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Introduction

For more than a decade, the Antisemitism Policy Trust has been seeking to improve the structures and facilities for addressing online harms, including antisemitism. The Trust strongly supports the introduction of a new regulatory framework, but would like to see a number of the recommendations in the Government's Online Harms White Paper strengthened, including on digital literacy and education for users.

The following briefing details the state of antisemitism online today, provides an overview of some of the successful prosecutions for internet-based antisemitism and includes several recommendations to build upon the proposals contained in the Online Harms White Paper consultation.

Antisemitism and Online Harms

Antisemitism online is growing and requires an intervention. The number of antisemitic incidents occurring online has increased exponentially. The Community Security Trust (CST) records antisemitic incident data. In 2015, there were 185 online incidents, and 697 cases in 2019,1 an increase of 277%. For an incident to be recorded, either the victim or the perpetrator must be based in the UK. If CST were to trawl for antisemitism it would have too many reports to count.

Anti-Jewish hatred online ranges from overt antisemitism to the often legal, but equally harmful, antisemitic stereotypes. Negative stereotypes found to be searched on Google include the smears "Jews are evil", "why are Jews so greedy" and "Jews are racist". Violent searches about Jews on Google are also numerous, such as "kill Jews" and "Jews must die". 2

In addition, gendered antisemitism is seemingly widespread. Of more than 9,000 threads on the neo-Nazi web forum Stormfront about feminism, 60% mentioned Jews. Similarly, on alternative 'free speech' platform 4Chan, American NGO Media Matters found 1.7 million antisemitic posts on the platform in 2017, an increase of 170% from 2015, whilst misogynistic posts numbered 840,000, an increase of 58% from 2015.

In British society today, 2-3% of the population, according to research from the Institute for Jewish Policy Research, are categorised as "hard-core" antisemites, but up to 30% have varying degrees of antisemitic views. The antisemitic views range from believing the Holocaust is a myth or that Jews have too much power in Britain to perceptions that Jewish interests in Britain are very different from the interests of the rest of society. These antisemitic views do not exist in isolation but have found their way onto online platforms, often blurring the line between legal and illegal.

- 1 https://www.antisemitism.org.uk/wp-content/uploads/2019/02/APT-Google-Report-2019.1547210385.pdf
- 2 https://www.antisemitism.org.uk/wp-content/uploads/2019/02/APT-Google-Report-2019.1547210385.pdf
- 3 https://www.antisemitism.org.uk/wp-content/uploads/2019/05/5982-Misogyny-and-Antisemitism-Briefing-April-2019-v1.pdf
- 4 https://www.jpr.org.uk/documents/JPR.2017.Antisemitism_in_contemporary_Great_Britain.pdf

Present Legislation

Several pieces of UK legislation can be used to prosecute illegal antisemitic online harms. However, many of these laws were passed prior to the development of social media and are falling short of what is required to protect the public. This section includes the present legislative framework which can be used to prosecute antisemitism online but does not include other pieces of legislation which can be used to prosecute other online harms, such as abuse based on sexual orientation, disability or gender.

Public Order Act 1986, Part III, Sections 17-23:

Under the Public Order Act, it is an offence to incite hatred against a group of persons based on "colour, race, nationality (including citizenship) or ethnic or national origins." A person cannot use, and written material cannot contain threatening, abusive or insulting words. Such material also cannot be published or distributed, and visual sounds or images which are of the same nature are illegal. Any person in possession of such material may also be found guilty if they intend to, or it is likely to, stir up racial hatred.⁵

Racial and Religious Hatred Act 2006 Part 3A, Section 29:

The act amended the Public Order Act 1986 by making provision for hatred against any "persons defined by reference to religious belief or lack of religious belief". This includes threatening words and behaviour and displays and written material, which is threatening, whether it be in a public or private space as long as it is seen or heard by others. A person is also guilty of an offence if a public performance includes threatening words or behaviour, intended to stir up racial hatred or distributes a recording of visual images or sounds. Possession of such material is also a criminal offence.⁶

- 5 http://www.legislation.gov.uk/ukpga/1986/64
- 6 http://www.legislation.gov.uk/ukpga/2006/1/schedule
- 7 http://www.legislation.gov.uk/ukpga/2003/21/section/127
- 8 http://www.legislation.gov.uk/ukpga/1988/27/section/1
- 9 http://www.legislation.gov.uk/ukpga/1997/40/contents

Communications Act 2003, Section 127:

A person is guilty of an offence for improper use of a public electronics network if they use the network to send a message or other matter that is "grossly offensive", indecent, obscene or menacing. A person is also guilty if they cause annoyance, inconvenience or needless anxiety with a knowingly false message.⁷

Malicious Communications Act 1988 (amended 2001):

A person can be found guilty of an offence if they send a letter, electronic communication or any article which is indecent or grossly offensive, a threat or information knowingly, or believed to be, false. A person can be found guilty if one of their purposes was to cause distress or anxiety. There is no necessity for the message to reach the recipient; it only needs to have been "sent, delivered or transmitted."

Protection from Harassment Act 1997:

The Act includes both offline and online behaviour. For an act to be legally deemed harassment, it must be repeated and unwarranted, causing the victim alarm or distress. It is considered harassment if the perpetrator knowingly, or a "reasonable person" would know the conduct amounted to harassment.⁹

Crime and Disorder Act 1998, Section 32:

A person can be found guilty of racially and religiously aggravated harassment if they commit an offence under the Protection from Harassment Act 1997, which is motivated by racial or religious hate.

Cases in the United Kingdom

Several cases of antisemitic online hate have been successfully prosecuted in the UK, but these form only a fraction of the total number of cases recorded by third party reporting services, such as the Community Security Trust. However, the number recorded far outweigh the number successfully prosecuted, indicating a shortfall in the strength of legislation to tackle online harms. These include:

David Bitton, 2018:

Bitton, from Altrincham, sent 600 "horrific" tweets to Greater Manchester Police and several others within the space of one weekend. These included antisemitic, racist and homophobic messages. Bitton pleaded guilty to 13 counts of racist and threatening communication under the Public Order Act¹⁰ and was sentenced to 4 years imprisonment.¹¹

Mark Meechan, 2018:

Meechan, also known as Count Dankula, posted a video on YouTube of a pug dog giving what appeared to be Nazi salutes with Meechan repeating the phrase "gas the Jews", 23 times, and "Sieg Heil". 12 Meechan alleged the video was a joke to annoy his girlfriend, but the video was viewed as "grossly offensive" by the court. He was found guilty under the Communications Act 2003 and received a fine of \$800.13

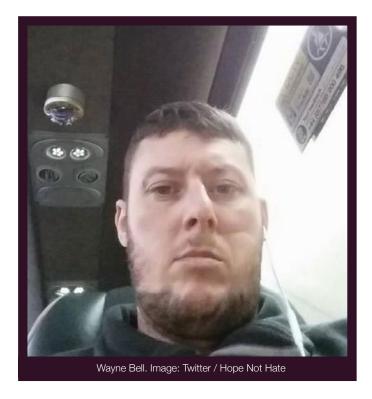
Alison Chabloz, 2018:

Chabloz, a musician, uploaded antisemitic songs on YouTube, including videos mocking Holocaust survivors. She also posted videos which called the holocaust a "bunch of lies" and labelled Auschwitz concentration and death camp a "theme park". She was found guilty of three offences under the

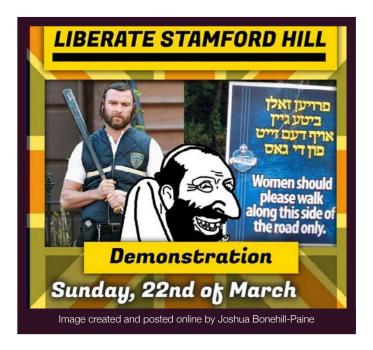
Communications Act 2003.¹⁴ She was sentenced to 20 weeks suspended sentence and banned from social media for two years.¹⁵

Wayne Bell, 2018:

Bell was a member of the far-right group National Action, proscribed as a terrorist organisation in 2016. He posted hundreds of tweets and comments on a Russian social media platform, calling Jews "destructive" and "vile". Another image depicted a Jewish man being hung by a rope with a Star of David. As well as online abuse, Bell engaged in a string of offline crimes, including graffiti. Bell pleaded guilty to two counts of stirring up racial hatred and three counts of possession with intent to destroy or damage property. He was sentenced to four years and three months in jail at Leeds Crown Court. 17



- 10 https://www.cps.gov.uk/counter-terrorism-division-crown-prosecution-service-cps-successful-prosecutions-2016
- 11 https://www.bbc.co.uk/news/uk-england-manchester-43042606
- 12 http://www.scotland-judiciary.org.uk/8/1962/PF-v-Mark-Meechan
- 13 http://www.scotland-judiciary.org.uk/8/1962/PF-v-Mark-Meechan
- https://www.wiggin.co.uk/insight/high-court-rules-on-conviction-for-offences-under-the-communications-act-2003-in-relation-to-the-post ing-of-a-hyperlink-to-and-a-video-of-offensive-material/
- 15 https://www.bbc.co.uk/news/uk-england-derbyshire-47230443
- 16 https://www.cps.gov.uk/cps/news/poster-boy-banned-neo-nazi-group-jailed
- 17 https://cst.org.uk/antisemitism/prosecutions



John Nimmo, 2017:

Prolific internet troll, John Nimmo, targeted Jewish former Member of Parliament, Luciana Berger, with a series of antisemitic death threats via email, including stating she would "get it like Jo Cox", the MP who was murdered by a far-right sympathiser. Nimmo also sent an image of a knife and told Berger to "watch her back Jewish scum". Nimmo was found guilty of nine offences under the Malicious Communications Act 1988 and sentenced to two years and three months imprisonment.

Lawrence Burns, 2017:

Burns was active in the now-proscribed terror group, National Action, and had posted antisemitic and racist messages on Facebook, including referring to Jews as "sub-human animals". He also called Jews cancer, maggots and an infestation to be exterminated. He was found guilty on two charges of stirring up racial hatred, contrary to the Public Order Act 1986,²⁰ and jailed for four years, later reduced to two and a half years by the Court of Appeal due to his young age and "poor educational background".²¹

Mahmudul Choudhury, 2015:

Choudhury posted images on Facebook of Hitler with the caption "Yes man, you were right. I could have killed all the Jews, but I left some of them to let you know why I was killing them. Share this picture, to tell the truth, a whole world". ²² He was convicted, after pleading not guilty, of using threatening, abusive or insulting words or behaviour or disorderly behaviour with intent to cause harassment, alarm or distress, and the offence was deemed to be racially aggravated contrary to the Public Order Act 1986 and the Crime and Disorder Act 1988. Choudhury was fined £485 and ordered to pay costs of £132.²³

Joshua Bonehill-Paine, 2015:

Following a history of internet trolling and targeting Jewish users, such as former Member of Parliament Luciana Berger, far-right activist Joshua Bonehill-Paine was found guilty of publishing written material intended to stir up racial hatred under the Public Order Act 1986. Bonehill-Paine had posted on his website grossly offensive images such as a negative caricature of a Jewish man next to Auschwitz with a bottle of "Roundup" weed killer spraying him, as an advertisement for "an anti-Jewification event" in Golders Green. Other images included a poster calling to "Liberate Stamford Hill", an area with a high proportion of visibly orthodox Jews. Bonehill-Paine was sentenced to 3 years and 4 months imprisonment.

Abdul Hafes, 2014:

Hafes, from Glasgow, sent a series of tweets which included racist, antisemitic and obscene material. He called for Kurds and Shia Muslims to "die like the Jews" as well as posting support for Daesh (ISIS). Hafes was jailed for 16 months, after pleading guilty to intending to stir up religious hatred.²⁴

- 18 https://www.liverpoolecho.co.uk/news/liverpool-news/jail-internet-troll-who-told-12588883
- 19 https://www.bbc.co.uk/news/uk-england-tyne-39008963
- 20 https://www.cps.gov.uk/counter-terrorism-division-crown-prosecution-service-cps-successful-prosecutions-2016
- 21 https://www.cambridge-news.co.uk/news/cambridge-news/national-front-cambridge-lawrence-burns-16684115
- 22 https://cst.org.uk/antisemitism/prosecutions
- 23 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/468992/Web_decision_-_Choudhury__ Mahmudul_-_0652224.pdf
- 24 https://www.scotsman.com/news/scots-father-jailed-tweets-asking-join-1525458

John Churchod, 2014:

Churchod sent antisemitic, homophobic and racist messages on Twitter. One tweet stated, "The world will exterminate you. As Hitler failed to do in entirely" and another said, "Jewish and gay, probably the worst combination ever". ²⁵ Churchod pleaded to guilty to sending grossly offensive, obscene or menacing communications and was sentenced to pay a fine of £1,000 and £650 in costs. ²⁶

Mohammed Sandia, 2011:

On the Scotsman newspaper's website, Mohammed Sandia wrote that Jews should be "attacked wherever you see them". He also called Jews a "genetically mutated inbred tribe. Jews are not fit to breathe our air...throw rocks are their ugly, hooknosed women and mentally ill children, and light up the real ovens". Pe pleaded guilty to a count under the Public Order Act 1986 for publishing written material which was likely to be threatening or abusive. He was sentenced in the Scottish courts as he was charged with publishing the comments at the Scotsman newspaper's address in Edinburgh. Sandia's sentencing was deferred by a year by the Sheriff, giving him a criminal record.

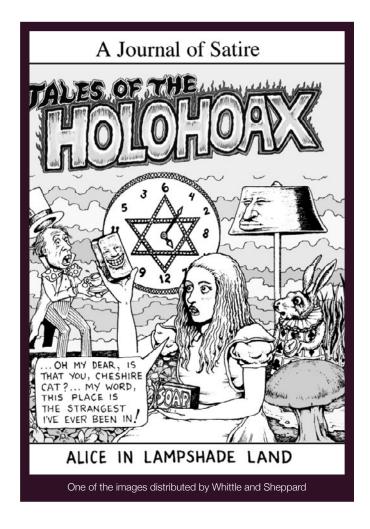
Andy Unwin, 2009:

Unwin sent abusive and antisemitic messages on Facebook about his girlfriend's previous employer. He was found guilty of two charges of abuse and was sentenced to three months imprisonment suspended for two years.²⁹

Simon Sheppard and Stephen Whittle, 2008:

Whittle was convicted of four counts and Sheppard was convicted of nine counts of publishing racially inflammatory material, under the Public Order Act 1986. After fleeing to the USA, Whittle was convicted on a further count, and Whittle a further two counts, of publishing racially inflammatory material. Two

of the counts related to material posted online by Whittle and Sheppard on the website www. heretical.com, including antisemitism, Holocaust denial and other racist content. Despite arguing that the material was hosted online in America, the court upheld that the content was uploaded in the United Kingdom and therefore constituted a criminal offence. Sheppard was sentenced to 4 years and 10 months imprisonment and Whittle was sentenced to 2 years and 4 months imprisonment.³⁰



- 25 https://cst.org.uk/antisemitism/prosecutions
- 26 https://www.bexhillobserver.net/news/crime/magistrates-court-round-up-1-6827885
- 27 https://www.thejc.com/news/uk-news/antisemitic-blogger-escapes-prison-term-1.30711
- 28 https://www.scojec.org/news/2010/10xi_sandia.html
- 29 https://cst.org.uk/antisemitism/prosecutions
- 30 http://www.bailii.org/ew/cases/EWCA/Crim/2010/65.html

The Online Harms White Paper

In April 2019, the Government released The Online Harms White Paper, which set out their plan to tackle harms on the internet, including hate speech and antisemitism. In response to the White Paper, APT submitted a response to the Government's formal consultation. The following section is based on our responses and recommendations included in that submission.

Regulatory Powers

The White Paper calls for an independent regulator to enforce the new framework, with broader responsibilities to promote education and awareness of online harms. In early 2020, the Government announced they were minded to appoint Ofcom as the regulator.

We are supportive of Government's intention to appoint OfCom as the independent regulator to enforce a new framework for addressing online harms. However, we would like to see the Government consider how existing legislation might be applied as part of any future regulatory regime. For example, the Equalities Act defines harassment as "unwanted conduct related to a relevant protected characteristic" that "has the purpose or effect of (i)violating B's dignity, or (ii)creating an intimidating, hostile, degrading, humiliating or offensive environment for B". It applies to (amongst other things) providers of services, members clubs or voluntary associations. It would be useful to understand whether the regulator will use existing legal powers to address hate-based harassment in particular contexts, considering those within the scope of its powers as 'providers of services'.

While we are supportive of the formation of the online harms regulator, we are concerned that this new regulator should work alongside, and in partnership with, other existing regulators in the online space. For example, we have worked closely with the British Board of Film Classification (BBFC) and respect their unparalleled understanding of harmful content. While we note that the White Paper specifically states that it will not impact on the online age suitability ratings of the Video

Standards Council Rating Board and the BBFC, this does not preclude the new regulator inadvertently duplicating or undermining these trusted regimes. With increasing convergence, it will be important for the new regulator not to expand their regulatory ambit into areas where existing online initiatives provide effective and trusted regulatory solutions protecting against online harms. We would welcome explicit recognition of the need to respect existing successful online regulatory initiatives.

We are very conscious of the international nature of online harms and therefore a range of regulatory approaches from voluntary to co-regulatory and statutory which can engage industry at the earliest opportunity in the development of new services would be welcome.

Scrutiny of the Regulator

We would expect Parliament to have a 'hands-on' role in scrutinising the proposed regulator. Given the impact of cyber harms, and the reach of the digital realm, it is important that parliament has confidence in the regulator, and that MPs can bring their experiences to bear on the organisation.

Accountability of Social Media Platforms

In addition to the proposed regulator, the White Paper sets out proposals for the review of relevant industry practice, including the facilitation of research and review by independent academics and researchers. The European Commission has worked with civil society organisations, including several in the UK, for a number of years, to monitor and evaluate the effectiveness of social media companies' self-regulation of illegal hate material online. We would strongly recommend that not only academics but expert groups such as those included in the European Commission monitoring, perform similar 'blind shopper' review processes in the UK. This would help to assess the reliability of transparency reports across the social media sector and could be supported by grants from the proposed regulator.

Super Complaints

The White Paper proposes the inclusion of designated bodies to make 'super complaints' on behalf of social media users. We are supportive of this measure, in particular circumstances. We would envisage that relevant Non-Departmental Public Bodies, or other regulators might bring such complaints, for example, the Equality and Human Rights Commission, or the Electoral Commission, when they have evidence to support a mode of behaviour having an impact on a group (in the case of the EHRC, for example, in the case of protected characteristic). Furthermore, we believe that representative groups with particular expertise should be able to formulate such super complaints. Concerning antisemitism, this might be the Community Security Trust, or for anti-Muslim hate, this might be Tell Mama. The selection of expert groups would require careful consideration and due diligence, and might include an application and vetting process including backing from, for example, the Police or other recognised authority.

The circumstances of a 'super-complaint' concerning antisemitism would likely include highlighting a systemic problem which threatens or incites hate against a group, or collection of individuals, as opposed to an individual although it might be that individuals could nominate groups to represent them in specific circumstances (for anonymity purposes).

To give a specific example, harms being caused to the Jewish community through the spread of conspiracy theories might not constitute a hate crime per se, nor be immediately obvious to a regulator but as our research has shown, antisemitic conspiracy theories are prevalent online and are having a specific impact concerning gendered antisemitism. Emergency circumstances might also lend themselves to a super-complaint being lodged, such as the Pittsburgh synagogue shooting and the associated revelations about the Gab.ai platform.

We believe that reporting and tracking of abuse should be easier for users in order that legal cases canbe more simply compiled andeasily brought. Where more than ten incidents of abuse have been reported, users should not be required to continue to make individual reports, and their cases should

be prioritised for action. We would encourage the Government to work to ensure that the proposed regulator has specific guidelines within the relevant Code of Practice to protect victims of repeat abuse.

Smaller Platforms and Other Services

Companies considered in the scope of the regulatory framework include those allowing users to share and discover user-generated content. This also includes start-ups, small and medium-sized businesses, and charities. The White Paper specifies that they will take into account "excessive burdens" to ensure a proportionate approach. However, the regulatory framework will not apply to "private channels".

We consider the scope of the services to be broadly well defined in the White Paper but expect that some platforms, such as those on which far-right, white supremacist and other groups have co-ordinated, to contest their designation. To that end, the definition of private services should not include, for example, 'free speech' platforms like 4Chan or 8Chan, on which far-right extremist content is readily available.

We would also strongly recommend further detail, specifically regarding the legal and regulatory status of private groups, like those on Facebook, formerly 'secret' groups. These groups can be the most problematic with respect to the organisation and encouragement of extremist and criminal activity. Lucy Powell MP's Ten-Minute Rule Bill included provisions that moderators or administrators of groups of over 500 people online would be legally liable for content posted within their groups, and for a ban of secret groups. Building specific provision and parameters for the regulation of such groups, however broadly defined, and ensuring any future Code of Practice is explicit in this regard, would be a welcome step.

We were concerned that there was no specific recognition in the White Paper that some services intergrated into platforms, provided by third parties, that do not fall into scope, can be used for online harms. Specifically, GIFs that can be found on Facebook or Twitter, can be used to devastating effect to cause harm. The definition of companies in scope must be clarified to ensure that services, including external services, employed by such companies, be included in the scope of the regulator.

Industry Codes of Practice

The proposed regulator will be pivotal in advising startup companies on good practice and implementation of minimum standards set out in the Codes of Practice. This should include:

- That safety features be integrated into search fields or systems, including by external providers.
- That technology companies develop algorithms to readily filter abusive words, accounts and pictures, and more effectively identify problem users and remove them.
- That companies establish single points of contact for police and security services.
- That a system of upscaling be introduced so that victims of multiple attacks need not repeatly report individual incidents.

Legal Online Harms

Critically, the White Paper recognises the impact of harms that might not be considered illegal but there is no specific reference to discrimination or antisemitism in the White Paper. We recommend that Government considers extending the harms included. For example, the BBFC uses "discrimination" as a category that it considers when classifying potentially harmful content. This can result in a higher age classification where the viewers are judged too young to be able to critically understand the racist or discriminatory commentary. The BBFC also refuses to classify content which is likely to cause "harm risks to potential viewers and, through their behaviour, to society". For instance, the BBFC refused to classify the online film 'Hate Crime' in 2015 because it consisted of nothing but an extended scene in which a Jewish family is subjected to racist abuse, violence and sexual violence in their own home. The BBFC concluded there was a risk that some viewers may be entertained by the abuse, and associate with the attackers.

The role of antisemitic conspiracy theories and Holocaust denial, which often do not cross the threshold to illegal online harms, are important concerns. Similarly, consideration of disinformation and misinformation should include anti-Jewish conspiracy theories and state-sponsored antisemitism. It is no coincidence that a disruptive, pro-Brexit Twitter bot, with possible links to the Russian State, was named 'Israel Bombs Babies'.³¹

We also believe that the general monitoring expected of companies within scope should include antisemitism specifically, given it is an indicator and driver of terrorism. Atrocities in Pittsburgh, San Diego, Christchurch and multiple others have proven this to be true.

With specific regard to disinformation, we believe that stronger provisions are necessary and should be included in any future Code of Practice. This would include:

- Election adverts accepted by platforms must comply with election law in the relevant country.
- Platforms verifying that the people who say
 they are placing and paying for election adverts
 are who they say they are and are not shell
 companies. They should also verify the country
 and company of origin of the money paying for
 election adverts.
- Platforms committing to doing this due diligence on election adverts before they are published.
- Publication of a transparency report after elections detailing all advertisement spend and numbers of views over an agreed threshold.

In recent months, Facebook and Twitter have improved their verification process for those creating political or campaign-based advertising, by requiring identification of moderators of the page. This goes some way to implementing due diligence, but we believe this should be monitored by the proposed regulator to ensure compliance.

Education and Awareness of Online Harms

The White Paper rightly calls for companies to invest in safety technologies for users. The focus of the White Paper in this regard is to curb online grooming. However, the need for safety tools and education for users about illegal online hate speech is fundamental to changing the behaviour of British citizens online, concerning antisemitism.

The Antisemitism Policy Trust continues to believe that the Government should make Personal, Social, Health and Economic (PSHE) education compulsory. There is a special imperative that online media literacy be well-conceived and delivered from an early age in the UK. This will help address the growing tendency towards conspiracy theory material online and gets to the heart of educating about antisemitism.

We believe the regulator should be specifically directed to work with the judiciary to enhance understanding of the digital world. Industry feedback suggests that action by judges still does not go far enough, in practical terms, to deal with the peddlers of cyberhate. Judges should be issuing sentences where relevant, that incorporate orders to ban individuals from holding multiple electronic devices, require the forfeiture of passwords, retain internet browsing history, delete the offending social media accounts, etc. More effective direction from judges in their sentencing and application of relevant judicial orders, including Banning and Criminal Behaviour Orders, would be welcome. Support offered by the regulator to ensure this is the case would be equally welcome.

The Antisemitism Policy Trust's mission is to educate and empower parliamentarians, policy makers and opinion formers to address antisemitism. It provides the secretariat to the British All-Party Parliamentary Group Against Antisemitism and works internationally with parliamentarians and others to address antisemitism. The Antisemitism Policy Trust is focussed on educating and empowering decision makers in the UK and across the world to effectively address antisemitism.

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