



Women and Equalities Committee

Oral evidence: [Transgender Equality Inquiry](#), HC 390

Tuesday 3 November 2015

Ordered by the House of Commons to be published on 3 November 2015.

Written evidence from witnesses:

- [Department for Culture, Media and Sport](#)

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Members present: Mrs Maria Miller (Chair), Ruth Cadbury, Maria Caulfield, Jo Churchill, Angela Crawley, Mrs Flick Drummond, Ben Howlett., Jess Phillips.

Questions [299-315]

Witnesses: **Mr Edward Vaizey MP**, Minister for Culture and the Digital Economy, Department for Culture, Media and Sport, gave evidence.

Q299 Chair: Minister, thank you very much indeed for taking the time to be with us today. We really appreciate it, particularly given I know you have a very hectic diary. There were a number of issues that we wanted to raise with you as a result of our inquiry into trans people. As an experienced attender of Select Committees, you will know the procedure is that members of the Committee have a number of questions to ask and they will ask them, and if I feel that we are running on, I might just intervene and move the discussions along. Thank you so much for taking the time to be with us today. Just for the record, do you want to introduce yourself?

Mr Vaizey: Yes. I am Ed Vaizey. I am Minister for Culture and the Digital Economy, Department for Culture, Media and Sport. I want to apologise to you, Madam Chairman, and to the Committee for having this one-off session when I should have appeared last week with other Ministers, but I had to go to the Northern Future Forum. I want to say thank you for allowing me to come to this special session instead; it is very kind of you.

Q300 Maria Caulfield: When we have heard evidence sessions in terms of trans issues, a lot of people have said the media very much focuses on sensationalising trans issues and that you only really see trans people in the media in terms of coming out, whether that is in the newspaper, in soap operas, or on digital media. You never really see the day-to-day issues that ordinary people face and that they face as well. Do you have any comments on that about progress that could be made?

Mr Vaizey: I think that is probably a valid criticism. In terms of the whole diversity agenda for broadcasters, in terms of working with broadcasters and encouraging them to portray on screen our society as it looks today, there is an ongoing issue that people can be put into the category that they are identified as and are not seen doing, as it were, mainstream occupations. If you cast someone who is transgender, for example, you might be doing it because you want to make a big deal out of the fact they are transgender. I would much rather see somebody cast as a doctor, a nurse, a policeman, a lawyer, an MP, who also happens to be transgender. I do think there is something in that critique of broadcasters and I hope that, more and more, we will see people from the transgender community, as, indeed, from other communities that are under-represented on our screens, cast in mainstream roles and their background is simply irrelevant in that respect.

Q301 Maria Caulfield: Trans Media Watch tell us that some people will not take forward complaints about the media because they fear publicity and victimisation. What do you say about that and what measures are being taken to try to avoid that if people want to complain but are frightened to do so?

Mr Vaizey: I am very sorry to hear if that is the case. Many people who are transgender live with a great deal of discrimination and a great deal of bullying and victimisation. The last thing we want is for people to feel that somehow, if they raise what I would regard as legitimate complaints or concerns with broadcasters or, perhaps more importantly, with the regulators who oversee those broadcasters, that would make things more difficult for them.

I do think that, from the engagements I have had, Ofcom, the regulator, does take this issue very seriously. As you know, if you feel that a programme is discriminatory or using unsuitable language, for example, you can complain to Ofcom. There have been a number of complaints, but they are a very small fraction of the overall number of complaints, so that may reflect the point you are making. I do know that, in terms of updating its Broadcasting Code, Ofcom is very engaged with the transgender community, as I understand it, and it will take those issues very seriously. If there is an issue not just about the code itself and whether it is adequate but also about whether people somehow feel it is difficult or they have concerns about how they complain and how their complaint is treated, I would expect Ofcom to take that very seriously.

Q302 Chair: You talk about the updating of the code. When is that happening?

Mr Vaizey: As I understand it, Ofcom is going to bring out an updated code in the spring of next year.

Q303 Chair: When is the consultation for that?

Mr Vaizey: I could not tell you off the top of my head, Madam Chairman. There is ongoing engagement. I am not entirely sure when the formal consultation is ended, but I will certainly write to the Committee to give you the facts.

Chair: Thank you, Minister.

Q304 Jess Phillips: Quite topically, what we heard from Trans Media Watch, as well as some of the issues that have already been raised, is the significant number of transgender people who experience hate attacks online. I would like to hear what you think could be done about this and what is being done about this.

Mr Vaizey: It is a massively important issue. We all know of people's concerns about what is called "Twitter trolling" and the kind of abuse that people receive online. It is pretty shocking. Clearly, on the one hand, there is straightforward legal action, so if people do threaten other people on Twitter or in other social forums you can, in theory, report that to the police, and the police can take legal action where they deem it to be serious enough, but I do not think that is adequate.

I have engaged with the social media companies in the past. I have not found them particularly forthcoming in coming forward with what I would regard as a straightforward ask, not really of Government, but of society, that there should be a clear code of conduct. There should be a clear process for people who use social media to complain, so it should be easy to complain; to have a response, so you should be able to expect a response within a certain period of time; to potentially have arbitration, because it may be that the social media company says, "We do not regard that as a serious issue despite the fact you have complained to us", so there should be some form of arbitration.

We now have Joanna Shields, who is responsible for internet safety and security, and I will get an update from her to the Committee about whether these discussions are forthcoming. I have to say we have not gone down the road of seeking formal regulation. We have not tried to bring in social media companies within any kind of broadcasting regulation or press regulation. We have tended to treat the internet from a self-regulatory perspective as opposed to a statutory regulatory perspective.

Q305 Ben Howlett: That is very welcome in relation to the code of conduct, Minister. In your written submission to this Committee, you explained, "The Government is absolutely clear that abusive and threatening behaviour online—whoever the target—is totally unacceptable". Thank you very much for giving that submission, but I have a question around how DCMS comes to a conclusion over what constitutes abusive or threatening behaviour on online media.

Mr Vaizey: That goes to the heart of the other question as well. One wants to try to make that as objective as possible. I do not think it would be for DCMS Ministers or officials to make that decision. You can go down the self-regulation route where you have an agreement with social media companies that they have a procedure in place where some kind of objective analysis can take place on whether a particular attack is abusive or not. I should have added in response to Ms Phillips's question that, as well as arbitration, one would want to expect a certain time period where abusive tweets or whatever could be taken down or removed or accounts blocked.

Secondly, there is the criminal law, which obviously would be tested in the courts as to what counted as a hate crime or abuse in that matter. The third thing, which is a road we have not gone down, would be regulation. Obviously, Ofcom can regulate broadcasts where it thinks that the Broadcasting Code has been broken and come to a view, and it has done that in certain cases, as I understand it, involving transgender people. But that is not a route we have gone down as far as social media is concerned.

Q306 Chair: In our briefing, we are told that Ofcom is working on best practice guidance with the industry. Is that something you are involved in?

Mr Vaizey: That is not something I am personally involved in.

Chair: Would you be able to write to us about that?

Mr Vaizey: I will certainly do that.

Q307 Chair: UKCCIS has been working for quite some time on trying to develop best practice guidance. Is that right?

Mr Vaizey: Yes. That was something that we wanted to do when I was responsible for this area of policy and represented the Department on UKCCIS, which is the UK Council for Child Internet Safety, which involves, as you know, Madam Chairman, a whole host of different stakeholders, and we did research into it as well. After the election, that responsibility was handed to Joanna Shields as a new Minister for Internet Safety and Security. She covers a wide range of issues to do with child sexual exploitation, obviously being a very high priority, as well as extremism and protecting children online, and that would be something that she would have taken forward with UKCCIS.

Q308 Chair: The Government have seen what they are able to achieve in the work that they have done around child abuse images online and, indeed, the work that they have done on outlawing revenge pornography online. What more could the Government be doing to make sure that they offer better protection in the social media space for trans people?

Mr Vaizey: You make a very fair point. In terms of child sexual exploitation and child abuse imagery online, yes, the Prime Minister made that a very high priority of his and he effected real change. Some of the changes that were effected were changes that obviously the tech world had told us could not be done, things like changing Google search terms and also, of course, the filters now that are available for parents to put on the internet. Similarly, with your own work, Madam Chairman, on issues like revenge pornography, we have seen the law changed in that regard.

Yes, we can and we should do more. The Ofcom guidance is going to be important and it is useful that we have Ofcom involved in that. It is useful to have an impartial regulator, if I can put it that way, to provide a neutral forum for people to discuss these issues. This is something that we should keep under constant review. It is something that is still relatively new. It is still a relatively new area and it is something that, again, we can never be relaxed about and we should constantly put forward.

It is important to get the balance right. People want a forum where they can speak relatively freely and sometimes we see occasional overreaction, which people equally react strongly about, so it is important to get the balance right. At the same time, we have seen top executives at Twitter going on the record to say that they feel they have let people down in terms of not reacting quickly enough to some of the astonishing abuse people put up on that site. We do need to go further and we will go further, I hope.

Q309 Chair: The Government are prepared to go further if they feel that is what is needed to protect trans people.

Mr Vaizey: I do not think it would be appropriate for me to speak either for Joanna Shields, whose policy area this now is, or indeed for higher powers who would take these decisions, and nor would I want to commit the Government to any specific

action. As you say, we have seen that, where the Government do intervene and encourage, they can move things along, and they will continue to do that.

Q310 Ben Howlett: I have a follow-on point from some of the things you were asking there, Chair. You said earlier on that it is not the responsibility of the Department to come up with definitions in relation to what is abusive or offensive content, but we have heard an awful lot of evidence from many people of the trans community that there is a lack of trust within the system. Based on what you have just said, do you feel that the fear of the trans community on this particular issue is justified?

Mr Vaizey: Just to be absolutely clear, what I am saying is the Department cannot be the judge and jury. It has to be left to impartial regulators, whether that is Ofcom or, in the case of internet companies, whether it is a code of conduct drawn together in consultation with Ofcom or, indeed, with the Broadcasting Code, which is Ofcom, so that there is a clear, objective procedure for dealing with that. Certainly in terms of the Government Equalities Office and other areas of Government that are involved in this agenda, if we can do more to encourage the transgender community to take advantage of the mechanisms that currently exist for them to raise their concerns, then that is something we should do.

It is not something I have personally come across in terms of people making the point that the Committee is making on their behalf in this session: that people feel, by making a complaint, they can make things worse. But it is a perfectly plausible suggestion and it is something that I would be happy for us, as a Department, to take on board and consult with the regulators on whether there are ways we can improve engagement. As I said earlier, in terms of the discussions about updating the Broadcasting Code, I am aware that Ofcom is very engaged with the transgender community.

Q311 Chair: You are advocating that we should have clear procedures. Are you going to also put the weight of the Government behind saying the industry should abide by a best practice guidance?

Mr Vaizey: When I had this portfolio, I put my considerable weight behind calling for that and I do think it is still something that we should continue to engage with social media companies on.

Chair: So we can look for your support on that, though of course I can see that it falls into a different area.

Q312 Mrs Drummond: Going on to sport now, the Equality Act 2010 allows for some transgender people to be excluded from single-sex sport, particularly close contact sport, but Jay Stewart of Gender Intelligence told us that there are people who just want to have a kickaround, just to play sport for fun and do, perhaps, sporting activity at university, and they are excluded. How can we stop this sort of unfairness happening?

Mr Vaizey: It is incumbent on the sporting authorities to call this practice out where they see it happening. As you said, there is an exception under the Equality Act, section 19, which allows single-sex sports to exclude, as it were, other sexes. As far as I am aware, that is based on a strength and stamina test, from what I have read up about it, but clearly there are many, many sports where both sexes can compete on level terms. I would expect bodies like Sport England, for which we are responsible, and some of the national governing bodies for sport,

if it is brought to their attention, to point out that, certainly in terms of informal training, non-competitive sporting activity, even though it might be taking place in terms of a competitive sport, there is no reason for people of different sexes not to be playing together. Where it comes across as a clear case of arbitrary exclusion, they can call them out.

If I draw a parallel with some of the work I have been doing in broadcasting—sorry to keep bringing it back to an area I am perhaps more familiar with—we had this with the Equality Act when we were talking to broadcasters about increasing diversity, where people said, “We are terrified of breaking the law”. We got the Equality and Human Rights Commission to put together a practical guide giving real-life examples of where you would not be breaking the Equality Act if you were going to promote diversity. Perhaps that might be something on which a body like Sport England and the Government Equalities Office, which can fund this kind of work, could consider giving a practical guide, particularly to university sports societies, to say, “You may think, perversely, that if you exclude different sexes from sport you are complying with the law. Actually, you are over-interpreting what this section was designed to do.”

Q313 Mrs Drummond: As a Department, you would be encouraging the various sports authorities to change their views on that.

Mr Vaizey: I do not know about changing their views, because I am not overly familiar with their views. It strikes me that it may not be a change of view that is needed, but more of a practical application of what I hope would be their view: that different sexes can play together in an informal sporting setting.

Q314 Chair: One of the particular problems that sporting organisations have is around the very practical issue of changing rooms. What guidance do the Government give at the moment to organisations that are challenged with that particular problem?

Mr Vaizey: I am not familiar with any specific guidance we give. I think this week sees the 20th anniversary of the Disability Discrimination Act, and that was an example of legislation that again wanted to force organisations that might be hiding in the “it is too difficult” category to make physical changes to their buildings in order to accommodate people with physical disabilities. At the same time, again in terms of the balance needed against measures that might be extremely costly, there is always room for manoeuvre.

If it is possible to provide appropriate changing facilities, particularly for team games where people of different sexes are playing together, it should be possible. There is plenty of lottery funding available either from organisations like Sport England or, indeed, from organisations like Big Lottery, which funds both culture and sports projects as well, to make those changes and, indeed, many charities and foundations. We, as MPs, know only too well potentially how many different organisations our communities can go to to fund some of these projects. I will certainly write to the Committee if I think that there are specific issues to do with changing room facilities that need to be looked at.

Q315 Chair: Thank you very much, Minister. I will resist asking you one final question, which is whether, as Minister of Culture, you think this is a cultural issue that we are tackling, but if you wanted to make any comments I would be interested to hear.

Mr Vaizey: I do think it is a cultural issue, so thank you for asking me that, Madam Chairman. I do not want to start off a whole new round of questioning but, in terms of the diversity agenda, it has been very useful for me to engage on this particular transgender agenda that you are looking at as a Committee. I started on the diversity agenda two or three years ago in terms of black and minority ethnic and I certainly think, as far as the media is concerned—broadcasters and, indeed, the arts—it is a cultural issue. Too few of our organisations reflect our society as it is today. I do not think they make enough effort.

I am very pleased indeed that we now have the broadcasters and the British Film Institute leading the way. I do not want to give the impression that an organisation like the BFI was dragged kicking and screaming to the table—they certainly were not—and indeed, Sky has been really pioneering in this area. We should be pushing much harder to see greater diversity on our screens, whether that is black and minority ethnic, people with disabilities or transgender people.

The earlier point that was made by Ms Caulfield about seeing it not as somehow exotic but as completely mainstream is really important. You only have to see the success of people like Laverne Cox on Netflix or the success of “Transparent” on Amazon Prime to see that the sky is not going to fall on your head if you keep pushing ahead with this agenda. They really have to move faster. We continue to engage with them and we will continue to call them out on it. Through the Creative Diversity Network, we are bringing in Project Diamond, which is going to monitor across all broadcasters hopefully from next year—I hope it will not get wrapped up in too many technical changes—so there will be no hiding place. You are quite right, Madam Chairman, to say this is a cultural issue.

Chair: Thank you very much for your time, Minister.