



FSU
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Attacks on free speech in the UK under Sir Keir Starmer's Government

Since Labour's election victory in July 2024 (winning two-thirds of the seats in the House of Commons with the support of just one in five eligible voters), the right to free speech in the UK has been significantly eroded. This briefing sets out five things Sir Keir Starmer's Government could do to help restore this essential right.

1. Pause further implementation of the Online Safety Act

The Online Safety Act 2023 (OSA), passed by the last Conservative Government but which hasn't yet been implemented in full, hands extraordinary powers to Ofcom, the UK's communications regulator. More draconian than the EU's Digital Services Act, the OSA requires social media platforms, including those owned by US companies, not just to remove content flagged by the regulator as unlawful, but to proactively police online content and remove any content they themselves judge to be unlawful (something which is often unclear). This will inevitably lead to over-removal, particularly of content coded 'far Right', e.g. anything that challenges progressive orthodoxies on subjects like immigration, climate change and public health.

From 17th March, social media platforms will be legally required to protect users from 'online harm', which includes, but is not limited to, removing illegal content. Should companies like X and Meta fail to remove content from their social media platforms judged by Ofcom to be 'harmful' – including content that Ofcom thinks they should have determined is 'harmful' ahead of dispatching a take-down notice – the regulator can fine them [up to 10% of their annual global turnovers](#). Even if Ofcom confines itself to insisting these platforms remove illegal content, that will include the new criminal offence created by the OSA of knowingly sharing false information with the intention of causing "non-trivial psychological or physical harm" to a likely audience – in effect, spreading 'harmful' 'disinformation' has been criminalised. This offence became law in February 2024 and already [over 23 people have been prosecuted](#).

In fact, we think His Majesty's Government (HMG) intends to amend the OSA to expand Ofcom's (and by extension HMG's) censorial powers. Pro-censorship lobby groups with close links to Sir Keir are already urging HMG to grant Ofcom the power to force social media companies to remove content that is unambiguously legal even under the UK's draconian anti-free speech laws. For instance, the Center for Countering Digital Hate (CCDH), a Left-wing pro-censorship group with the self-professed ambition to "kill Musk's Twitter" and which was co-founded by Morgan McSweeney, Sir Keir's Chief-of-Staff, has [lobbied](#) for the Secretary of State at the Department for Science, Innovation and Technology to be given the power to designate legal but harmful content and "direct" Ofcom to remove it. The CCDH has said this power should only be granted in an "emergency", but that is hardly reassuring given that Left-wing lobby groups are constantly claiming we're in the midst of an "emergency" to justify the suspension of essential democratic rights. The CCDH has previously advocated for the removal of "climate denial" from social media platforms – both in the UK and the US – which it defines as "arguments used to undermine climate action".

Part of the OSA has already been activated, but Ofcom's hasn't yet been given the power to impose swingeing fines on American companies – that's still three weeks away. We think the Vice President should

push for a pause in the OSA's further implementation with a view to reviewing it in full as part of ongoing US-UK trade talks.

2. Amend the Investigatory Powers Act to protect privacy

His Majesty's Government recently [issued a Technical Capability Notice \(TCN\) to Apple](#) insisting that it create a backdoor to encrypted user data for all its customers, globally, regardless of whether they are UK citizens or not, and hand it over on request to UK law enforcement agencies. Rather than comply, Apple removed its highest level of data encryption for British users, hoping this would lead to HMG withdrawing the notice.

The TCN was issued under the Investigatory Powers Act 2016 (IPA), which grants UK law enforcement the right to issue legally-enforceable demands to US tech companies to facilitate access to encrypted user data in the course of investigating people, even in cases involving non-British citizens. To protect US tech firms and the privacy of US citizens, the Vice President should push for the following legislative reforms to the IPA:

- Amend Section 255 of the IPA to remove the pre-emptive compliance requirement, which forces US companies to build surveillance capabilities, e.g. backdoors to encrypted user data, before a TCN has been issued so they can comply immediately.
- Amend Section 257 to establish a proper appeals mechanism, allowing US companies to challenge TCNs more easily in UK courts.
- Limit Section 272's extra-territorial reach, ensuring TCNs apply only to the data of UK citizens resident in the UK, preventing HMG from trying to force US tech companies to comply globally, e.g. hand over the encrypted data of US citizens based in the US.
- Or, go further, and demand that TCNs be scrapped altogether, thereby protecting the privacy of UK as well as US citizens.

3. Stop funding censorship

There are a number of shadowy UK-based organisations/agencies, some organs of the state and some privately-owned (often working in partnership), lobbying for the suppression of online content that challenges progressive orthodoxies under the guise that it is 'mis/dis/malinformation' or 'hate speech'. This is the British wing of the global censorship-industrial complex and much of it is funded by the UK taxpayer, either directly because its personnel are paid by the state, or indirectly via grants from different departments of state such as the Foreign and Commonwealth Development Office, or via grants from foundations that are themselves part-funded by departments of state. The Vice President should demand that HMG stop funding these organisations/agencies. The FSU would be happy to produce a briefing detailing which of these are currently being funded by the UK taxpayer, focussing on their censorial activities in the US.

One example is HMG's secretive Counter Disinformation Unit (CDU), now rebranded as the National Security Online Information Team (NSOIT). It has 'flagged' comments by conservatives, including a Conservative MP, to social media companies, and those comments have subsequently been taken down. (See [Big Brother Watch's report](#) on the Ministry of Truth.) According to the [Telegraph](#), NSOIT recently awarded UK-based Faculty AI a contract worth £2.3 million to develop an AI tool to flag "concerning" social media posts so companies can be told to take "action", i.e., remove them.

4. Stop prosecuting people for hurty words

Dozens of people have been jailed in the UK for making supposedly 'racist' or 'inflammatory' comments on social media about the Southport attack last July in which a 17 year-old male called Axel Rudakubana killed three schoolgirls and injured 10 others. One man was jailed for eight weeks for [sharing three 'offensive' memes](#) on Facebook. The Vice President should urge Sir Keir to tell the police and Crown Prosecution Service to stop investigating and prosecuting people for hurty words on social media.

To give one example of the post-Southport clamp down on free speech, Jamie Michael, a former Royal Marine who served in Iraq and Sierra Leone, was prosecuted for a speech crime after posting a 12-minute Facebook video in the aftermath of the murders encouraging people to share their concerns with elected officials about the risk of allowing undocumented migrants into the country. Buffy Williams, Jamie's Labour representative in the Welsh Parliament, reported him to the police for a 'hate crime' and he was arrested and charged with "stirring up racial hatred", an offence under the Public Order Act 1986 which carries a maximum sentence of seven years. The FSU paid for his legal defence and at his trial earlier this month it took the jury just [17 minutes to return a unanimous verdict of 'Not Guilty'](#).

Some people have been prosecuted recently under s127(1) of the Communications Act 2003 for posting messages in small, private WhatsApp groups in which nobody in the group claims to have been offended. A person charged with this offence – sending a message via an electronic communications network that is "grossly offensive or of an indecent, obscene or menacing character" – does not have the right to trial by jury. The Law Commission of England and Wales recommended in 2021 that s127(1) of the Communications Act be repealed and the Vice President should urge Sir Keir to take this advice.

In recent weeks, a number of individuals have been charged with "causing harassment, alarm or distress" – another offence under s5 of the Public Order Act – for burning copies of the Quran in public, even though laws against blasphemy have been repealed in Great Britain. The Government has recently announced it will convene an 'advisory council' to draw up a legal definition of 'Islamophobia' which may then be embedded in official guidance to the police and prosecutors, with more people arrested for causing Muslims "distress" by breaching their blasphemy codes. In 2018, an All Party Parliamentary Group on British Muslims came up with a very broad definition of 'Islamophobia' that included drawing attention to the over-representation of Muslim men in Britain's grooming gangs, a definition that was subsequently endorsed by the Labour Party. Our fear is that this capacious definition will shortly be embedded in law, with hundreds of people being prosecuted for 'Islamophobia'. The Vice President should urge Sir Keir to repeal s5 of the Public Order Act and abandon plans to criminalise 'Islamophobia'.

5. Scrap Non-Crime Hate Incidents

The British authorities do not merely investigate and record 'speech crimes'. In 2014, the College of Policing invented a concept called 'Non-Crime Hate Incidents' (NCHIs), whereby if the police investigate a report of a 'hate crime' and conclude no crime has been committed they will record the incident as an NCHI which can then be disclosed by them to employers. Based on data obtained by Freedom of Information requests, the FSU estimates that ~250,000 of these have been recorded in the last 11 years in England and Wales alone – an average of ~62 a day. The Labour Government is [reported](#) to be planning to encourage the police to record even more NCHIs, particularly where the culprit is supposedly guilty of 'Islamophobia'.

NCHIs have often been recorded against Conservative political figures, including two former Conservative home secretaries (Amber Rudd and Priti Patel), as well as gender critical feminists for the sin of 'misgendering' (referring to trans women by their correct biological pronouns, e.g. 'he/him'). Scarcely a day breaks in Britain without another example of this kind of thought policing being brought to light, the latest being in the [Mail on Sunday](#) on 23rd February. A woman was visited by two officers from Greater Manchester Police after she criticised a Labour politician in a community group and his husband complained. They told the woman she hadn't broken any laws (not yet!), but felt duty bound to advise her of the complaint.

The Vice President should urge Sir Keir to scrap this Orwellian practice altogether. The British police should not be harassing people for committing 'non-crimes' when there are so many actual crimes that go unpunished.