

UK: High Court Rules Against Police Investigation into Man's Tweets about Transgenderism

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UK: The High Court ruled that it was unlawful when police visited Henry Miller at his work place, and later spoke with him on the phone and implied that he could be prosecuted for his tweets about transgenderism. Miller was told he had not committed a crime, but it would be recorded as a non-crime “hate incident”. The court found the actions of the police were a “disproportionate interference” with Miller’s right to freedom of expression. While this was a victory for free speech, the court did reject Miller’s wider challenge against the lawfulness of College of Policing guidelines on hate crimes that allows investigation and recording of any incident that is *perceived* to be hostile or prejudice against a transgender person. Permission has been granted for Miller’s complaint against the policing guidelines to go straight to the Supreme Court.

The police response to an ex-officer’s allegedly transphobic tweets was unlawful, the High Court has ruled.

Harry Miller was visited by Humberside Police at work in January last year **after a complaint about his tweets**.

He was told he had not committed a crime, but it would be recorded as a non-crime “hate incident”.

The court found the force’s actions were a “disproportionate interference” with his right to freedom of expression.

Officers visited Mr Miller’s workplace and then spoke with him on the phone, and he was left with the impression “that he might be prosecuted if he continued to tweet”, according to a judge.

Speaking after the ruling, Mr Miller, from Lincolnshire, said: “This is a watershed

moment for liberty – the police were wrong to visit my workplace, wrong to ‘check my thinking’.”

His solicitor Paul Conrathe added: “It is a strong warning to local police forces not to interfere with people’s free speech rights on matters of significant controversy.”

‘Orwellian society’

Mr Justice Julian Knowles said the effect of police turning up at Mr Miller’s place of work “because of his political opinions must not be underestimated”.

He added: “To do so would be to undervalue a cardinal democratic freedom.

“In this country we have never had a Cheka, a Gestapo or a Stasi. We have never lived in an Orwellian society.”

Responding to the ruling, Helen Belcher, who co-founded Trans Media Watch, said: “I think trans people will be worried it could become open season on us because the court didn’t really define what the threshold for acceptable speech was.

“I think it will reinforce an opinion that courts don’t understand trans lives and aren’t there to protect trans people.”

Mr Miller, 54, also launched a wider challenge against the lawfulness of College of Policing guidelines on hate crimes, which was rejected.

Mr Justice Knowles ruled they “serve legitimate purposes and [are] not disproportionate”.

The guidelines define a hate incident as “any non-crime incident which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice against a person who is transgender or perceived to be transgender”.

Mr Miller posted a number of tweets between November 2018 and January 2019 about transgender issues as part of the debate about reforming the Gender Recognition Act 2004.

In one tweet Mr Miller wrote: “I was assigned mammal at birth, but my orientation is fish. Don’t mis-species me.”

This tweet was among several others which were reported to Humberside Police as being allegedly transphobic.

Mr Miller’s barrister, Ian Wise QC, argued the force’s response had sought to “dissuade him from expressing himself on such issues in the future” and had a “substantial chilling effect” on his right to free speech.

Mr Justice Knowles said Mr Miller “strongly denies being prejudiced against transgender people” and had regarded himself as a participant in a public debate.

He said only one person, known in court as Mrs B, had complained about the tweets and they had been recorded as a hate incident “without any critical scrutiny...or any

assessment of whether what she was saying was accurate”.

The judge said: “The claimants’ tweets were lawful and there was not the slightest risk that he would commit a criminal offence by continuing to tweet.

“I find the combination of the police visiting the claimant’s place of work, and their subsequent statements in relation to the possibility of prosecution, were a disproportionate interference with the claimant’s right to freedom of expression because of their potential chilling effect.”

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