

# Better redress: building accountability for the digital age

An evidence review from Doteveryone

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Redress is a cornerstone of trust and accountability in society. It enables individuals and communities to seek remedies for unfair treatment and can help tip the scales when a power imbalance becomes too great.

As technologies have become the infrastructure of life, existing systems of redress to right the wrongs that can accompany them have not kept pace. And as identified in Doteveryone's *Regulating for Responsible Technology*<sup>1</sup> research, improved access to redress as a vital element of creating an effective regulatory system for the digital age.

This paper explores in more detail the current digital redress landscape. Through desk research, an open public consultation and expert interviews, as well as our own previous research into how the public view,<sup>2</sup> experience<sup>3</sup> and engage with technology,<sup>4</sup> it charts public perception, the changing regulatory system and the gaps that exist.

And it identifies three challenges to address:

1. Defining meaningful outcomes for redress in the online world
2. Developing new structures fit for the scale and pace of online services
3. Making it easier to navigate digital complexity

Based on this evidence, we will be working with the online complaints service Resolver to design a new one-stop-shop for the public to understand their digital rights, and seek redress when online services fail to respect them.

## Public perceptions of online services

The internet is now the fundamental infrastructure of our lives. It's where we seek out news and democratic debate, find work, do our shopping, search for love, and cat videos. The ubiquitous online services that make up this world are widely recognised as a positive force in society: our *People, Power and Technology* research finds 50% of people think the internet makes life *a lot* better for people like them, while only 6% feel it's had a negative impact on them overall.<sup>5</sup>

But our relationship with the internet is complicated. Only 12% think it's had a positive impact on society overall. In recent surveys, only 5% of Brits trust social media platforms with their data,<sup>6</sup> and just 36% see search engines as trustworthy.<sup>7</sup> Half support greater regulation of the tech sector,<sup>8</sup> whilst the majority of people in the UK think tech companies put profits ahead of the welfare of their users.<sup>9</sup>

This “techlash” reflects a legitimate sense that the negative impacts of technological change are becoming increasingly prevalent and that companies could do more to protect people when things go wrong on their services.

Ofcom finds 78% of adults report unprompted concerns about using the internet,<sup>10</sup> ranging from misuse of data to cyber-scams and online abuse. Nearly two thirds of people have had a potentially harmful experience online in the last year alone.<sup>11</sup>

The nature of these negative experiences varies significantly. Parents and teenagers tend to worry more about the content and conduct that young people experience on the internet, while adults see personal data privacy, spam and fraud as bigger concerns.<sup>12</sup>

And since 2010 the Information Commissioner's Office (ICO) has handed out 216 fines that could reach a total of over £320 million, if British Airways and Marriott's appeals against their penalties are unsuccessful. Around half of these incidents relate to data breaches, with 27% due to nuisance calls and 22% for text and email spam.<sup>13</sup>

Across online services, from e-commerce platforms to search engines and social media sites, the issues encountered by people are diverse. Ofcom finds Facebook to be the platform where users most frequently experienced harm,<sup>14</sup> which reflected the experiences of some of those we spoke to in our own research.

*“I changed my profile settings and avoided all social media for a couple of weeks, as I did not want to have a repeat of the situation” - Research Participant who was subject to online sexual harassment. From *Engaging the Public with Responsible Technology*.<sup>15</sup>*

The perceived risk of potential harm can also create, in the words of consultation respondent Robert Seddon, a “pervasive chilling effects” of fears about going online: people may self-censor to avoid social media abuse or stay away from needed products and services they believe will open them up to scams.

But switching off is a poor remedy and deprives people of the benefits they can reap from digital products and services. Instead, people should be able to use technology, confident that if they face a problem, they have somewhere to turn. It's vital though that the solutions reflect the diverse and changing nature of problems people will encounter.

## Fast-moving regulation from GDPR to Online Harms

Digital regulation and technologies are constantly evolving. 2017 saw the introduction of the EU's General Data Protection Regulation (GDPR). In the UK, the Government's proposed Online Harms regulation, which promises a "world-leading package to keep users safe online", may come into law in 2020.<sup>16</sup>

Under these proposals online services will, for the first time, have a legal duty of care to protect users from over 20 types of "online harms", including both recognised illegal harms such as online hate speech as well as issues with fuzzier definitions like disinformation.

Regulation can be an important lever to promote responsible technology and halt the decline of public trust in online services.<sup>17</sup> But this requires the public to be able to exercise the new rights and protections regulation affords. Empowering the public to keep up with their evolving and increasingly complex digital rights is a significant challenge.

In the run-up to, and following the launch of the GDPR, both the European Commission and British Government ran extensive advertising campaigns to inform the public of their new data rights.

The ICO's *Your Data Matters*<sup>18</sup> campaign to raise public awareness of their rights under the Data Protection Act received 17.5m visits to the website in 2018/19, with around 9.5 million users.<sup>19</sup> This awareness drive was accompanied, for many, by a tsunami of emails from businesses to their customers advising them of the changes they had made to comply with these new laws.<sup>20</sup>

Even after these considerable efforts, a significant proportion of people are still yet to fully understand the powers GDPR grants them. Recent European Commission research found that a quarter of the UK public are aware of the legislation but don't know what it means for them in practice, while 28% had never heard of it.<sup>21</sup>

And in the e-commerce space, awareness of the different rights at play is mixed: Citizens Advice finds that 69% of the public feel comfortable of their rights when shopping online,<sup>22</sup> but in practice only 21% have an accurate understanding of "subscription traps" (where a consumer is tricked into agreeing to a subscription through the advertising of a "free trial" or reduced price offer online).<sup>23</sup>

Understanding gaps also extend to other digital rights. 45% of respondents to our *People, Power and Technology* research don't know the responsibilities online services have to them, with this figure rising to a high of nearly 60% for people in social grade DE, and those aged 55 and over.<sup>24</sup>

In the case of the online harms proposals - where harms have yet to be defined in law and the proposals has been publicly criticised for lacking detail<sup>25</sup> - engaging the public is likely to be even more challenging.

Our *Engaging the Public with Responsible Technology*<sup>26</sup> research has found that whilst people harbour general feelings that there are some bad things happening online, they frequently struggle to articulate the issues they encounter or connect them to abstract legal protections. For many, these experiences are just part and parcel of being online.

For others, the pace of change online is a source of daily stress. 35% of Brits are affected daily by debilitating stress from digital overload, with nearly two-thirds reporting that the need to read and keep track of information from too many sources is a major concern in their daily lives.<sup>27</sup> These pressures are only likely to grow as the dynamics of the online debate accelerate: academic research has found that the life-span of data is getting shorter online, with content receiving less collective attention and debate.<sup>28</sup>

As the online world grows in size and complexity, the issues people encounter within it will too. As the next generation of online risks emerge - from "deep-fake" video scams to the theft of biometric data - governments are likely to respond with regulation. But for these new laws to be effective, it is vital that government, online services and civil society work together to bring the public along with them too.

## The current landscape for digital rights and redress

Despite updates in legislation, the protections available to the public remain fragmented and often inadequate. Our research finds only 26% of people know who to turn to when they experience a problem online.<sup>29</sup>

And even when they do, their experiences are often unsatisfactory.

Companies are - and should be - the first port of call for people who've encountered a problem. There are currently few available statistics about either the number of complaints tech companies receive, or about users' satisfaction in how they are handled. And many people are sceptical that the platforms will act in good faith: 43% of *People, Power and Technology* respondents say they consent to online services' terms and conditions even if they have concerns, because the companies "will do what they want anyway".

Labour MP Yvette Cooper questioned what social media platforms were doing to stop harmful content, after being told three times in 18 months by senior staff that they were working on it and yet saw no change.<sup>30</sup>

*"You see stuff [on social media] and you think "I don't want to see that"... Thousands of people will report it, but two days later it will still be there."* - Ofcom Research Participant.<sup>31</sup>

Where people raise complaints to external bodies, the response is also poor. In April 2019, 9,000 cybercrime cases raised with Action Fraud had been held in quarantine and therefore went uninvestigated. And over half of the cybercrimes that were investigated over the past 5 years were closed without identifying a suspect.<sup>32</sup>

There are many issues which do not meet the threshold of a criminal investigation but where the public should have the right to have their complaints' heard and resolved. For these, the public must navigate a range of alternative dispute resolution (ADR) providers, regulators and consumer advocacy bodies.

Data issues are dealt with by the ICO, whilst organisations including Action Fraud and Citizens Advice offer support to victims of cyber-scams. E-commerce disputes can be referred to sectoral consumer ombudsman and ADR providers that deal with equivalent products in the offline world. The Independent Press Standards Organisation and IMPRESS arbitrate complaints about online news providers that have volunteered to be under their remit, whilst the Advertising Standards Authority scrutinises online advertising.

Even with this plethora of organisations, there remain gaps in the landscape. For example, in online gaming 65% of players report experiencing "severe harassment",<sup>33</sup> and the Anti-Bullying Alliance argues that platforms do not even enforce their own community guidelines in these situations.<sup>34</sup> Fortnite have received an 'F' rating from the

Better Business Bureau for ignoring 250 online complaints.<sup>35</sup> But there is no external enforcement body for people to turn to when these complaints are not resolved.

The Information Commissioner, Elizabeth Denham, has referred to the need for “*some form of an ombudsman or an intermediary*”<sup>36</sup> in this space. But the Government’s Online Harms White Paper stops short of proposing a new body to mediate individual complaints around online harms. With consultations still ongoing, it is unclear what redress will look like for online harms.

Whatever system is introduced for the digital world, it’s important that it does not scale and replicate the flaws of non-technology redress bodies. Support in the offline world is fragmented over a patchwork of 90 regulators<sup>37</sup> and hundreds of ADR providers, including a variety of Ombudsmen. Awareness of ADR mechanisms is typically low,<sup>38</sup> and the experiences of those that are able to access them is not positive: Money Saving Expert has found over half of Ombudsmen users were so dissatisfied with their experience that they were put off using them again. 60% of people felt that Ombudsman were biased against them - twice the amount who felt they were neutral adjudicators.<sup>39</sup>

Doteveryone and Resolver’s *Yes to Redress* research has found that people who are most able to access redress are often those who need it the least; they are likely to be disproportionately middle-class, university educated, white and male.<sup>40</sup> For these individuals redress, in the words of a leading ADR-provider, is seen as an “intellectual challenge to be conquered”,<sup>41</sup> with the principle of “winning” a dispute more important than the compensation that may be attached to it.

In plugging the gaps in the landscape of digital rights and redress, there’s an opportunity to rethink the approach to dispute resolution to address these underlying issues.

## Towards better redress online

Good redress is a vital part of restoring public trust in the tech sector, creating much-needed accountability and dialogue between online services and their users. We have identified three central challenges to realising better redress online:

1. Defining meaningful outcomes for redress in the online world
2. Developing new structures of redress fit for the scale and pace of online services
3. Making it easier to navigate digital complexity

### 1. Defining meaningful outcomes for redress in the online world

Business models in the online world rarely reflect the historical norms of the marketplace, where goods and services were sold to customers for a transparent price.

Today many online services are ostensibly free to use (in monetary terms, at least) but Hoover up people's personal data to generate revenue from targeted advertising and selling aggregated insights to third parties.

The problems people encounter online are often more complex than being ripped off whilst buying a sofa or getting a bad deal on an energy bill. Some harms - such as cyber-scams or fake Airbnb ads - are enabled by platforms but ultimately stem from the bad conduct of other users.

Other issues like abusive social media content or disinformation don't necessarily have an economic cost. In these cases where the impacts of a technology are felt democratically, emotionally and physically, offering people financial compensation alone risks adding insult to injury.

So what might good redress look like in the online world? For low-level problems it may be as simple as blocking content and tackling security vulnerabilities. Other proposals, including paying users a "data dividend" for use of their personal data<sup>42</sup> and placing levies on social media companies to fund the treatment of mental health problems<sup>43</sup>, seek to put a price on non-financial damages.

But for more severe harms, effective redress may also demand structural changes in the policies and design of online services, to give assurances that others won't fall victim to the same damaging experiences in the future.

This need is illustrated in the case of Molly Russell, the 14-year-old who took her own life in 2017 after viewing self-harm content that was algorithmically-promoted to her Instagram feed. Pressure from children's charities and Ian Russell, Molly's father, has led the company to change their algorithms and ban all content relating to self-harm on their platform.<sup>44</sup>

Pinterest's *Compassionate Search* initiative seeks to go one step further, as it proactively guides people searching for self-harm material to forms of external support, including

accredited behavioural therapy and more light-touch exercises like guided breathing and “journaling”.

Tech problems don’t always need tech solutions. For issues such as cyber-bullying, US academics are exploring in-person restorative justice as a form of redress.<sup>45</sup> This offline mediation is done in the hope of “maximizing the emotional health and relationships of both the victim and offender”.

But for online services, whose user numbers can reach into the billions, there are significant challenges of scale. For issues such as mass data breaches collective redress is needed.

Research for the European Commission found that 87% of UK consumers would be more willing to defend their rights if they could join with other consumers who suffered the same harm.<sup>46</sup> Collective redress is also a form of public engagement, a symbolic act that expresses the relative severity of companies’ misconduct to the public and motivates people to defend their rights in the future:

*“Beyond financial motivations, this case will make an example of one of the world's biggest companies, and show them that they need to follow the rules like everyone else”.*<sup>47</sup> - Richard Lloyd, *Google You Owe us*

Scale also poses difficulties for the organisations mediating complaints, where the number of cases can swell far beyond their capacity to respond individually in appropriate timescales. The government has implicitly acknowledged this challenge in the Online Harms White Paper: people will be able to alert the proposed regulator when online services neglect their duty of care to users, but the regulator “*would not normally adjudicate on individual complaints about companies*”.<sup>48</sup>

Where users are able to raise, but have no right to individual remedy or response, there is a risk that many will be left disillusioned by a lack of compensation or closure. Our *Engaging the Public with Responsible Technology*<sup>49</sup> research surfaced potential workarounds for these instances - for example, creating feedback loops that give complainants clear information on how their actions are contributing to collective demand for change, and direct them to communities of people with similar experiences.

## **2. Developing new structures of redress fit for the scale and pace of online services**

Change is needed at every stage of people’s online redress journey.

The tech sector, users, civil society and government must come together to define and uphold new standards and norms online. In our *Regulating for Responsible Technology* research we call for an Office for Responsible Technology to set best practice for how digital technology services handle complaints, auditing companies’ redress systems, spot-checking individual cases and publicly rating online services on their performance.



Several emerging international models are aiming to rebalance power between online services and other stakeholders. The rights organisation, Article 19, working in collaboration with Stanford University and the UN Special Rapporteur for Freedom of Speech, David Kaye, propose establishing international multi-stakeholder Social Media Councils to define new standards for content moderation on social media.

In Australia, the eSafety Commissioner mediates between platforms, victims and perpetrators for cases relating to cyber-bullying and image-based abuse.<sup>50</sup> The Haryana government in India has launched “online grievance redress mechanisms” for people to send real-time complaints around online services to government to allow them to intervene.<sup>51</sup>

Beyond these high-level institutional reforms, new systems of redress for online rights must draw on emerging good practice, emulating the ease-of-use and scalability of the online services under their remit. Many organisations’ case-loads are growing dramatically as online services scale and their users become more aware of protections available to them.

A number of emerging initiatives show what this good practice may look like. The Traffic Penalty Tribunal - an online tool for mediating parking fine disputes between drivers and Local Authorities - is the first digital tribunal service in the UK. Using accessible digital tools, that allow people to submit all evidence digitally, enable authorities to respond in real-time and bring both parties together for a virtual tribunal, the service has scaled up to manage 25,000 cases per year. Local Authorities have reported savings of £160 per case, more than halving the cost of the previous system.<sup>52</sup>

The Advertising Standards Authority has explored using machine learning to automatically find banned online adverts for botox treatments, and have developed “digital avatars” that simulate the online behaviour of children to scrutinise what kinds of adverts target young people online.<sup>53</sup>

### **3. Making it easier to navigate digital complexity**

Mistrust in tech companies and widespread low engagement with organisations supporting redress reflect the challenges people face to assert their rights online.

The fragmented nature of these systems exacerbates these struggles, with many struggling to know who to turn to: although 92% of respondents in our *People Power Technology* research said that they would like a single place where they could find their digital rights online, only 28% currently know who to turn to when things go wrong.<sup>54</sup> A recent discussion paper on redress in the digital economy recommends member states establish single points of contact for advice around online disputes.<sup>55</sup>

Resolver’s free-to-use online complaints resolution platform shows the potential of this one-stop-shop model. Since their inception, they have helped nearly 3 million users resolve consumer complaints across a range of sectors, triaging people to appropriate information and redress by answering a small number of questions. 95% of Resolver’s

users found the platform easy to use, and for closed cases 89% of consumers would use Resolver again to solve a dispute.

Other emerging services are also looking to hold platforms accountable to their users, cutting through the noise and opacity to give people accessible summary information about their choices online.

*Terms of Service; Didn't Read*<sup>56</sup> rates the fairness (based on a number of factors) of online services' terms and conditions and summarises the implications of consenting to them. Plug-ins such as *NewsGuard*<sup>57</sup> look to fight misinformation and questionable news reporting by rating the reliability of sources and developing "nutrition labels" for major news platforms.

## Creating a one-stop-shop for better redress online

In December 2019, Doteveryone and Resolver will be conducting further research to answer the questions we've uncovered in this evidence review: How can we create systems that remove the friction of standing up for your rights online? And what does meaningful redress look like in these instances?

We will then use these insights to develop a prototype concept for people to understand their digital rights, and seek redress when online services fail to respect them.

Alongside this we'll be exploring ways that this prototype can support the evolving landscape for digital regulation in the UK.

We will be thinking about how it can be structured to remain flexible to changing laws and - where there are gaps in the protections available to people - coming up with innovative ways for people to have their calls for change heard.

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