

## Written evidence from Helen Belcher (FOE0183)

1. This is my personal submission to the inquiry on freedom of expression. I attended this Committee as a witness in December 2017 on the related inquiry of freedom of speech within universities<sup>1</sup>.
2. I wish to restrict myself to remarks on freedom of expression, excluding the other questions the inquiry asks.

### Yesterday's Outrage?

3. In some ways, I wonder whether this is quickly becoming yesterday's outrage.
4. The events in the USA in the week preceding the inauguration of President Biden shows clearly the dangers in allowing unchecked freedom of speech, particularly from someone with a large public presence – and few have larger public presences than the President of the United States of America.
5. The writings in the British press of those opposed to public health lockdowns and mass vaccinations, many of whom are self-proclaimed champions of free speech, are now being treated with the contempt they deserve after their previous protestations on the current coronavirus pandemic have been shown to be false and without foundation.

### Boundaries of Free Speech

6. As the Committee heard in 2017, freedom of expression is not and can never be completely without constraints<sup>2</sup>. It is a qualified right according to the European Convention on Human Rights<sup>3</sup>. That it is qualified means that other rights, such as the right to privacy, necessarily compete with it.
7. Therefore any discussion about freedom of expression has necessarily to be about the boundaries our society chooses to place around it, who chooses those boundaries and how those boundaries are policed.
8. We also have to recognise that what constitutes acceptable speech changes over time<sup>4</sup>. At various points in this country's history it was considered acceptable to express support for slavery<sup>5</sup>, eugenics<sup>6</sup> and homophobia<sup>7</sup> – all things no longer considered acceptable as society's understanding grows, particularly of the issues that minority groups face.
9. Similar remarks are currently fairly widespread across elements of the British media – with Islamophobia<sup>8</sup> and transphobia<sup>9</sup> being key current examples.

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<sup>1</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/freedom-of-speech-in-universities/oral/75775.html>

<sup>2</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/freedom-of-speech-in-universities/oral/75335.html> - Q26, Helen Mountfield QC

<sup>3</sup> [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf) - Article 8(2)

<sup>4</sup> <https://www.nytimes.com/2019/02/26/us/politics/overton-window-democrats.html>

<sup>5</sup> <https://www.bbc.co.uk/bitesize/guides/z3rj7ty/revision/9>

<sup>6</sup> <https://www.kcl.ac.uk/the-eugenics-debate-isnt-over-but-we-should-be-wary-of-people-who-claim-it-can-fix-social-problems>

<sup>7</sup> <https://theconversation.com/aids-homophobic-and-moralistic-images-of-1980s-still-haunt-our-view-of-hiv-that-must-change-106580>

<sup>8</sup> <https://www.theguardian.com/news/2019/jul/09/most-uk-news-coverage-of-muslims-is-negative-major-study-finds>

10. Of these, trans people, such as myself, have become particularly associated by the media with freedom of speech issues<sup>10</sup>.

### Personal Experiences

11. Around 12 years ago, I helped incorporate Trans Media Watch<sup>11</sup>, a charity which worked with the UK's media to help them improve their reporting on trans and intersex issues.
12. In February 2012 I gave evidence to the Leveson Inquiry which showed the press routinely reporting in derogatory terms about trans people, usually with no comeback at all. In his subsequent report, Lord Justice Leveson stated that the press had a long way to go in its reporting of trans issues<sup>12</sup>.
13. Since then I helped progress the case for better treatment of trans and non-binary people by the media, the state and its agencies.
14. Trans Media Watch took the view that, while we would not campaign for certain terms to be banned, we would point out the impact of using terms such as "sex change" or "tranny", and the harm caused by misreporting issues<sup>13</sup>. We did this to respect editorial integrity, but to help the UK media understand the damage they were doing whilst helping them improve. Some parts of the media accepted this, while others rejected it.
15. Parts of the UK government also accepted the need for change, although this was also patchy.
16. I stood for election to the House of Commons in both the 2017 and 2019 General Elections<sup>14</sup>, without hiding my trans history. Interestingly the only media organisation to make anything of my history was the BBC.
17. Through the many, many interactions with voters on doorsteps, there was no hostility that I detected towards myself because of my identity – allowing for a small amount of hostility expressed towards my party. There was, however, hostility on some social media, where a very small number of people insisted that I "was a man", to the general condemnation of most other posters. A hustings meeting also heard lies about me which were subsequently broadcast on social media. The video was subsequently removed following intervention from lawyers.
18. This demonstrated to me that the media onslaught, for there is no other term that adequately describes this, on trans people and our lives over the past 3 years has been driven by a very small group of ideologues – a group which has exerted tremendous influence over newsrooms.

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<sup>9</sup> <https://uk.news.yahoo.com/uk-media-coverage-trans-lives-160015388.html>

<sup>10</sup> <https://www.dailymail.co.uk/news/article-9066069/Woke-folk-beware-Freedom-speech-includes-right-offend-say-judges-landmark-ruling.html>. Compare to <https://www.reuters.com/article/norway-lgbt-lawmaking-idUSKBN2852DL>

<sup>11</sup> <http://transmediawatch.org/>

<sup>12</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/270941/0780\\_ii.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270941/0780_ii.pdf) - pages 666 to 668

<sup>13</sup> <http://transmediawatch.org/wp-content/uploads/2020/09/Media-Style-Guide.pdf>

<sup>14</sup> <https://www.bbc.co.uk/news/politics/constituencies/E14000635>

19. The term used by this inquiry is freedom of expression. I feel my ability to identify myself openly as a trans woman is becoming increasingly more risky, thereby reducing my own personal freedom of expression in everyday life and interactions.

#### “Silencing” and “Cancel Culture”

20. Of particular concern is the repeated association of trans people with attempts to restrict free speech. The number of people claiming in mainstream media, with readership of millions, that they have been “silenced” or “cancelled” by some influential trans lobby continues to grow – Germaine Greer, Jenni Murray, JK Rowling, Suzanne Moore, Prof Kathleen Stock.
21. Analysis has shown that, for example, the Times group of newspapers published 324 stories pertaining to trans issues in 2020 alone<sup>15</sup>, the vast majority of which were hostile to trans people and twisted the narrative substantially.
22. A very recent example is in the Sunday Times of 24 January, where the plans for the 2021 census are, apparently, a blow to “the trans lobby”<sup>16</sup>. Except, I understand, the ONS has not proposed any changes to its guidance for filling in the sex question<sup>17</sup> – official guidance which was issued in 2001 and repeated in 2011 – and the sex question has been asked since the first census in 1801. The Sunday Times piece repeats the pattern of publishing stories deliberately skewed to position trans people in a bad light.
23. Because no individual trans person is named, it is impossible to take a discrimination case to IPSO<sup>18</sup> – a shortcoming I covered in the Leveson Inquiry. My personal experience of IPSO on accuracy questions is poor – one ruling in 2018 found that it was acceptable for the press to invent quotes if it was reasonably felt that it was something someone might say<sup>19</sup>. It is simply not worth the risk of creating more damaging precedents.
24. The number of trans people who have been offered a voice in the national mainstream press in the last year is negligible. The number of pieces corrected by the national mainstream press is negligible.
25. In this framework, talk of an influential trans lobby “cancelling” anything it doesn’t like is shown up as completely fallacious<sup>20</sup>. There are still no trans parliamentarians. There are still no trans people with high media profiles. There are still no trans captains of industry (although there are a very small and slowly increasing number of successful trans business people), and there is now one trans judge.

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<sup>15</sup> <https://twitter.com/Jefflez/status/1346046772569899008>

<sup>16</sup> <https://www.thetimes.co.uk/article/sex-question-back-on-census-in-blow-to-trans-rights-r75fq5lgc>

<sup>17</sup> [https://hansard.parliament.uk/lords/2019-06-04/debates/8ECF441C-8C94-4D64-9D65-1255B229AC2A/Census\(ReturnParticularsAndRemovalOfPenalties\)Bill\(HL\) – column 4GC](https://hansard.parliament.uk/lords/2019-06-04/debates/8ECF441C-8C94-4D64-9D65-1255B229AC2A/Census(ReturnParticularsAndRemovalOfPenalties)Bill(HL) – column 4GC)

<sup>18</sup> <https://www.ipso.co.uk/news-press-releases/blog/ipso-blog-how-clause-12-discrimination-works/-What-About-Groups?>

<sup>19</sup> <https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07454-18>

<sup>20</sup> <https://committees.parliament.uk/oralevidence/1393/html/> - Qs 42 and 43

## Protest

26. The notion of condemning “cancel culture” is also one-sided, and reeks of privileged people seeking to protect their platform rather than protecting the values underpinning our society.
27. People use language to try to influence others all the time. It is recognised in law that some forms of speech are unlawful – libel and defamation for example, including spreading lies about a candidate seeking election to Parliament<sup>21</sup>.
28. People have the right, under freedom of speech, to call out speech or behaviour they find reprehensible as long as they do so lawfully. The right of peaceful protest is also recognised in the European Convention of Human Rights<sup>22</sup>.
29. If an individual or organisation says something that others disagree with, those others have every right to criticise them or protest them. Publishers and organisers of events have every right to cancel contracts as long as any cancellation clauses in those contracts are complied with. Employers have every right to remove employees and contractors from or otherwise restrict their employment if they understand continued engagement will be harmful to other members of staff or their customers<sup>23</sup>.
30. Yet it is these rights that those who complain most vociferously of “cancel culture” are looking to restrict.
31. What is the end point of this line of thought? That the state or the media forces people to read things they find offensive, forces people to listen to things they find harmful, compels people to attend meetings or watch programmes to hear specific people? I cannot think of anything which would curtail personal freedoms more. To do so makes a nonsense not only of freedom of expression but of the very nature of free will itself<sup>24</sup>.
32. If a human right, such as freedom of expression or the right to peacefully protest, exists, it must exist for all human beings, not just those who are in a position of privilege.

## Framing of the Inquiry

33. The Committee is necessarily and rightly concerned with the application of human rights to all members of our society. However questions arise over why this particular issue is being raised again in relatively short order.
34. The Committee’s specific question is “Does everyone have equal protection of their right to freedom of expression?”<sup>25</sup> Discussion around this question will necessarily be framed in the context of at least 4 years of concern expressed across our national media over issues of freedom of speech and freedom of expression.

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<sup>21</sup> Representation of the People Act 1983, s106 - <https://www.legislation.gov.uk/ukpga/1983/2/section/106>

<sup>22</sup> [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf) - Article 11

<sup>23</sup> [https://assets.publishing.service.gov.uk/media/5e15e7f8e5274a06b555b8b0/Maya\\_Forstater\\_\\_vs\\_CGD\\_Europe\\_\\_Centre\\_for\\_Global\\_Development\\_and\\_Masood\\_Ahmed\\_-\\_Judgment.pdf](https://assets.publishing.service.gov.uk/media/5e15e7f8e5274a06b555b8b0/Maya_Forstater__vs_CGD_Europe__Centre_for_Global_Development_and_Masood_Ahmed_-_Judgment.pdf) - see particularly paras 84 to 87

<sup>24</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/freedom-of-speech-in-universities/oral/75775.html> - sorry to quote myself, but “These people tend to be demanding a right to be heard. There is no such right, because then you end up in absurd positions. Do you force people to open their front doors and be harangued in their living rooms?”

<sup>25</sup> <https://committees.parliament.uk/call-for-evidence/307/freedom-of-expression/>

35. While this is, at least in theory, a valid question to ask, the Committee needs to be mindful that it is not pre-judging the issue by assuming there are issues which are demonstrated by those using the national media to claim that their rights are being restricted simply because others are protesting their actions.
36. Instead I hope the Committee is prepared to consider that any issues, should they exist, are far more likely to be experienced by those who do not have ready access to the mainstream media and, as a result, far less documented.

*30/01/2021*

## Summary

37. Freedom of speech must never become the preserve of the rich and powerful. To allow this would entrench and strengthen privilege at the expense of equality and mobility.
38. The right of free speech is fundamentally the right to challenge and the right not to be controlled. It is not the right to be heard, as there is no such right.
39. There is a right of free speech. There is no right of consequence-free speech.
40. Freedom of speech will always exist within societal norms. It is understandable that those norms shift over time, and they usually do by a mixture of protest and normalisation.

*Helen Belcher, 30 January 2021*