018) <https://commonslibrary.parliament.uk/the-first-use-of-a-recall-petition-in-the-uk/>.

²⁵ P. Maguire, "Ian Paisley has Survived, but the Recall of MPs Act is Dead" *The New Statesman* (20 September 2018).

²⁶ Electoral Commission, *Report: 2018 Recall Petition in North Antrim* (5 November 2018) <https://www.electoralcommission.org.uk/research-reports-and-data/our-reports-and-data-past-elections-and-referendums/report-2018-recall-petition-north-antrim>.

²⁷ Johnston and Kelly, "Recall Elections" pp.24-26.

²⁸ Johnston and Kelly, "Recall Elections" pp.26-28.

to allow for parliamentary staff to submit complaints of bullying, harassment or sexual misconduct.²⁹ The Independent Expert Panel was then established in 2020, comprised of lay members, to determine appeals and sanctions in cases raised under the Mechanism concerning MPs.³⁰ Following allegations of sexual misconduct against Rob Roberts, the Panel recommended a suspension of six weeks which was subsequently approved by the House of Commons.³¹ However, as the Panel did not constitute a parliamentary committee, a recall petition was not possible. As such, on 19 October 2021, a new Parliamentary standing order was passed to rectify this, rendering the recommendations of the Panel to be the equivalent of a parliamentary committee.³² Even so, MPs declined to apply the change retrospectively, meaning that Roberts was not subject to recall.

Several years of inactivity followed the two successful recalls in 2019, before Margaret Ferrier, representing Rutherglen and Hamilton West, was recalled in 2023 following a 30-day suspension from the House of Commons due to breaches of lockdown regulations during the COVID-19 pandemic.³³ In this instance, 14.7% of constituents signed the recall petition, prompting a by-election, which Ferrier did not contend and the previously held Scottish National Party seat was gained by the Labour Party. The most recent successful example of a recall petition was against Peter Bone, representing Wellingborough, in 2023 due to allegations of bullying and sexual misconduct which led to a six-week suspension.³⁴ For this recall petition, 13.2% of constituents added their signatures, prompting the by-election, which Bone did not contest and the previously held Conservative Party seat was gained by the Labour Party.

Thus, of the four by-elections following recall, only one led to the incumbent party retaining the seat, albeit with a different candidate and a much-reduced majority. This raises the question of whether recall petitions are used to personally sanction an MP, or are used by voters as an opportunity to switch party preference, or even a combination of both factors.

Whilst these examples reflect the direct impact of the recall mechanism, it is highly likely, or at least possible that up to eight other MPs may have been subject to a recall petition had circumstances not intervened.³⁵ There are unlikely to be many further examples in the short term, however, as the Act prohibits the trigger mechanism within six months of a general election.³⁶ As of April 2024, no such date has been set, though by law this must take place no later than January 2025.

A diamond in the rough?

The Recall of MPs Act 2015 is a rare example of recent legislative reform that has improved accountability. That said, the 2015 Act is not without controversy as it raises questions concerning the balance of interests between the UK electorate and Parliament, as well as the importance of a legislature being free of executive overreach. On the one hand, the voting public have an obvious interest in who is elected to represent their interests, including matters relating to that representative's conduct. On the other hand, parliamentary privilege is sacrosanct in the UK's legal and political system, meaning that interference in matters internal to Parliament is generally prohibited and MPs are able to speak freely in parliamentary debates.

²⁹ UK Parliament, The Independent Complaints and Grievance Scheme <https://www.parliament.uk/about/independent-complaints-and-grievance-scheme/>.

³⁰ UK Parliament, Independent Expert Panel <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/independent-expert-panel/>.

³¹ The Independent Expert Panel, *The Conduct of Mr Rob Roberts MP* (HC 245, 25 May 2021).

³² UK Parliament, Standing Order 150E. IEP recommendations for sanctions and the Recall of MPs Act 2015.

³³ Johnston and Kelly, "Recall Elections" pp.28-30.

³⁴ Johnston and Kelly, "Recall Elections" pp.30-31.

³⁵ Johnston and Kelly, "Recall Elections" pp.32-39. These include Keith Vaz, Rob Roberts, Owen Paterson, Claudia Webbe, Christian Matheson, Boris Johnson, Christopher Pincher and Scott Benton.

³⁶ Recall of MPs Act 2015 s.5(2)(a).

Retaining confidence and stability in the UK's political system should also not be easily overlooked. The balance between these interests is arguably struck well currently.

Notwithstanding the three conditions that can initiate recall, the mechanism cannot be triggered simply because constituents dislike an MP's character or conduct, or even if constituents disapprove of an MP's voting record. Such a possibility would jeopardise the credibility of a representative democracy and the stability of Parliament following a general election. An MP's switch of party allegiance also cannot lead to recall in the UK,³⁷ though a growing number of parliaments have adopted anti-defection legislation to protect the unity of legislative party groups, slowly normalising such practice.³⁸ The sitting MP is also afforded some, limited, protection. Thus, if a by-election is triggered by recall, the individual is able to stand for re-election,³⁹ as was the case for Christopher Davies who was chosen again to represent the Conservative Party in 2019.

Perhaps the greatest controversy with the current process, however, concerns one of the conditions for triggering a recall petition, namely, the ability of the Committee on Standards to recommend a suspension of an MP and the observance of natural justice during this process.⁴⁰ This particular issue attracted most attention in the cases of Owen Paterson and Boris Johnson who stood down in November 2021 and June 2023 respectively before they could be subject to a recall petition.

In Paterson's case, the Parliamentary Commissioner for Standards found that he had carried out paid advocacy for a healthcare company which was awarded substantial contracts by the UK Government during the COVID-19 pandemic. The Committee on Standards reported on this conduct in October 2021 and recommended a suspension of 30 days.⁴¹ With the Government's support, Paterson criticised the absence of natural justice whilst maintaining his innocence. When the House of Commons considered the motion for Paterson's suspension, the Government, led by Boris Johnson, put forward an amendment to establish a new parliamentary select committee to investigate the process for disciplining MPs.⁴² Serious doubts about the credibility of this proposal were raised, as the committee would comprise a majority of Conservative Party MPs, which led to opposition parties refusing to take part. Owing to political and media pressure, the Government reversed its position and announced that a vote on suspending Paterson would in fact take place, prompting Paterson to immediately resign, quashing the prospect of a recall petition. Paterson has since taken his case to the European Court of Human Rights criticising the fairness of the process and its impact on his reputation, though curiously he has chosen to focus solely on the right to respect for privacy under Article 8 of the European Convention on Human Rights (ECHR),⁴³ to the exclusion of the right to a fair trial under Article 6. In his case the Parliamentary Commissioner for Standards determined that Article 6 did not apply,⁴⁴ as Parliament's internal processes do not amount to criminal proceedings or a case concerning civil rights and obligations, but nevertheless the Commissioner determined to handle the matter in a way that would comply with Article 6.

In Johnson's case, the former Prime Minister, who had returned to the backbenches, resigned as an MP when the House of Commons Committee of Privileges found that he had

³⁷ Most recently, Dan Poulter defected to the Labour Party in April 2024 having previously served as a Conservative Party MP since 2010.

³⁸ C. Nikolenyi, "Government Termination and Anti-Defection Laws in Parliamentary Democracies" (2022) 45(3) *West European Politics* 638.

³⁹ Recall of MPs Act 2015 s.1(11).

⁴⁰ L. David-Barrett, "Owen Paterson: The Government Sought to Derail a Respected Process for Regulating Parliamentary Conduct while Justifying its Actions in Terms of Natural Justice" *LSE Politics and Policy Blog* (5 November 2021) <https://blogs.lse.ac.uk/politicsandpolicy/owen-paterson-misconduct/>.

⁴¹ House of Commons Committee on Standards, *Mr Owen Paterson* (Session 2021-22, HC 797).

⁴² HC Deb 3 November 2021 Vol.702 Cols.964-968.

⁴³ *O.P. v United Kingdom* (App. No. 23570/22) 27 September 2022.

⁴⁴ House of Commons Committee on Standards, *Mr Owen Paterson* p.100.

deliberately misled Parliament over so-called Partygate and had been involved in the intimidation of MPs investigating him.⁴⁵ Johnson's resignation and response criticising the Committee and its provisional findings came before the final report had been officially published, prompting the Committee to increase the recommended suspension from 20 days to 90 days for "impugning" the process and work of the Committee. Johnson had described the Committee as a "kangaroo court" and alleged that the report was "riddled with inaccuracies and reeks of prejudice" under an "absurd and unjust process".⁴⁶

Parliament's ability to regulate its own internal proceedings and standards of behaviour is a long-established feature of the UK's unique constitutional identity. Exclusive cognisance ensures that Parliament can effectively discharge its constitutional functions without external interference.⁴⁷ For example, the activities of the Parliamentary Commissioner for Standards have been found to be beyond the scope of judicial review.⁴⁸ This reflects the long-established rule that the courts do not inquire into parliamentary procedures.⁴⁹ Parliament is also specifically excluded from the Human Rights Act 1998, as it is not considered a public body for the purpose of section 6, meaning that Parliament and its procedures is not bound to adhere to the ECHR.

In the wake of the Paterson case, the Committee on Standards commissioned a review to be conducted by Sir Ernest Ryder, a former Senior President of Tribunals and Lord Justice of Appeal, with its findings reported in March 2022.⁵⁰ Among other recommendations, the review concluded that the inquisitorial, rather than adversarial, procedure for inquiries into parliamentary standards should be maintained and that this was fair and compliant with Article 6 of the ECHR. However, Ryder suggested that reforms should be considered, including, for example, that the Parliamentary Commissioner for Standards should issue "opinions" rather than "findings", rendering the Standards Committee the first decision-maker, and that an appeal mechanism should be established. Addressing the latter issue, the remit of the Independent Expert Panel was expanded in October 2022 to hear appeals from the Committee on Standards.⁵¹

The demand for greater observance of natural justice principles in internal parliamentary processes is a complex and somewhat contradictory dilemma. First, these processes have all been established by Parliament itself, reflecting the importance of exclusive cognisance. Second, the Committee on Standards has a unique and hybrid composition as it comprises seven MPs, four of whom are Conservative Party MPs, and seven lay members, whilst the Independent Expert Panel comprises only lay members, which in theory will depoliticise matters. Third, reforming the current process, as the Government initially suggested, to allow for decisions to be made by a wholly political body, staffed by members of the governing party, is an unsatisfactory alternative. Fourth, MPs now have the ability to appeal against decisions of the Standards Committee to the Independent Expert Panel, as four MPs have attempted albeit unsuccessfully.⁵² Finally, given the concerns expressed by some over the

⁴⁵ House of Commons Committee of Privileges, *Matter Referred on 21 April 2022 (Conduct of Rt Hon Boris Johnson): Final Report* (Session 2022-23, HC 564).

⁴⁶ BBC News, "Resignation Statement in Full as Boris Johnson Steps Down" (9 June 2023) <https://www.bbc.co.uk/news/uk-politics-65863336>.

⁴⁷ See A. Horne, L. Thompson and B. Yong (eds), *Parliament and the Law*, 3rd edn (Oxford: Hart Publishing, 2022).

⁴⁸ *R v Parliamentary Commissioner for Standards, ex parte Al Fayed* [1998] 1 All ER 93.

⁴⁹ See, for example, *British Railways Board v Pickin* [1974] A.C. 765; and *Fairfold Properties Ltd v Exmouth Docks* (1990) TLR 660.

⁵⁰ House of Commons Committee on Standards, *Review of Fairness and Natural Justice in the House's Standards System* (Session 2021-22, HC 1183).

⁵¹ Independent Expert Panel, *Guidance to Appellants in Code of Conduct Cases* (November 2022) <https://www.parliament.uk/globalassets/mps-lords--offices/standards-and-financial-interests/independent-expert-panel/guidance-for-appellants-on-code-cases-v1-november-2022.pdf>.

⁵² Independent Expert Panel, *Reports into Code of Conduct Cases* <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/independent-expert-panel/reports-into-code-of-conduct-cases/>.

fairness of the process and apparent absence of natural justice, it is unclear why Owen Paterson chose not to cite the right to a fair trial in his recent complaint to the European Court of Human Rights. This may simply be because internal parliamentary proceedings are indeed beyond the scope of Article 6 as the Parliamentary Commissioner concluded.

In addition to the constitutional dilemmas associated with recall processes, there are other issues concerning fairness. First, campaigning for or against the recall of an MP is permitted under the Act, though this is subject to spending limits of £500 for non-registered campaigners and £10,000 for registered campaigners.⁵³ Given the concern during the legislative process that wealthy lobbyists and pressure groups could dominate campaigns to unseat MPs, due to their beliefs or voting records on divisive issues, these restrictions are arguably justified in today's political climate.

Second, unlike normal elections where a choice of candidates is presented to voters in a polling station, with a recall petition it is reasonably obvious that a voter is going to express a political choice and approve the petition, unless a voter intends to spoil their ballot or otherwise disrupt the process. As Jonathan Tonge has argued, "entering a petition signing station is to engage in a visible electoral action",⁵⁴ echoing concerns expressed by the Electoral Commission that all observers will know that an entrant has arrived to unseat the incumbent MP.⁵⁵

Third, adding further complexity, voter identification is now required at polling stations for certain types of elections,⁵⁶ with the Rutherglen and Hamilton West recall petition in 2023 being the first petition where this took effect. The Electoral Commission found that six voters were rejected for lacking adequate identification.⁵⁷ To mitigate these concerns to some extent, however, postal and proxy voting remains possible for voters in a recall petition,⁵⁸ thus better ensuring secrecy in voter participation.

Scope for reform

Whilst the UK's recall mechanism has now proven itself to be valuable and effective, there is undoubtedly scope for reform. The Electoral Commission, the UK's elections watchdog, has evaluated the process and made recommendations following the recent recall petitions. Whilst concluding that the petitions had all been well run, the Commission has suggested that the period for constituents to sign a recall petition should be shortened, for example, to four weeks, finding that most signatories participate within the first two weeks of a petition.⁵⁹ The Commission also suggested that administrative processes during the petition should be reviewed. This includes the scope of who can observe the process of signing to extend transparency, the consistency of opening hours for petition stations and deadlines for postal votes, and also that the possibility of recording voters who object to a recall petition should be considered.

The argument to standardise the number of signing stations and their opening hours to ensure consistency in the administration of recall petitions is a particularly strong and recurring

⁵³ Recall of MPs Act 2015 Sch.3 rr.2(1) and 3(1).

⁵⁴ J. Tonge, "Petitions, Polling Stations and Paisley: The First Outworking of the Recall of MPs Act 2015" (2019) 90(1) *The Political Quarterly* 143, 146.

⁵⁵ Electoral Commission, *Report on the 2023 Recall Petition in Rutherglen and Hamilton West* (27 October 2023) <https://www.electoralcommission.org.uk/research-reports-and-data/our-reports-and-data-past-elections-and-referendums/report-2023-recall-petition-rutherglen-and-hamilton-west>.

⁵⁶ Elections Act 2022 s.1 and Sch.1.

⁵⁷ Electoral Commission, *Report on the 2023 Recall Petition in Rutherglen and Hamilton West*.

⁵⁸ Recall of MPs Act 2015 s.11.

⁵⁹ Electoral Commission, *The Process to Challenge a Sitting MP: Review of the 2019 Recall Petitions* (10 October 2019) <https://www.electoralcommission.org.uk/research-reports-and-data/our-reports-and-data-past-elections-and-referendums/process-challenge-a-sitting-mp-review-2019-recall-petitions>; Electoral Commission, *Report on the 2023 Recall Petition in Rutherglen and Hamilton West*.

one. For example, Jonathan Tonge criticised the “unacceptably low deployment of stations” in the first, unsuccessful, petition held in North Antrim in 2018, whilst also calling for longer opening hours, with the increased costs to be offset by running a shorter signing period of one month.⁶⁰

Suggestions to reform or expand the conditions to trigger a recall petition have also been put forward. For example, following Nadine Dorries’ prolonged resignation in 2023 which lasted 81 days from announcement until appointment as Crown Steward and Bailiff of the Chiltern Hundreds and stepping down as an MP, some suggested that providing a way of recalling an MP if they are neglecting parliamentary duties should be considered.⁶¹ Such a move would need considerable safeguards to protect against highly concentrated pressure groups with vested interests, for example by requiring clear evidence of an MP’s protracted absence without reasonable cause from Parliament. Elsewhere, there have been suggestions that an MP defecting to another party should become a fourth trigger to initiate recall, as Anthony Mangnall proposed by means of an unsuccessful Private Members Bill in 2020.⁶² Extending the mechanism to apply to other offices is another possibility.⁶³ For example, Colin Munro has suggested that a recall mechanism should be introduced in the Scottish Parliament,⁶⁴ whilst Tony Grew has gone further and suggested it should be extended to local and other devolved Governments.⁶⁵

Lastly, in terms of voter participation, some have raised the prospect of conducting the process by postal vote only,⁶⁶ given the fact that attending the petition station to sign reveals the voter’s involvement. However, if the option of voting in person is to remain, then the range of acceptable voter identification should be extended to mitigate the risk of disenfranchisement.

Conclusion

Despite the early scepticism, the Recall of MPs Act 2015 has confounded its critics. Four successful recall petitions and subsequent by-elections have taken place at the time of writing, whilst others might have taken place but for intervening circumstances. It is also worth considering the potential deterrent effect of such legislation. Whilst impossible to measure, the prospect and proven examples of recall may influence the conduct of sitting MPs in positive ways. Some reforms should be considered to improve the practical operation of recall petitions, whilst the possibility of extending the mechanism to other offices should also be explored. Doing so would be a positive step for accountability at a time when the trend has been in the opposite direction.

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⁶⁰ J. Tonge, “The Recall of MPs Act 2015: Petitions, Polls and Problems” (2019) 90(4) *The Political Quarterly* 713.

⁶¹ J. Mortimer, “Government Rejects Call for Voters to Boot Out No-Show MPs Like Nadine Dorries” *Byline Times* (19 September 2023) <https://bylinetimes.com/2023/09/19/government-rejects-call-for-voters-to-boot-out-no-show-mps-like-nadine-dorries/>.

⁶² Recall of MPs (Change of Party Affiliation) Bill; HC Deb 2 September 2020 Vol.679 Col.208.

⁶³ T. Fleming, “Recall Petitions: Process, Consequences, and Potential Reforms” *The Constitution Unit* (11 December 2023) <https://constitution-unit.com/2023/12/11/recall-petitions-process-consequences-and-potential-reforms/>.

⁶⁴ C.R. Munro, “Recall and Absence of Recall” (2018) 33 *Scots Law Times* 137.

⁶⁵ T. Grew, “Parliament should be proud of the Recall of MPs Act” *PoliticsHome* (2 May 2019) <https://www.politicshome.com/thehouse/article/parliament-should-be-proud-of-the-recall-of-mps-act>.

⁶⁶ Tonge, “The Recall of MPs Act 2015: Petitions, Polls and Problems” 716.

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