



JUDICIARY OF  
ENGLAND AND WALES

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**-v-**

**Gerard Majella Traynor**

**Manchester Crown Court**  
**Sentencing Remarks of Mr Justice Bryan**  
**25 July 2019**

1. Following your guilty pleas at Greater Manchester Magistrates' Court to 16 charges, under section 1(1)(a) of the Malicious Communications Act 1988, of sending threatening or grossly offensive malicious communications the purpose of which was to cause distress or anxiety to your victims, Arlene Foster the MLA for Fermanagh and South Tyrone and Leader of the Democratic Unionist Party, and the Rt. Hon. Priti Patel Member of Parliament for Witham (now Home Secretary), you were committed to Manchester Crown Court for sentence under section 3 of the Powers of Criminal Courts (Sentencing) Act 2000, and stand to be sentenced by me today in respect of such offending.
2. A person sentenced under section 3 may be dealt with by the Crown Court in any way in which the Crown Court could deal with them had they just been convicted of the offence on the indictment. Accordingly you stand to be sentenced for up to imprisonment for a term not exceeding two years in respect of each offence that you have committed.
3. Between 15 October 2018 and 13 November 2018 you sent grossly offensive and threatening messages to the Facebook account of Arlene Foster concerning Arlene Foster and her family which caused very considerable distress and anxiety to her, as is all too apparent from the witness statement provided by Arlene Foster, to which I have had careful regard. She was understandably fearful given that she did not know who you were, where you were located or what your intentions were. Taken at face value your messages expressed sentiments wishing her and others dead, mixed with the vilest of racial and sexual language, and aspersions upon various political parties and their members, as well as members of the Royal Family.

4. This was not the exercise of the democratic right to free speech or the type of critical commentary that all politicians face on a day to day basis. On the contrary the messages are deeply offensive and threatening. I will not give your bigoted hatred the oxygen of publicity in my sentencing remarks. Suffice it to say that I have been provided with, and given careful consideration to the content of all of the messages that you sent, which are available on the digital case system, and in relation to which I will sentence you.
5. It is important, however, to give some examples to evidence the true seriousness of your offending. In doing so I pick the milder of your messages and omit the more inflammatory and racist of your messages – albeit that the latter are seriously aggravating factors of your offending which I bear well in mind.
6. For example on 21 October 2018 you messaged, amongst other matters “*you will be killed and ten DUPP to the Irish Embassy and kill you all and chop your bodies up and put your head Tower of London*”; on 29 October 2018 you messaged, amongst other matters, “*Arlene Foster you worse [than] Ian Paisley and all your loyalties politicians should be shot in heads*” , on 31 October 2018 you messaged, “*Can I come to House of Commons and come say then shout Trick treat then kill Ten DUP...*” and on 13 November 2018, “*I get gun blow head your unionist DUP MPs heads or bomb in post to you all*”. Such messages were interspersed with comments directed personally against your victim including (on more than one occasion), “*where are you located?*” as well as “*you look nice in...*”.
7. I consider your culpability to be very high. First, your conduct was intended to maximise fear and distress (and was successful in that regard). Secondly it also amounted to persistent action over a prolonged period of time. Thirdly your offending was clearly motivated by, and demonstrated, hostility towards particular groups within society, including those of a different religious background to your own.
8. The level of harm was also very high. You caused very serious distress to your victim, as indeed was your intention. Indeed in interview and whilst you claimed that you did not intend to go through with any threats (which your victim could not have known) you admitted that your malicious comments were made with the intention to distress and cause anxiety to your victim.

You stated that you wanted her to give up politics, be anxious, have a breakdown and “*maybe her heart would stop*”.

9. A very substantial aggravating factor is that far from being of previous good character you have previous convictions for sending malicious communications dating back as long ago as 2003 and 2004 as well as harassment and racially aggravated harassment convictions in more recent years. I have had the benefit of recent MG5’s in relation to your most recent offending including item 9 of six offences of sending a letter or other article conveying an indecent or grossly offensive message which contains deeply offensive and racial messages. It is clear that a range of sentencing options, including previous short suspended custodial sentences in recent years have not deterred you from further offending.
10. You are 53 years of age. It is clear that you had a difficult childhood being adopted at an early age by adoptive parents who held strong nationalist views. You have high functioning autism and present as a lonely man, bound up in yourself with little to occupy your time. Your victims could, of course, know nothing of this and your messages were disseminated on Facebook and could also have encouraged others. Your victims had no reason not to treat your threats seriously. You showed a complete lack of remorse in interview as reflected in your comments at that time. Any remorse as you have expressed at the time of preparation of the pre-sentence report is retrospective, and you have candidly said that you will continue to write letters to express yourself – that is to continue to offend. This offending must stop.
11. You are assessed as of at least a medium risk of re-offending and a medium risk of causing serious harm to others. I would put both these risks as higher than that. I have had regard to the pre-sentence report that has been prepared and everything that has been said on your behalf, but I do not consider that anything other than an immediate custodial sentence reflects the seriousness of your offending.
12. The aggravating features of your offending far outweigh such mitigation as exists. The seriousness of your offending is at the very highest level, and anything other than an immediate sentence at the higher end of the available sentencing range would not reflect your very high culpability and high level of harm caused. You are also being sentenced for not one, but fifteen separate charges of malicious communications to Arlene Foster, and the

sentence I will pass reflects the entirety of your offending against her. I do not consider it appropriate to suspend the sentences to be passed given the seriousness of your offending, and previous convictions. I consider that this would simply be setting you up to fail, and would not, in any event, be appropriate given the gravamen of your offending.

13. I am also satisfied that section 145 of the Criminal Justice Act 2003 applies as you have demonstrated religious hostility to your victim and that your offending was motivated by hostility towards members of a religious group, and accordingly your offence was so aggravated, and an enhanced sentence stands to be passed to take account of such matters.
14. In my opinion, your offending is so serious that neither a fine alone nor a community sentence can be justified for your offending against Arlene Foster. I am accordingly going to pass a sentence of imprisonment which will be the shortest which in my opinion match the seriousness of your offending and take into account the mitigating factors in your case and the period you will spend on licence following your release.
15. I will give you full credit for your guilty plea. The sentence I pass in respect of the 15 charges you have pleaded guilty to in relation to malicious communications to Arlene Foster is 14 months' imprisonment on each concurrent. Had you not pleaded guilty the sentence passed would have been one of 21 months' imprisonment. Without the religious aggravation identified above, the sentence passed (before credit) would have been one of 18 months' imprisonment.
16. I turn to your offending against Priti Patel MP, and the sixteenth charge to which you have pleaded guilty. On 9<sup>th</sup> December 2018 you posted an indecent and grossly offensive message on Facebook for the purpose of causing distress and anxiety to your victim.
17. I do not propose to set out the contents of that message. It was very much in the same vein as your offensive messages to Arlene Foster. The trigger appears to have been certain press articles in which it was inaccurately reported that Prit Patel had commented upon in relation to food shortages in Ireland. The content of your message is shocking and disgusting, and is clearly racially motivated. It uses debased language that has no place in our multi-cultural society and was designed to insult and to demean and incite

racial hatred. It was rude and offensive to many different faiths, and to many individuals including other serving MPs.

18. As is apparent from the witness statement of Priti Patel that I have read and had careful regard to, your victim understandably found it to be hugely upsetting and it caused her to feel intimidated – it was an attack not only on what she stands for but upon her as an individual as well. It had a real and lasting effect on her and her use of social media, how she felt when using public transport and when out in public in her personal and private capacity. You have caused long lasting harm. She expresses the view, which is entirely justified, that there is no place in society for this type of hatred.
19. I consider your culpability to be very high. Once again, your conduct was intended to maximise fear and distress (and was again successful in that regard). Indeed it is clear that your offending had a huge impact on your victim's personal and professional life at the time. Secondly, whilst in this case I am sentencing you in relation to one message, it has led to significant, and continuing, social media comment – which your message was no doubt designed to provoke. Thirdly, and once again, your offending was clearly motivated by, and demonstrated, hostility towards particular groups within society, including those of different racial backgrounds.
20. The level of harm was again very high. You caused very serious distress to your victim, as indeed was your intention. Indeed in interview and when asked about how you felt your message would have made the recipient feel, you said that you could not care less how she felt but she might be stressed, which is, on any view, a great understatement, but is, nevertheless, reflective of your attitude which shows not only a lack of remorse, but a strong desire to cause distress.
21. The same aggravating factors apply as in relation to your offending against Arlene Foster. Once again there is little that can be said by way of mitigation other than the matters that I have already identified.
22. In my opinion, your offending is again so serious that neither a fine alone nor a community sentence can be justified for your offending against Priti Patel. It is clearly a separate instance of offending against a different individual and is also distinct in time, and as such a consecutive sentence is appropriate, as your counsel accepts.

23. I am also satisfied that section 145 of the Criminal Justice Act 2003 applies as you have demonstrated racial hostility to your victim and that your offending was motivated by hostility towards members of a racial group, and accordingly your offence was so aggravated, and an enhanced sentence stands to be passed to take account of such matters.
24. I am accordingly going to pass a sentence of imprisonment which will be the shortest which in my opinion match the seriousness of your offending and take into account the mitigating factors in your case and the period you will spend on licence following your release. I have also ensured that there is no double-counting of relevant factors between the offences, and have had regard to totality so as to ensure that overall sentence is appropriate having regard to the entirety of your offending.
25. Again I will give you full credit for your guilty plea. The sentence I pass in respect of the charge you have pleaded guilty to in relation to malicious communications to Priti Patel is 8 months' imprisonment consecutive to charges 1 to 15. Had you not pleaded guilty the sentence passed would have been one of 12 months' imprisonment. Without the racial aggravation identified above the sentence passed (before credit) would have been one of 9 months' imprisonment.
26. Accordingly your total sentence is 22 months' imprisonment. Unless you are released earlier under supervision you will serve one half of this sentence in custody. You will then be released on licence for the remainder of your sentence. Whilst you are on licence, you must comply with all its conditions. At any time during your licence, the Secretary of State may withdraw it and order your return to custody.
27. The victim surcharge must be paid and I make a collection order. I make no order as to prosecution costs.