



DEBATE PACK

Number CDP 2019/0098, 26 April 2019

E-petition 190627 relating to online abuse

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Summary

The House of Commons Petitions Committee scheduled a debate in Westminster Hall on the motion “That this House has considered e-petition 190627 relating to online abuse” on Monday 1 April at 4.30pm.

Helen Jones MP, the Chair of the Committee, will open the debate.

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The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

1. Background

[Petition 190627](#) called for online abuse to be made a specific offence and for the creation of a register of offenders. The petition was started by a celebrity, Katie Price, and attracted significant support and media attention. While the petition advocated the creation of an offence that would apply irrespective of whom the victim of abuse was, Ms Price singled out the trolling of her disabled son:¹

Trolling is a major problem in this day and age. People of all ages and background suffer every day, including my family - especially my son Harvey. I have tried my best to expose people and even had two arrested but nothing was done and there were no repercussions or penalties for this behaviour.

This does not affect just high profile people it affects everyone from every walk of life from young children, teenagers, people at work, husbands and wives. This abuse includes racism, homophobia, body shaming and a whole range of other hate speech.²

The previous Conservative government responded to the petition on 18 April 2017, stating:

The law does not differentiate between criminal offences committed on social media or anywhere else. Where something is illegal offline it is also illegal online and there is already legislation which applies in relation to online abuse. A variety of different offences already exist covering communications which are grossly offensive, obscene, indecent or false. It is also an offence to send certain articles with intent to cause distress or anxiety.

While we will continue to monitor the situation, we believe that our current legal approach is the right one.

...³

1.1 Current offences

In 2014 the House of Lords Select Committee on Communications published a report on [Social media and criminal offences](#) (see below).⁴ The report provides a helpful summary of the types of offences that might be committed through online communications:

(a) **credible threats of violence to the person or damage to property:**

- (i) Offences Against the Person Act 1861, s 16 (threat to kill)
- (ii) Protection From Harassment Act 1997, s 4 (fear of violence)
- (iii) Malicious Communications Act 1988, s 1 (threat)

¹ [Disability hate crime: Katie Price backed by MPs over online abuse](#), BBC News, 22 January 2019

² Petition 190627

³ Ibid.

⁴ House of Lords Select Committee on Communications, 1st Report of Session 2014–15, *Social media and criminal offences*, HL Paper 37, 29 July 2014

- (iv) Communications Act 2003, s 127 (of a menacing character)
- (v) together with legislation related to racial, religious, disability, sexual orientation or transgender aggravation

(b) communications targeting specific individuals:

- (i) Protection from Harassment Act 1997, s 2 (harassment)
- (ii) Protection from Harassment Act 1997, s 2 (stalking)
- (iii) Protection from Harassment Act 1997, s 4 (fear of violence)
- (iv) Protection from Harassment Act 1997, s 4A (stalking involving fear of violence, serious alarm or distress)

(c) breach of court order, e.g. as to anonymity:

- (i) Contempt of Court Act 1981
- (ii) Sexual Offences Amendment Act 1992, s 5 (identification of a victim of a sexual offence)
- (iii) restraining orders, conditions of bail

(d) communications which are grossly offensive, indecent, obscene or false:

- (i) Malicious Communications Act 1988, s 1 (electronic communications which are indecent or grossly offensive, convey a threat false, provided that there is an intention to cause distress or anxiety to the victim)
- (ii) Communications Act 2003, s 127 (electronic communications which are grossly offensive or indecent, obscene or menacing, or false, for the purpose of causing annoyance, inconvenience or needless anxiety to another)⁵

1.2 Petitions Committee report

On 22 January 2019 the House of Commons Petitions Committee published a report on [Online abuse and the experience of disabled people](#).⁶ In it, the Committee recommended clarifying the law on abusive online communications:

The police, the public and social media companies need a criminal law that is fit for purpose and draws a line between behaviour that can be tackled by private companies and behaviour that requires a criminal justice approach. It is not enough to repeat “What is illegal online, is illegal offline” as an excuse for inaction. We note that the Law Commission is reviewing abusive and offensive online communications, but **we recommend that the Government brings forward legislation to clarify the law as soon as possible**. We recommend that Ministers set out a timetable for doing so in the Government response to this report. Any delay must be justified to Parliament. To ensure that new legislation takes into account the needs of disabled people, we recommend that the Government consult disabled people directly. Such a consultation must be accessible to all disabled people, including those who are currently not using the internet due to their fear or experience of abuse.

⁵ Ibid., pp8-9

⁶ House of Commons Petitions Committee, *Online abuse and the experience of disabled people*, First Report of Session 2017–19, HC 759, 2 January 2019

Disabled people do not feel adequately protected or valued by the law. Many of the disabled people we spoke to felt that the UK Government has the information it needs to change the legislation now, and commissioning another Law Commission review into hate crime was simply avoiding the issue. We recommend that the Government amend hate crime legislation to ensure disability hate crime has parity with other hate crime offences. To ensure that the law applies where a victim had been selected because they were disabled, we recommend that it abolish the need to prove that hate crime against disabled people is motivated by hostility. It should be enough to prove that an offence was committed by “by reason of” their disability.

The Government [responded](#) to the Committee’s report on 25 April 2019.⁷ In respect of the Committee’s recommendation to change the law, the Government said:

In February 2018, the PM announced that the Law Commission would undertake a review of current legislation on offensive online communications to ensure that laws are up to date with technology. The Law Commission has now completed the first part of their review and published their scoping report on 1 November 2018. During the course of the review the Law Commission engaged with many individuals and organisations who are affected by these laws or have detailed knowledge of the surrounding issues. This has included victims of online abuse and the charities that support them, prosecutors, lawyers and academics, civil liberties groups, technology companies, and various parts of Government.

The report concludes “for the most part, we have concluded that abusive online communications are, at least theoretically, criminalised to the same or even greater degree than equivalent offline behaviour ... it appears that practical and cultural barriers mean that not all harmful online conduct is pursued in terms of criminal law enforcement to the same extent that it might be in an offline context.”

We are now working with the Law Commission to agree the scope of the next phase of this report. Throughout this process we will continue to engage with disabled people.⁸

1.3 Other Select Committee reports

Culture, Media and Sport Committee

In 2014, the Culture, Media and Sport Committee published the report of its inquiry into [Online Safety](#).⁹ In respect of online abuse and bullying, it noted:

The most recent research from the NSPCC shows that 28% of young people who have a social networking profile have experienced something that has upset them in the last year. These experiences include cyber-stalking, being subjected to aggressive or offensive language, being sent sexually explicit pictures and being asked to provide personal or private information. However,

⁷ House of Commons Petitions Committee, *Online abuse and the experience of disabled people: Government response to the Committee’s First Report*, Second Special Report of Session 2017–19, 23 April 2019

⁸ *Ibid.*, pp8-9

⁹ House of Commons Culture, Media and Sport Committee, [Online safety Sixth Report of Session 2013–14](#), HC 729, 19 March 2014

the greatest proportion of the group (37%) had experienced “trolling”. Alongside this evidence that online bullying is clearly a problem for young people, the latest Childline statistics show an 87% increase in 2012/13 in the number of young people contacting the NSPCC for support and advice about being bullied via social networking sites, chat rooms, online gaming sites, or via their mobile phones. The NSPCC attributes this trend in part to the increasing ownership by young people of smartphones and tablets¹⁰

The Committee commented that

changes to legislation, including consolidation of current laws, which clarify the status of bullying, whether off-line or online, would be welcome. At the same time, much could be achieved by the timely introduction of improved guidance on the interpretation of existing laws.¹¹

House of Lords Select Committee on Communications

As noted above, in July 2014 the House of Lords Select Committee on Communications published a report on [Social media and criminal offences](#). The Committee concluded that the current laws are appropriate, based partly on the view that offences committed on social media are not new acts, but existing criminal acts committed in a new forum:

the criminal law in this area, almost entirely enacted before the invention of social media, is generally appropriate for the prosecution of offences committed using the social media;

there are aspects of the current statute law which might appropriately be adjusted and certain gaps which might be filled.

We are not however persuaded that it is necessary to create a new set of offences specifically for acts committed using the social media and other information technology;

...

what is not an offence off-line should not be an offence online. There is no specific criminal offence of bullying. We consider that the current range of offences, notably those found in the Protection from Harassment Act 1997, is sufficient to prosecute bullying conducted using social media. Similarly, sending a communication which is grossly offensive and has the purpose of causing distress or anxiety is an offence under section 1 of the Malicious Communications Act 1988. Although we understand that “trolling” causes offence, we do not see a need to create a specific and more severely punished offence for this behaviour¹²

Home Affairs Select Committee

In April 2017 the Home Affairs Select Committee held an inquiry into hate crime and its consequences. Although the inquiry had a much broader scope than online abuse, it was cut short by the 2017 General Election. As such, the Committee published a [short report](#), focusing on

¹⁰ Ibid., p34

¹¹ Ibid., p36

¹² House of Lords Select Committee on Communications, 1st Report of Session 2014–15, *Social media and criminal offences*, HL Paper 37, 29 July 2014, p24

one aspect of the inquiry: the role of social media companies in addressing online abuse.¹³ The Committee's recommendations included commentary on the existing legal framework:

Most legal provisions in this field predate the era of mass social media use and some predate the internet itself. **The Government should review the entire legislative framework governing online hate speech, harassment and extremism and ensure that the law is up to date.** It is essential that the principles of free speech and open public debate in democracy are maintained—but protecting democracy also means ensuring that some voices are not drowned out by harassment and persecution, by the promotion of violence against particular groups, or by terrorism and extremism.¹⁴

In evidence to the Committee, the Law Commission commented that there “is a clear public interest in tackling online abuse and “trolling”, but this must be done through clear and predictable legal provisions”.¹⁵

In October 2017, the Committee [resumed the inquiry](#), which is currently ongoing.

1.4 Online Harms White Paper

The discussion of creating a specific offence to target online bullying occurs against a backdrop of broader debate about tackling online harms. On 8 April 2019 the Government published its [Online Harms White Paper](#).¹⁶ The principal measures proposed in the paper include the creation of a new statutory duty of care for companies, intended to encourage them to “take more responsibility for the safety of their users and tackle harm caused by content or activity on their services”.¹⁷ The duty would be overseen by a new regulator.

On the subject of criminal law, the White Paper reiterated the Government's position that criminal law should apply the same way online as it does offline:

For illegal harms, **it is also important to make sure that criminal law applies online in the same way as it applies offline.** In February 2018 the Prime Minister announced a review by the Law Commission of the law in relation to abusive and offensive online communications, to highlight any gaps in the criminal law which cause problems in tackling this abuse. In its scoping report last year, the Law Commission concluded that behaviour is broadly criminalised to the same extent online as offline and recommended a clarification of existing communication offences. The government is now finalising the details of the second phase of the Law Commission work.¹⁸

The White Paper did however propose that companies could play a larger part in the enforcement of criminal law, through working with law enforcement and other government agencies. To this end, the

¹³ House of Commons Home Affairs Committee, *Hate crime: abuse, hate and extremism online Fourteenth Report of Session 2016–17*, HC 609, 1 May 2017

¹⁴ *Ibid.*, p19

¹⁵ Law Commission, [HCR0021](#), para 2.8

¹⁶ HM Government, *Online Harms White Paper*, CP 57, April 2019

¹⁷ *Ibid.*, p10

¹⁸ *Ibid.*, p34

Government indicated that the new regulator should include in its code of practice guidance for companies on how they should work with law enforcement and report content. Such reporting would be one of the ways in which companies would fulfil their duty of care.

1.5 Law Commission report

As noted above, in November 2018 the Law Commission published a [*Scoping Report on Abusive and Offensive Online Communications*](#).¹⁹ The report contained an analysis of the current state of the relevant criminal law, concluding that there is scope for improving the law:

While we have identified a number of gaps and inconsistencies in the applicable law, we have concluded that in most cases abusive online communications are, at least theoretically, criminalised to the same or even a greater degree than equivalent offline behaviour.

In practice, however, it appears that practical and cultural barriers mean that not all harmful online conduct is pursued in terms of criminal law enforcement to the same extent that it might be in an offline context.

Further, our analysis has revealed that many of the applicable offences are not constructed and targeted in a way that adequately reflects the nature of offending behaviour in the online environment, and the degree of harm that it causes in certain contexts.

Therefore, **while we do not consider there to be major gaps in the current state of the criminal law concerning abusive and offensive online communications, there is considerable scope to improve the criminal law in this area.** In particular, we consider that reform could help ensure that the most harmful conduct is punished appropriately, while maintaining and enhancing protection for freedom of expression. It is towards these goals that we focus our recommendations for future law reform.²⁰

The Commission noted several practical and cultural barriers to enforcing criminal law in this area:

- the sheer scale of abusive and offensive communications, and the limited resources that law enforcement agencies and prosecutors have available to pursue these;
- a persistent cultural tolerance of online abuse, which means that even when reported, it is not always treated as seriously as offline conduct;
- the difficult balance that must be struck between protecting individuals and the community generally from harm, and maintaining everyone's fundamental human rights to freedom of expression;
- technical barriers to the pursuit of online offenders, such as tracing and proving the identity of perpetrators, and the cost of doing so; and

¹⁹ Law Commission, *Abusive and Offensive Online Communications: A Scoping Report*, HC 1682, Law Com No 381, 1 November 2018

²⁰ *Ibid.*, p328

- jurisdictional and enforcement barriers to prosecution: the online environment is highly globalised, and even when overseas-based offenders have committed an offence in England and Wales, pursuing them may prove practically impossible or prohibitively expensive.²¹

The Commission's recommendations included reforming offences relating to grossly offensive, indecent, obscene or false communications:

The communications offences in section 1 of the Malicious Communications Act 1988 and section 127 of the Communications Act 2003 should be reformed to ensure that they are clear and understandable and provide certainty to online users and law enforcement agencies.

...

As part of the reform of communications offences, the meaning of "obscene" and "indecent" should be reviewed, and further consideration should be given to the meaning of the terms "publish", "display", "possession" and "public place" under the applicable offences.

...

In addition to a reform of the communications offences, there should be a review to consider whether coordinated harassment by groups of people online could be more effectively addressed by the criminal law.

...

The criminal law's response to online privacy abuses should be reviewed

...

As part of the reform of communications offences the threshold at which malicious and "false" communications are criminalised should be reviewed.

...

The glorification of violent crime online and the encouragement of self-harm online are issues which should be considered in the context of the review of communications offences.²²

²¹ Ibid., pp328-329

²² Ibid., pp329-324

2. Press Articles

2.1 Articles and blogs

MailOnline

[Abuse of disabled people should be a hate crime, finds parliamentary inquiry sparked by Katie Price - after social media firms fail to self-regulate trolls or challenge 'toxic environment'](#)

22 January 2019

Internet Matters

[Safeguarding children online is top priority as UK set to introduce new online safety standards](#)

8 April 2019

BBC

[Websites to be fined over 'online harms' under new proposals](#)

8 April 2019

Telegraph

[Online trolls should be registered on government database, say MPs](#)

21 January 2019

Telegraph

[Legal system fails to protect women from online abuse, says Law Commission](#)

1 November 2018

Independent

[New laws could be drawn up to protect victims from online abuse and punish perpetrators](#)

1 November 2018

Rights of Women

[Revenge porn, online abuse and the law](#)

(accessed on 25 April 2019]

Home Affairs Committee

[Hate crime and its violent consequences inquiry](#)

3. Parliamentary Business

3.1 Debates

[Online Harms White Paper](#)

HC Deb 8 April 2019 c55-77

[Online Harms](#)

HL Deb 8 April 2019 c426-38

3.2 Parliamentary Questions

[Online Content: Crime](#)

25 February 2019 | Oral Question

Asked by: Rebecca Pow

[Internet Trolling: Prosecution Rates](#)

31 January 2019 | Oral Question

Asked by: Danielle Rowley

[Internet: Bullying](#)

To ask the Secretary of State for Health and Social Care, what recent discussions he has had with the Secretary of State for Digital, Culture, Media & Sport on tackling online trolling and the effect of trolling on people's psychological wellbeing.

11 September 2018 | Written questions | House of Commons | 169446

Asked by: Sherriff, Paula

[Social Media: Bullying](#)

To ask the Secretary of State for Health and Social Care, what plans his Department and the Department for Digital, Culture, Media and Sport have to ensure that social media companies (a) tackle online trolls and (b) improve the reporting process for victims of that abuse.

06 September 2018 | Written questions | House of Commons | 169449

Asked by: Sherriff, Paula

[Social Media: Harassment](#)

To ask the Secretary of State for Digital, Culture, Media and Sport, what steps he is taking to ensure that social media companies (a) tackle the activities of online trolls and (b) facilitate the reporting of online abuse by victims.

24 July 2018 | Written questions | House of Commons | 164434

Asked by: Shannon, Jim

[Internet: Bullying](#)

To ask the Secretary of State for Justice, what discussions he has had with the Secretary of State for Health and Social Care on the provision of appropriate support for victims of internet trolling who have experienced psychological harm.

10 July 2018 | Written questions | House of Commons | 159610

Asked by: Shannon, Jim

[Internet: Harassment](#)

To ask the Secretary of State for Digital, Culture, Media and Sport, whether he has had relating to discussions with the Secretary of State for Justice on the legal framework relating to internet trolling; and whether he has made an assessment of the potential merits of introducing legislative proposals to tackle such activity.

09 July 2018 | Written questions | House of Commons | 159609

Asked by: Shannon, Jim

[Females: Domestic Violence](#)

To ask the Secretary of State for the Home Department , what steps the Government is taking to protect women who are experiencing domestic abuse online.

26 February 2018 | Written questions | House of Commons | 127964

Asked by: Butler, Dawn

3.3 Committee Reports

Digital, Culture, Media and Sport Committee, [Disinformation and 'fake news': Final Report](#), 18 February 2019, HC 1791 2017-19

Petitions Committee, [Online abuse and the experience of disabled people](#), 22 January 2019, HC 759 2017-19

Petitions Committee, [Online abuse and the experience of disabled people: Government response to the Committee's First Report](#), 25 April 2019, HC 2122 2017-19

Home Affairs Committee, [Hate crime: abuse, hate and extremism online](#), 1 May 2017, HC 609 2016-17

4. Organisations and further reading

HM Government, [Online Harms White Paper](#), April 2019

NSPCC, [Taming the Wild West Web](#), February 2019

Law Commission, [Abusive and Offensive Online Communications: A Scoping Report](#), 31 October 2018, HC 1682 2017-19

Crown Prosecution Service, [Guidelines on Prosecuting Cases Involving Communications Sent via Social Media](#), 21 August 2018

HM Government, [Government response to the Internet Safety Strategy Green Paper](#), May 2018

Young Minds and the Children's Society, [Safety Net: Cyberbullying's impact on young people's mental health](#), February 2018

UK Council for Internet Safety, [Children's online activities, risks and safety: A literature review by the UKCCIS Evidence Group](#), 25 October 2017

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