

[Home](#) » [Practice Area](#) » [Public](#)

## Vote Leave may have breached election law, QCs suggest

£350m Brexit battle bus claim considered by public law silks as interest group raises funds for private prosecution

8 June 2017

[Add comment](#)



Vote Leave's EU referendum campaign may have breached election law by dishonestly relying on statements known to be false, according to an opinion by public law silks.

Richard Clayton QC and Collingwood Thompson QC were asked by interest group Restoring Integrity whether it would be possible to mount a private prosecution against Vote Leave or 'named individuals within the campaign'.

The prosecution would be based on section 115(2)(b) of the Representation of the People Act 1983, which makes it an offence to exercise 'undue influence' over the outcome of an election.

'The key question,' the 7 Bedford Row silks [say in their opinion](#), 'is whether through the use of a dishonest device, the Vote Leave campaign intended to influence voters to vote for Brexit.'

The case would focus on five categories of statements in Vote Leave literature that could contravene section 115(2)(b).

The most likely to attract attention are the claims that EU membership costs the UK £350m a week, that leaving the union would free up that sum to be spent on the NHS instead, and that this figure came from a neutral and objective source.

Others involve the misrepresentation that several well-known companies and individuals were in favour of leaving the EU – when they were in fact neutral or in support of Remain – and that Turkey was joining the EU.

'Plainly these statements were designed to influence voters making a decision as to whether to remain in the EU or leave,' Clayton and Thompson say. 'The issue is whether they were made and/or maintained dishonestly by those in the Leave campaign.'

For the purposes of a prosecution we would have to show that those involved either knew the relevant statement was false, or were reckless as to whether it was or not.'

The opinion doesn't categorically advise that proceedings should be initiated but it says 'a powerful piece of evidence' to support the contention that campaign statements were made dishonestly 'would be the fact that the Vote Leave campaign persisted with the relevant statement, despite authoritative sources pointing out that it was misleading'.

Talking to Solicitors Journal last week, a spokesperson for the group said Vote Leave had made 'continued reference to the UK sending the EU £350m per week, despite this crucial figure having been formally discredited by the Office for National Statistics'.

Time is short, however, as prosecution under section 115(2)(b) must be brought within a year of the election date. In this case, the group only has until 23 June to lay information before magistrates.

The opinion says it will be 'vital' to establish which of the five statements were still being promoted at the date of the referendum, 'on websites, in literature, or indeed on the Leave campaign bus'.

'This can only be done by obtaining clear evidence from witnesses as to what was still in circulation,' the silks say. Equally, they advise, 'we will need evidence to establish that the statements were false, but nonetheless maintained by the Leave campaign'.

Restoring Integrity, which describes itself as 'a group of UK citizens seeking to restore integrity to our democratic process following EU referendum campaign conduct which we believe was unlawful and has led to deepening of public divisions', [raised £10,000 on CrowdJustice](#) for initial consultation and to obtain the opinion.

They are now looking to raise just over £100,000 to [bring the case before magistrates](#) by the 23 June deadline.

Election law specialist Professor Bob Watt, a member of Restoring Integrity, led an earlier attempt to convince the director of public prosecutions to start criminal proceedings against Vote Leave and Leave.EU for making assertions they knew were misleading.

DPP Alison Saunders replied to the group on 20 December 2016 that she would not institute proceedings.

The opinion warns that one tactic Vote Leave could use would be to invite the DPP to intervene to take over any proceedings, as the law allows, only to then discontinue them. 'However, the clearer the evidence, the more difficult it will be for the DPP to exercise this power successfully.'

**Jean-Yves Gilg is editor-in-chief of Solicitors Journal**

[jean-yves.gilg@solicitorsjournal.co.uk](mailto:jean-yves.gilg@solicitorsjournal.co.uk) | [@jeanyvesgilg](#)

Categorised in:

PUBLIC

Tagged in:

BREXIT

ELECTION LAW

VOTE LEAVE

CROWDFUNDING

You must be logged in to comment

show