

If we wish to hold MPs to account through some form of recall, then we should at least identify what we think they should be doing

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*With a Recall Bill featuring in the Queen's Speech, now is the time to ask the question whether, in this case, no legislation is better than some legislation (given the specific provisions of this Bill). Two other options have their respective supporters inside parliament and are likely to feature in deliberations upon the Bill. **David Judge** argues that both options, in their own way, point to the need to have a fundamental national debate about what we expect of our MPs in order to consider how best to hold them to account for failing to do what we expect them to do.*



'[Zac and I are completely at one](#)'. So said Nick Clegg, Deputy Prime Minister with responsibility for the Coalition's political and constitutional reform agenda, in the wake of the 2014 Queen's Speech. He was trying to explain why he favoured a 'radical California-style' recall system for MPs, but why 'as a practical man' he was prepared to settle for a 'modest recall measure ... in line with the coalition agreement'. The question Nick posed for Zac was: 'Do you want no reform and be terribly pure and holier than thou about it – and have no reform at all, or do you want to at least have some reform on the statute book?'. The answer from the Zac in question – Zac Goldsmith, Conservative MP for Richmond Park and North Kingston, serial backbench rebel, serious toff and relentless campaigner for 'real recall' – showed clearly that he was [far from being at one](#) with his coalition partner: 'Nick Clegg is the architect of the current Recall Bill. It is a disgrace even by the standards of modern politics ... it is nothing less than a con'. In Zac's view, if there was a oneness over the provisions of the Recall Bill it was because Clegg was on his own.

'Effective exclusion'

The MPs' expenses scandal of 2009 was the immediate trigger for the commitment to introduce a form of recall, made by all three main political parties at the 2010 general election. By the time the Cabinet Office had written its Impact Assessment (IA) on a draft bill on recall in September 2011 it focused only upon a single option: a recall petition to be triggered i) automatically in cases where an MP had been given a custodial sentence of 12 months or less; and ii) under the discretion of the House where an MP had been found to have been engaged in 'serious wrongdoing'. This remains the option offered in the Recall Bill. Yet, when Gordon Brown, as Prime Minister in 2009, [initially announced](#) 'new proposals for dealing effectively with inappropriate behaviour', the potential options included 'recall for gross financial misconduct' *and* 'effective exclusion'.

'Effective exclusion' is not the same as 'doing nothing' (the other option considered in the IA). It would allow for MPs to be expelled from the House of Commons, and not simply disciplined, and so trigger a by-election. Constituents would thus have the opportunity to '[have their say](#)' in judgement of MPs. In essence therefore 'effective exclusion' would entail the House of Commons revisiting the use of its historic expulsion procedure in the light of regulatory changes introduced since the expenses scandal. Enhanced regulation post-2009 is far from perfect, but it has generated a dynamic for further regulatory tightening, for enhanced outside 'independent' monitoring of MPs' behaviour, and for calls for MPs to receive training in ethical and professional standards, and indeed for the Standards Committee to announce in May 2014 that it was about to [embark upon an enquiry](#) into the consideration of complaints about MPs.

In involving 'outsiders' in the process of regulation it exposes what still needs to be done. This is evident in the reflections of the experiences of the lay members of the Standards Committee published in March 2014 after their first year in post. In the most diplomatic of language their implicit message was that the Standards Committee (and

the House of Commons) needed to [get its act in gear](#). Yet, perhaps the true significance of the lay members' reflections was to be found in their belief that: 'the failure to have a basic statement of what an elected member does, is perhaps the root cause of some of the problems that have been experienced in defining and enforcing standards of conduct in the House and in the setting of a fair fee for the delivery of that purpose'.

Citizen-initiated recall: Zac (and Douglas) and "real recall"/"total recall"

The other option left unconsidered in the IA was 'citizen-initiated recall' (more popularly called 'real recall' or 'total recall'): a mechanism that enables constituents to remove their MP in between elections, without limitation to 'serious wrongdoing'. Zac Goldsmith and Douglas Carswell (Conservative MP for Clacton, serial backbench rebel and kindred spirit of Zac on recall) have both introduced backbench bills to this effect since 2010. Not surprisingly, Carswell and Goldsmith are not only two of the most ardent advocates of citizen-initiated recall but also two of the most vehement critics of the Coalition's Recall Bill. Equally they have no faith in a system of self-regulation, or quasi-independent regulation of MPs' conduct. In their view, the Commons is incapable of self-regulation because of the malign influence of 'Westminster grandees', and the continuing control of the 'SW1 gang' within Westminster (see for example [here](#)).

The solution, [in their own words](#), is recall: 'its beauty is in its simplicity'. However, simple solutions require simple problems. This is not the place to consider the respective merits and demerits of 'real recall', but it is the place to point out that the 'root cause' of some of the problems that recall seeks to address arise from the lack of a basic common conception of what an elected member does. Which is pretty much the same problem highlighted by the lay members of the Standards Committee.

In the claims and counterclaims about the virtues of 'real recall' what tends to be ignored is that: 'One of the more uncomfortable aspects of the recall process is ... how it exposes vagueness in our definitions of representation'. Bowler's [study of recall](#) in California highlighted the close connection between the practical arguments used, respectively, by proponents and opponents of recall and abstract models of representation. On the one side, the major argument deployed by proponents of recall corresponded to 'an extreme form of the delegate model of representation', while the argument against the use of recall elections was 'grounded in a preference for a trustee model of representation'. Yet, Bowler proceeded to note that the 'actual practice of representation, occupies a muddy middle ground where representatives follow voter opinions sometimes but sometimes do not'. In these circumstances the practical use of recall posed elemental questions for normative ideas of representation.

If a system of citizen-initiated recall were to be introduced in the UK with few, or no, restrictions as to trigger, such as in Zac Goldsmith's Bill, then the ambivalences and ambiguities of representation in the UK would rapidly manifest themselves. Not least, the fundamental questions: what exactly do MPs 'do', or what do their constituents expect them to do, and for which actions do constituents expect their MPs to be held accountable? Stated at its simplest, conflicting representative theories have coexisted, often uneasily, in the UK and impacted upon the performance of MPs' roles in Westminster. In this sense, the practice of representation is far from simple, and the adherence to contrasting principles of representation leads to an ambivalence in the interpretation of the representative's role.

The fact that there is no formally accepted job description for the work of an MP was recognised, by the Speaker's [Conference on Representation](#) in 2010, as a source of 'misunderstanding' and 'unrealistic expectations' on the part of voters in the constituency. To date an agreed description of the main functions of an MP has not been produced by the main parties, as recommended by the Speaker's Conference. An earlier attempt at identifying 'a number of commonly recognised tasks' performed by MPs [concluded](#) that: 'The different roles that make up the job of being a Member of Parliament are not separate and competing; they are interconnected and interdependent'. This very interconnectedness has implications for citizen-initiated recall. Certainly, and not surprisingly, the complexity of the performance of representative roles in Westminster [is a source of confusion](#) for many voters.

The significance of this is: if there is neither a simple single conception of what MPs should do, nor agreement upon what they actually do, it is extremely difficult for voters to determine what they are responsible for, in the sense of

individual culpability (beyond personal malfeasance or misfeasance), and the grounds upon which they should be recalled.

Nick and Zac the road to oneness?

So how can Nick and Zac be set on the road to oneness? One easy answer would be to suggest to Nick, in the face of the overwhelmingly hostile response to the draft bill, that in this case 'some reform' might be even worse than 'no reform'. Redress of 'serious wrongdoing' could be effected alternatively through an 'effective exclusion procedure' in the context of the post-2009 regulatory regime. This would allow voters to have their 'electoral say' on adjudged wrongdoings of MPs without recourse to a recall petition. Manifestly, this option would require MPs to explain and justify why this was a feasible option. Part of this explanation would undoubtedly have to entail affirmation from MPs that 'we are not all lying, cheating bastards' and that the revised regulatory standards regime could prove to be judicious, effective and durable. However, if this is seen to be 'too big an ask' in the face of a virulent and caustic lack of public trust in MPs then citizen-initiated recall would appear to be an alternative solution (but admittedly to a different set of problems to the initial specific trigger of the expenses scandal).

Citizen-initiated (real/total) recall is, according to Nick, his preferred option and would bring him into democratic harmony with Zac. Oneness would be achieved. But if the end-point is 'real recall', then it raises fundamental issues about the starting-point: of what we expect of our MPs in the performance of their representative roles. If we wish to hold MPs to account for failure to perform their roles adequately, then we should at least identify what we think they should be doing.

This is why, in the face of [evidence](#) that 'most people do not understand what MPs do, which fosters animosity and scepticism', 'modernisers' and 'regulators' alike have called for a job description for MPs. A debate about what we expect of our MPs is a logically prior debate to how we hold them to account for failing to do what we expect them to do. On this issue of holding such a debate Nick and Zac might well agree; they might even be 'completely at one'. Whether they can agree on what MPs are for and where the accountability pivot of representative roles is to be found is another matter!

Note: This article gives the views of the author, and not the position of the British Politics and Policy blog, nor of the London School of Economics. Please read our [comments policy](#) before posting. Featured image credit: [UK Parliament](#)

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