



**GRIFFIN
LAW**



60 Churchill Square
Kings Hill
West Malling
Kent ME19 4YU
Tel: +44 (0)1732 525 923
Fax: +44 (0)1732 523 570
DX 92853 West Malling

MPAC UK Limited
1-Tax & Company
Oakley House
81 Devonshire Road
Birmingham B20 2PG

Catherine Pamela Heseltine
71-75 Shelton Street
London WC2H 9JQ

Raza Nadim
28 Pownsett Terrace
Alder Walk
Ilford
Essex IG1 2SW

3 December 2019

Dear Sirs

Possible breaches of election, election finance and data protection laws by MPAC: Notice of potential legal action

1. We are instructed by the Campaign for Ballot Integrity, of which the former Labour MP, John Woodcock, is Chairman.
2. We refer to a campaign known as “*Operation Muslim Vote 2019*” (“OMV”), the home page for which is <https://mpacuk.org/operation-muslim-vote-2019/>. From this website and other matters in the public domain, it would appear that you have breached, are breaching and are at risk of breaching election, election finance and data protection laws. We are writing to understand why you might contend that OMV has not done so.
3. In the absence of a satisfactory response from you by 4pm on 5 December 2019, we are instructed to draw these matters to the attention of the Police and the Information Commissioner’s Office (“**the ICO**”). Our client has, in any event, reported these matters to the Electoral Commission.

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4. In the circumstances, you may wish to take independent legal advice as a matter of urgency from a solicitor competent to advise on these matters.
5. We note from the website in question that the Muslim Public Affairs Committee (“MPACUK”) is a trading name of MPAC UK Limited, of which Ms Heseltine and Mr Nadim are the directors. This letter is therefore sent to MPAC UK Limited and its two directors personally.

Impermissible expenditure concerns

6. We note that the stated purpose of OMV is inherently anti-Conservative and pro-Labour from the following statements made on your website –
 - a. *“Help us get organised before the next election”;*
 - b. *“The current government has been exposed as being deeply Islamophobic, racist and xenophobic”;*
 - c. *“The Tories have ignored and actively side-lined all Muslim organisations that have criticised them”;*
 - d. *“They have zero interest in addressing Muslim concerns”;*
 - e. *“We need to kick them out. And we can, but only if we are organised”;*
 - f. *“This General Election is our time to get them out of power and replace them with a Corbyn-led government”.*
7. The constituency-focused nature of OMV can be shown by the following statements made by you on your campaign website –
 - a. *“We target marginal seats where the Muslim vote is larger than the current MP’s majority vote. In these seats, Muslim can make a definitive difference and have the biggest voices, during and after elections”;*
 - b. *“We are the only Muslim organisation in Europe that conduct national elections campaign in this manner. Whilst other Muslim organisations focus on more generic and national call-to-actions, we focus specifically on constituencies where Muslims can demonstrate real difference and pragmatic power”;*
 - c. *“The above Conservative politicians are ministers & MPs that have a voting and Parliamentary history of working against the interest of the British Muslim communities. All of them can be kicked out by the Muslim vote in those constituencies”.*
8. You list 14 specific constituencies in which you are campaigning, namely –
 - a. Bolton West;
 - b. Chingford & Woodford Green;



- c. Chipping Barnet;
 - d. Harrow East;
 - e. Hastings & Rye;
 - f. Milton Keynes North;
 - g. Milton Keynes South;
 - h. Pendle;
 - i. Pudsey;
 - j. Reading West;
 - k. Southampton Itchen;
 - l. Stoke-on-Trent South;
 - m. Uxbridge & Ruislip South;
 - n. Wycombe.
9. You evidently consider that your activities fall below the requisite threshold prescribed by law in respect of registration with the Electoral Commission. This is, no doubt, why you have specified a desire to raise no more than £20,000.
10. In this regard we also observe that you have set up a fundraising page at <https://www.fundamal.org/campaigns/operation-muslim-vote-2019/> (which also shows a fundraising goal of £20,000). The wording on this fundraising page is substantially identical to that on your website.
11. You are, however, mistaken in your belief. This £20,000 limit only applies to national campaigning. Your activities are constituency-specific (indeed, you proudly list that you are only targeting Conservative candidates, for the benefit of the Labour Party, in 14 particular constituencies).
12. On the basis that the Labour Party has not authorised you to incur any amount of targeted campaign spending (given that, unlike others who have been so authorised, you do not appear on the list of those authorised to incur targeted spending in line with section 94G of the Political Parties, Elections & Referendums Act 2000 (“PPERA”)),¹ you may only spend up to £31,980 on regulated campaign activity targeting a particular party during the regulated period leading up to the forthcoming general election. The maximum sum that can be spent on regulated campaign activity in any constituency on focused constituency campaigning of the kind promoted by OMV is £9,750.

¹ <https://www.electoralcommission.org.uk/i-am-a/party-or-campaigner/non-party-campaigners>



13. However, we also draw your particular attention to the provisions of section 75(1) of the Representation of the People Act 1983 (“**the RPA**”). This provides that no expenses shall, with a view to promoting or procuring the election of a candidate at an election, be incurred by any person other than the candidate, his election agent or any person authorised in writing by the election agent on account of:
 - a. holding public meetings or organising any public display;
 - b. issuing advertisements, circulars or publications;
 - c. otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate.
14. OMV seeks to procure the defeat of 14 named candidates and does so through disparaging them contrary to section 75(1)(c) of the RPA. In this regard we also remind you that section 106 of the RPA precludes the making or publishing of any false statement of fact in relation to a candidate’s personal character or conduct (including statements of the nature of those published on your website). Any person who makes or publishes any such false statements risks an unlimited fine.
15. On your website and fundraising page, you state:

“All the money raised in this appeal will ONLY be used for election purposes, including but limited to leaflets, video production, digital advertisement, direct mail, travel expenses and mobilising volunteers”.
16. It would therefore seem that – unless your incurring of expenses has been authorised in writing by one, some or all of the 14 election agents in the constituencies you are targeting – your activities (which you yourselves have defined as being “*leaflets, video production, digital advertisement [and] direct mail*” (which are what is referred to in section 75(1)(b) of the RPA) risk amounting to a corrupt or illegal practice pursuant to section 75(5) of the RPA (the maximum penalty for which is an unlimited fine, up to twelve months’ imprisonment or both).
17. Section 75(1ZZB) of the RPA provides that section 75(1) does not apply to any expenses incurred by any person which do not exceed £700 (or in travelling or in living away from home or similar personal expenses) provided those expenses are not incurred as part of a concerted plan of action (which means “*incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses*”). It would seem apparent that you are, however, engaged in a concerted plan of action whereby this lower spending limit in each constituency applies.
18. In this regard, your attention is drawn to section 75(5) of the RPA. This provides that if any person incurs – or aids, abets, counsels or procures any other person to incur – any expenses in contravention of section 75 of the RPA, or knowingly makes a false declaration of expenses after polling day, that person risks an unlimited fine, up to twelve months’ imprisonment and/or both.



Illegal employment concerns

19. On your website and fundraising page, you state money that you have raised and/or will raise will be used for “*travel expenses and mobilising volunteers*”. Section 111 of the RPA prohibits the payment of individual as canvassers for the purpose of promoting or procuring a candidate’s election. Any canvasser who is employed/engaged and the person employing or engaging the canvasser is guilty of illegal employment and liable to an unlimited fine. We infer that your reference to “*mobilising volunteers*” is, in fact, when read together with reference to payment of “*travel expenses*”, a reference to the illegal employment of canvassers.
20. We also note on your website that you state that “*MPACUK is a not for profit organisation, fully dependent on donations from the public and is run largely by volunteers*”. This implies, therefore, that some of its work is undertaken other than by volunteers, i.e. by individuals who are paid to undertake that work.

Undue influence concerns

21. Your attention is also drawn to section 115 of the RPA. This prohibits the threat or actual infliction of spiritual injury upon or against any person in order to induce or compel them to vote or refrain from voting (or on account of that person having voted or refrained from voting). Any person guilty of undue influence risks an unlimited fine, up to twelve months’ imprisonment and/or both. Our client is aware that spiritual leaders will often seek to use such undue influence and we would not want you to be under any misapprehension in this regard as to the corrupt practice that this would constitute if it occurred in any of the 14 constituencies in which you are operating (or, indeed, elsewhere).

Data protection concerns

22. It does not appear that you are registered with the ICO. It is a criminal offence knowingly or recklessly to obtain, disclose, procure, retain or sell personal data without consent, which offence is punishable by an unlimited fine.² Furthermore, your privacy policy³ does not accord with the requirements of the EU General Data Protection Regulation (“**the GDPR**”).⁴ We are concerned that you are processing personal data contrary to law which, given the sensitive nature of that personal data, we consider is a serious matter properly meriting investigation by the ICO.

Questions to answer

23. In respect of the foregoing, please confirm in writing to us by 4pm on 5 December 2019:
 - a. Why you have not registered with the Electoral Commission as a non-party campaigner;

² See section 170 of the Data Protection Act 2018.

³ <https://mpacuk.org/our-privacy-policy/>

⁴ See <https://gdpr.eu/privacy-notice/>.



- b. Whether you are authorised to incur targeted spending in the forthcoming general election by the Labour Party;
 - c. In which constituencies, if any, you have been authorised by election agents to incur expenses on behalf of any candidate;
 - d. How many paid staff you have;
 - e. What proportion of those individuals' time has been and will be spent on OMV and related campaigns in the general election campaign (given that those expenses need also to be accounted for);
 - f. To whom any travel expenses and costs associated with "*mobilising volunteers*" have been paid;
 - g. Why you consider that any such expenses and costs does not constitute engagement or employment for payment or promise of payment as a canvasser for the purpose of promoting or procuring a candidate's election;
 - h. What personal data you are processing, on behalf of whom and the extent of the consent you have obtained from those individuals;
 - i. Why you consider your privacy policy does not breach the GDPR.
24. The matters raised in this letter properly merit your full and complete response. In the absence of a satisfactory response by 4pm on 5 December 2019, we will be reporting these matters to the Police and the ICO.
25. We also reserve the right to refer these matters to electoral services officers in each of the affected constituencies and to institute proceedings without further reference to you.

Yours faithfully

Griffin Law