

## **Anonymous 4—written evidence (FEO0081)**

### **House of Lords Communications and Digital Committee inquiry into Freedom of Expression Online**

I am an elected representative and advocate who is also a writer. I am interested in words and their impact on others.

Generally I am very supportive of freedom of speech. I feel there are a few exceptions where issues can be agreed to be wrong and need no debate as to whether they are right or wrong (though this wouldn't stop them being a subject for discussion. They would include such things as paedophilia, rape and murder).

Whilst my reply is informed by my experience, I am responding in a private capacity and to prevent ambiguity would therefore wish to remain anonymous.

#### **Q1. Is freedom of expression under threat online? If so, how does this impact individuals differently, and why? Are there differences between exercising the freedom of expression online versus offline?**

Freedom of Expression (FOE) is of paramount importance in a democratic society: it separates us from totalitarianism.

Freedom of expression in general should never be curtailed except when it can be robustly proven to cause significant and lasting harm – either to individuals (eg: not only inciting rape, paedophilia, murder, but such acts as libel or disclosure of personal information) or to the state. Causing lasting harm to the state must not be confused with questioning the state, or confronting the government with illegality.

Curtailing FOE can come uncomfortably close to shutting down politically or socially unpopular thoughts, beliefs and doubts by deciding which are “right” and which “wrong”. When such decision making becomes an online issue, I contend the online nature focusses and intensifies these debates which often take place amongst a relatively few people. The resulting decisions however may impact upon the whole of society.

In many cases these decisions may be ‘of the moment’ and transient, and the decision – especially online – taken regrettably in a similar way as a contestant is supported or rejected in a reality tv show by a few people making a lot of noise. Unfortunately – unlike Strictly Come Dancing or Britain’s Got Talent – the sequelae are much more long-lasting.

There is a currently paradoxical situation online where some freedom of expression is very much under threat, while in other – seemingly more dangerous areas - it is not. For example it seems impossible for a woman to define a woman as a woman online, although no such issue exists in defining a man as a man.

A significant section of society condemns the assertion of women’s sex-based rights, even bodily existence as owned by women. This debate is taking place

largely online. Women are regularly described as menstruators, cervix-havers, birthers etc in a spirit of 'inclusivity' – however no equivalent equivocation or biological terms are routinely used to describe men. (I have heard expressions such as 'scrotum havers' but clearly used in a spirit of irony).

However as regards women, the – largely online debate informs actual practice. Britain is a country where the word 'gender' is used instead of 'sex' for women, although curiously this does not generally apply to men.

The freedom of women to articulate their sex-based rights online – in the UK, legally protected rights as defined in the Equality Act 2010 – is very much constrained and curtailed. This is by the extreme online vocality of other groups (specifically some trans supporting groups) asserting that their rights trump the rights of women leading to the reluctance of large organisations to allow women specifically have these rights (indeed on occasion to censure, require removal of online statements, or indeed sack women for asserting online that they in particular or women in general have these rights).

This is while the same organisations, groups, parties, government organisations are paradoxically allowing the persons and groups asserting trans rights the FOE to assert online exactly what they are censoring women and women's groups asserting online.

How can this be right?

It is certainly not proportionate to the protected characteristic of gender reassignment – which is the protected characteristic under the Equality Act. And it certainly ignores the protected characteristic of sex, which IS a protected characteristic under the Equality act. I remain utterly bewildered as to how we have got here.

This false equivalence – no, false assertion of superiority - of FOE rights is backed up by the presence online of false information concerning the status of 'protected characteristics' that is being promulgated by a lobby group masquerading as an independent authority and which strikes right to the heart of government data gathering (almost exclusively accessed online), replacing the word 'sex' with the word 'gender' - and thus in my opinion fuelling the rage of those who believe what they have been told online. This is a case where the government has no right to have Freedom of Expression: it has to express the law and pass on to the country what is lawful.

This false information is taken as gospel by groups, councils, charities, and government departments. Its existence as falsehood must be the responsibility of civil the service – and it needs correction in the name of FOE.

Currently it seems as if the online world, particularly that of social media, is like an unfair teacher (Severus Snape) who will invariably sanction one group (Harry Potter) however truthful, and protect another group (Draco Malfoy) however guilty, in the name of 'interpretation of facts.' This diminishes the possibility of Potter's rights to FOE.

In the case of the creator of the characters above – JK Rowling - she has enough money and status to back her bravery in expressing mainstream (but online unpopular) opinions, politely but firmly. Many other people may think as she does but are terrified of consequences of their actions. Which often occur online simply because people dislike and wish to shut down viewpoints antithetical to their own. Furthermore, in the black and white world of online it can become a point of faith. In one forum I questioned why somebody was speaking ill of Rowling and I was told it was because she was transphobic. I asked (politely) for precise details to be told they were not necessary because my interlocuter had read 'all her vile tweets.' I asked for a screengrab of even one vile tweet, but was given no answer.

Freedom of speech online needs to be invoked as a legitimate defence against unjust and stigmatising actions which are often these days normalised as defensible online behaviour.

Two online activities with different outcomes show that FOE needs to be more rigorously or justly applied:

- a) In my political party, a woman is threatened with expulsion for stating she believes in the biological identity of women because by doing so she brings the name of her party into disrepute. (This although the notion is so far from being uncontroversial that *Woman + adult human female* is not only the dictionary definition, but the onlike Wikipedia one.
- b) At the same time her trans peer in the same party can post suggestive nude selfies and links to pictures of bare buttocks with bdsm bruises in public fora online, while retaining a significant public position without party censure, sanction or notice because they are absolved of 'disrepute' by the figleaf of inclusivity.

This is not nor can it be just or fair.

It definitely shows that FOE is not applied equally across the board and impacts some people much harder than others.

I would suggest that the bulk of the above debate (and many other angry ones, such as Brexit, or Covid-denial) exists online and that it would seem to me that the three issues we have are:

- getting people to query the legitimacy of information,
- the idea that pleading "offence" without due cause is no excuse for refusing to engage in debate,
- getting people to understand the consequences in real life of things that take place online. Social narratives are fluid and ever-changing, but a social media pile-on for the "offence of the year" could have life-time consequences on the career of someone small and brave.

The specific issues with online offence are:

- Speed: people say things in a hurry, respond in a hurry, and lose nuances of meaning
- Distancing: people say things that they would not say to a person's face
- Permanence: if it is online it is there forever

The online world is the ideal breeding ground for 'offence archaeology' (trawling the past comments of a specific person with a present agenda and a deliberate intention of taking offence). An online search engine within the bubble of online communication, blown up and broadcast across the globe is ideal – and will track down words sometimes written years ago, by a younger person when society was working to different rules.

This is being used to threaten people with loss of job, income, status in the community, by a small number of people who see themselves as gatekeepers of a specific ideology.

### **How should good digital citizenship be promoted? How can education help?**

It may be that as the online world is newly emergent, we are yet to have societal rules. When I was young I was taught that I should not believe everything I read. I think all online platforms need to come with this warning and that education at all levels needs to bring this in. Consensus and conformity with one's peers ('likes') should not be seen as essential or even a good thing. Maybe we need to lobby to remove "likes" etc off posts. The addictive power of social media is to be noticed.

### **Is online user-generated content covered adequately by existing law and, if so, is the law adequately enforced? Should 'lawful but harmful' online content also be regulated?**

There needs to be a consensus as to what constitutes 'community standards' and it shouldn't be – as it seems to be with the big players -that 'might is right.'

If the law specifies protected characteristics, these characteristics need aligning exactly with the Equality Act: Race, Religion, Sexual Orientation, Disability, Age, Transgender status and Sex (Not gender).

Recently Twitter started flagging various tweets of ex-President Trump as contentious or flatly incorrect. I think this could easily be extended to reduce the harm of pronouncements that are strongly felt and well-intended but have no basis in scientific fact.

However I think the lords should consider:

- Whether an individual tracking down or hacking websites of persons they disagree with (although such opinions are not illegal), and publishing the

names and contact details on social media ('doxxing') should be considered acceptable.

- Whether using social media platforms to muster forces to insist upon a group, organisation or party sacking, sanctioning or excluding an individual (or indeed that group, organisation or party not having the moral courage to resist and sacking, sanctioning or excluding an individual) for stating online views which are not illegal or indeed harmful, but which 'upset' a vocal and aggressive minority should be considered acceptable.

There is a larger darker issue about content -which is probably more what is happening on the unregulated 'dark net' than what is happening on social media platforms, but as I have only heard about this at third or fourth hand I do not feel qualified to do more than raise the concern.

### **Should online platforms be under a legal duty to protect freedom of expression?**

Yes, and this legal duty must be strictly enforced with penalties that fall on the head of specific, specified and very senior people who are resident within the UK and who cannot escape them.

### **To what extent should users be allowed anonymity online?**

Currently many people who hold contentious views may wish to protect their name from what might be described as revengeful trolling.

Only people with eg little to lose, unassailable financial security, academic tenure or exceptional bravery can contend against certain 'offence archaeologists' who I have seen literally bragging of infiltrating private groups in order to provoke contentious comments and then screen grab offensive remarks they have themselves provokes and so lose a person a job.

In Cambridge recently, the students' union lobbied to have a college porter removed for words he spoke in council in his elected role as city councillor. It is hardly surprising that online some people will feel the need to contribute anonymously to a debate without losing their livelihood.

If there were sufficient protection to prevent such online mobbing it would prevent the need for online anonymity.

At the same time this wish for helpful anonymity must be balanced with the bravado and rudeness that comes with being able to speak without personal consequences.

### **How can technology be used to help protect the freedom of expression?**

One could call permanent attention to fact-checking. Discourage meme-sharing.

Another thing (as I have said above), programmes like "Strictly," "Bake Off" etc have user votes and this has transferred to social media as likes. We need to stop making likes the basis for online content. This might well stop mobbing –

which I suspect is often only done as a form of virtue-signalling: showing you are 'in' with the 'in crowd'".

### **How do the design and norms of platforms influence the freedom of expression? How can platforms create environments that reduce the propensity for online harms?**

Large social media companies such as Facebook, Snapchat, Twitter, Pinterest and some other companies have been criticised for causing significant harm to society by:

- hosting, and hosting algorithms drawing traffic to, material which encourages hatred, violence, terrorism, suicide, self harm etc.
- hosting 'fake news' and other deliberately untruthful material supplied by political actors or lobby groups with hidden agendas (An example of this is how far the definitions and priorities of the LGBT lobbying group Stonewall have entered the UK governmental and local governmental system, major charities, political parties, and large companies as I mention above - and how little this has to do with a) UK law as it stands b) the proportionality or benefit of the end result.
- hosting lies and scientific falsehoods supplied by well-meaning but dangerous campaigners such as Covid-deniers.

### **How could the transparency of algorithms used to censor or promote content, and the training and accountability of their creators, be improved? Should regulators play a role**

Algorithms: In my own Pinterest account which is interested in ancient history , Victorian photographs and very non-controversial subjects I have on one occasion been presented with horrifying images of contemporary men being burned to death in cages – possibly due to algorithms that made a connexion between the Gauls at the Battle of Teutoburg (I was checking Suetonius) and the tortures of modern day Isis (which I was not looking at and would not want to see). Once seen such horrors cannot be unseen.

I have heard that radicalisation by algorithms is common simply because the algorithms will offer more and more of what you choose to see and it gets more and more extreme. It will also predict what you want to see (as in the above case making a major error). This could refer to religious, political or sexual views – or anything else. Who supervises the algorithms or checks out what they do? Certainly not the platforms who just want more views etc. I cannot see that a regulator could do this though. It needs commitment from the platforms.

### **How can content moderation systems be improved? Are users of online platforms sufficiently able to appeal moderation decisions with which they disagree? What role should regulators play?**

Many small groups have moderators with rules that the members either like (and stay with) or dislike and leave.

There is an issue with platforms like the data-scraping 'Next Door' which has no moderator and where a local mob can be built up against an innocent individual because a car has been wrongly described etc. These need moderation.

There is also an issue of the large companies/platforms taking down material due to unspecified 'community standards.' I specifically mention the big bullies and toadies Facebook and Twitter here – until Trump, last week, always on the side of the giant and out to scrunch the little person.

I have personally been disturbed at material posted on eg Facebook that clearly promotes hatred towards UK "protected characteristics," – specifically race and sex - that Facebook nevertheless declares 'does not breach our community standards.'" However in my personal experience Facebook has taken down pictures of breastfeeding mothers, cupcakes iced with penises (though not, strangely enough ones iced with vulvas) works of art by old masters etc which Facebook asserts "do breach our community standards."

The large-platform online world is not a world where the innocent feel protected or where one feels that content is moderated with any justice or appropriacy.

**To what extent would strengthening competition regulation of dominant online platforms help to make them more responsive to their users' views about content and its moderation?**

Britain has shown no capacity to strengthen competition regulation with other forms of media.

*15 January 2021*