

# Index

---

- abuse of process 262, 263, 265
- academic freedom of speech 123, 240–41
- actual knowledge 231–2
- advertising 9–10, 128, 261
  - political 259–60
- Advertising Standards Authority 68
- Allan, TRS 21
- alternative dispute resolution (ADR) 20
- applicable law *see* choice of law in
  - defamation and regulation of free speech
- arbitration 288
- archivists 225
- Attorney-General
  - contempt of court 63, 85, 90–91, 92, 97, 100
- Australia 151
- autonomy 107, 116–17, 152, 156, 165, 174, 175, 176
  - death and content on Facebook 188, 194–5, 199, 200
  - private international law: state 251
- battery 215
- Belgium 219
- belonging, desire for 2–3
- blogs 18, 67, 73, 80, 89, 105, 255
  - Blogger 113, 225–6
  - contempt of court 86
- brands 82
- Brexit 1–2
- broadcasting 259–60
  - airtime, access to 113–14
  - Broadcast Code 69
    - common and ‘uncommon’ issues 71–3
- bullying 54, 57, 58, 114, 121, 129, 270
  - Facebook 143
  - businesses 253, 260
    - employers’ business reputation, protection of *see separate entry*
    - UN Guiding Principles (GPs): human rights and 142
- Canada
  - Canadian Broadcasting Corporation (CBC) 83–4, 92, 102–3
  - jokes, offensive 131–2, 150
    - complaints to SNPs 138, 140–41
  - celebrities *see* sporting figures, social media and regulation of morality
  - ensorship
    - collateral 111, 228–9
    - intermediaries 60, 222, 223, 228–9, 286, 288
- children
  - CPS Guidelines 137
  - protection of
    - Editors’ Code 70, 72, 79, 81
    - private and family life 121–2
- China 283
- choice of law in defamation and regulation of free speech 8–9, 270–91
  - alternative rules for online 281–4
  - competing values 285
  - double-actionability rule 271–3, 274, 276, 277–8, 279, 290
    - continuation of 284–5
    - online 280–82
  - legal and political indeterminacy in regulating online 284–5
  - reforms to choice of law in tort
    - European proposal 278–80, 284
    - exclusion of defamation from statutory 276–8

- Private International Law (Miscellaneous Provisions) Act (1995) 274–5, 277
- Rome II Regulation (2007) 275–6, 277, 278, 279, 281, 287
- social media 285–90
  - censorship 286, 288
  - non-state public online realm 287–90, 291
- civil society organizations 142
- confidence, breach of 275
  - misuse of private information (MOPI) tort 155, 165–6, 167, 171, 193, 275
  - human rights in residual jurisdiction rules of English courts *see separate entry*
- conflict of laws
  - choice of law in defamation and regulation of free speech *see separate entry*
  - human rights in residual jurisdiction rules of English courts *see separate entry*
- consent
  - death and unpublished content on Facebook 178, 196, 200
  - non-state public online realm 289
  - press regulation 79, 81
- contempt of court 6, 13, 63, 83–103
  - contempt by publication and the internet
    - context 86–7
    - instant communication 87–9
    - mass media vs social media 89–92
    - summary 92–3
  - jury and 85, 98–9, 103
    - context 93
    - juror comments 93–4, 98
    - juror research 94–6
    - summary 96
  - overview 85–6
  - responses and solutions 97–102
- contracts 15
  - death 180–81
    - Facebook 129, 179, 180–88, 191, 192, 194, 195–6, 197–8, 199, 200
    - employment 202, 208, 211, 213, 214–15
    - press self-regulation and 69
  - Hague Principles on Choice of Law in International Commercial 287
  - journalists: employment 69
  - non-state public online realm 289
  - private international law 251
- copyright 25–6, 101, 102
  - death and content on Facebook 178, 188–92, 193, 199–200
  - duration 190–91
  - fixation 188–9
  - Legacy Contact 187
  - originality 188, 189
  - notice-and-notice in Canada 140–41
  - notice-and-takedown regime in US 140
  - Twitter 146
- Corporate Accountability Index 145, 149–50
- corporate social responsibility (CSR) 154
- crime, communication and free expression 6, 13, 37–60
  - abuse from the crowd 57–8
  - analogy with public order law 38, 41–4, 59
  - defences 47–9
    - protecting speech through constituent elements of offence 44–7, 48
  - applying existing law 38–40
  - continuing growth of criminal law 55–6, 59–60
    - revenge pornography 56–7
  - freedom of expression 49–52
    - audience-focused approach 38, 49–50, 51–2, 59
    - context-sensitive analysis 52
    - crude and ill-informed views 51
    - needs of democracy 49, 50–51
    - speaker-focused approach 50–52
  - prosecution policy 52–5
- criminal law 166, 231, 284

- crime, communication and free expression *see separate entry*
- Crown Prosecution Service (CPS) *see separate entry*
- jokes, offensive 131, 131–8, 140
- private and family life 121
- cross-border issues
  - choice of law in defamation and regulation of free speech *see separate entry*
  - human rights in residual jurisdiction rules of English courts *see separate entry*
- crowd leaders 152, 154
- Crown Prosecution Service (CPS) 89, 133
  - Guidelines 38, 52–5, 59, 97, 135–8, 165
- culture, staying in touch with a 110–11, 112
- cyberpaternalism 15, 16, 22, 23
- damages 231, 243
  - exemplary 62–3, 69
- data protection 10
  - death and content on Facebook 193, 195, 196
  - European Union 10, 78, 98, 235, 236–7, 239–41, 254–5
    - death and content on Facebook 195, 196
    - extra-territorial effect 28–30, 31–2
  - individual rights and public interest 254
  - intermediary liability 223, 235–41
    - data controller 236–8, 239, 244–5
    - private and family life 115, 116
    - time limits 238
  - death and content on Facebook 7, 177–200
    - court orders 179, 185
    - executor for Facebook content *see below* Legacy Contact
    - illustrations of issues 178–9
    - Legacy Contact 186–7, 192, 194, 195, 196, 198, 200
    - Look Back video 179, 184–5, 195
    - memorialisation option 183–4
      - privacy 184–5, 195–6, 199
      - unfriending 184
    - moral rights 192, 194
    - privacy 178, 179, 181, 188, 192, 193, 194–7, 200
      - memorialisation 184–5, 195–6, 199
      - solutions for transmission 197–9
    - revisiting legal nature of Facebook content 188
    - copyright 178, 187, 188–92, 193, 199–200
    - property in content 178, 179, 180, 191, 193, 199
    - solutions 178, 197–9, 200
    - terms of service 179, 180–188, 195–6, 197–8, 199, 200
    - consideration 182–3
    - deactivation and removal of
      - account 185–6, 199
    - enforceability 182
    - impersonation 182
    - incorporation by reference 182
    - Legacy Contact 186–7, 194, 195, 196, 198, 200
    - memorialisation option 183–7, 195–6, 199
    - moral rights 192, 194
    - non-transferability of accounts 181–2
    - ownership of user-generated content 181, 182, 187–8
    - passwords 182
    - unconscionable 182
    - user decides on permanent deletion of account after death 187
  - unpublished content 178, 190–92, 200
    - privacy settings 191
    - user prompt 199
    - user-copied content 190
- defamation 3, 4, 19, 101, 202, 208–9, 213, 214–15, 220
  - choice of law in defamation and regulation of free speech *see separate entry*

- civil court allocation 244
- death 180, 194
- defences 215, 216, 222–3, 227–9, 277
  - Articles 12–15 of E-Commerce Directive 230–32, 233
  - common law 229
  - innocent dissemination 229
  - operator of a website 62, 232–5, 286
  - section 1 of Defamation Act (1996) 229–30, 232, 233
  - section 5 of Defamation Act (2013) 62, 232–5, 286
- different readerships 220
- from slander to libel: conversion of speech in social media 203–6
- government 216
- human rights in residual jurisdiction
  - rules of English courts *see separate entry*
- intermediary liability in English defamation and data protection law *see separate entry*
- jokes, offensive 129, 139, 140, 141
- Norwich Pharmacal* orders 243
- operator of a website 62, 101, 232–5, 286
- serious harm 217, 250, 263–4, 267, 268, 269
- Spycatcher* principle 242
- take-down order under section 13 of 2013 Act 243
- democracy 49, 50–51, 107, 115, 169, 176, 257, 260, 289
- denial of service attacks 19
- digital rights management (DRM) 17–18
- dignity 107, 116, 150, 164, 165
- The Dirty* 140, 141, 142, 152
- discrimination 119–20, 121, 174–5
- disintermediation 73–4
- domain names 26
- domicile 251, 252, 269, 283, 284
- double-actionability rule 266, 271–3, 274, 276, 277–8, 279, 290
  - continuation of 284–5
  - online: location of reader or recipient 280–82
- Dworkin, R 19–20, 32
- e-business 18
- e-commerce 18
- emails 116, 148, 182, 192, 193, 194, 201
- emoji 106
- employers' business reputation,
  - protection of 8, 201–21
  - absence of evidence of harm 218
  - dismissal 201, 202, 209, 210, 211, 214–15, 217, 218–19
  - employment contract 202, 208, 211, 213, 214–15
  - from slander to libel 203–6
  - intersection between social media and employment 206–9
  - workers, social media and UK 209–15
- loyalty and fidelity, duty of 217, 219
- reasonable responses test 209–10, 212, 217
- scope within the law 215–16
  - de minimis* 215
  - towards balance of interests 216–20
- social media policies 211, 212, 214–15, 218
- employment contracts 202, 208, 211, 213, 214–15
  - press self-regulation and 69
- ethnicity 25
  - Facebook 144
  - private and family life 122, 123
- European Union 17–18
  - applicable law 278–80, 284
  - Rome II Regulation (2007) 275–6, 277, 278, 279, 281, 287
- Charter
  - fair trial 261
  - freedom of expression and information 257–8, 259, 260–61
  - private and family life 257
- copyright 102, 189, 190–91

- cross-border torts 266
  - connecting factor for international jurisdiction 268–9
- data protection 10, 78, 98, 235, 236–7, 239–41, 254–5
  - death and content on Facebook 195, 196
  - extra-territorial effect 28–30, 31–2
- defamation 273, 275, 278
  - defences: Articles 12–15 of E-Commerce Directive 230–32, 233
  - ‘hosts’ under E-Commerce Directive 101
- human rights 254
- hyperlinks 102
- jokes, offensive
  - complaints to SNPs 138–9
  - press regulation 66, 78
- Evans, Ched 91, 161–3, 172–3, 175–6
- Everyday Sexism Project 128
- expression, freedom of 3, 6–7, 27, 104–15, 118, 124, 157
  - academic 123, 240–41
  - adaptation: right to ‘Internet freedom and access’ 255–6
  - airtime, access to 113–14
  - artistic speech 108, 129, 241
  - audience-focused approach 38, 49–50, 51–2, 59
  - autonomy, self-determination and dignity 107
  - behaviour of social media users 114–15, 122, 123
  - broadcasting: licensing 67
  - choice of law in defamation and regulation of free speech *see separate entry*
  - commercial speech 49, 108, 109, 129
  - CPS Guidelines 52–5, 59, 137
  - crime, communication and free expression *see separate entry*
  - data protection 239, 240–41, 244–5
  - democracy 49, 50–51, 107, 115, 169, 176, 257, 260, 289
  - disintermediation 73
  - employees 202, 206, 209, 212–14, 216, 217, 218, 219, 220–21
  - information, right to receive 110–12
  - intermediary liability in English defamation and data protection law 222–3, 244–5
    - breadth of publication concept 227, 228
    - EU: General Data Protection Regulation 239, 240–41
    - section 5 of Defamation Act (2013) 234–5
  - mapping path of speech complaint on social networks *see separate entry*
  - margin of appreciation 108–9, 117, 118, 258, 259
  - minorities, rights of 110–11, 112
  - morality 108–9
  - no right to access internet *per se* 112
  - non-political speech 49, 108, 109, 112, 212–13
  - offend, shock or disturb 167, 258
  - participation 50–52, 110, 289
  - political speech 49, 107, 108, 109, 129, 167
  - press freedom 50, 167, 221
  - press regulation
    - publication of correction or adjudication 77–8
  - private international law
    - choice of law in defamation and regulation of free speech *see separate entry*
    - residual jurisdiction rules of English courts for cross-border torts 250, 251, 254, 255–6, 257–61, 262, 263, 265, 266, 268–9
  - private sector and positive obligations 112–14, 115, 118–19, 120
  - private speech under-protected 109–10
  - residual jurisdiction rules of English courts for cross-border torts 250, 251, 254, 255–6, 257–61, 262, 263, 265, 266, 268–9
  - speakers’ rights 112
  - United States: free speech 27, 244, 277

- workplace 202, 206, 209, 212–14, 216, 217, 218, 219, 220–21
- extradition 24–6, 28, 31
- Facebook 4, 18, 79, 89, 91, 92, 93, 94, 112, 113, 271
  - death and content on *see separate entry*
  - gender-based hate 127–9, 143–4, 150–51, 154
  - mapping path of complaint 129, 130–31, 148–9, 154
  - appeals 144
  - counter-speech 144
  - illegal under local law 141–2
  - law of Facebook 143–5, 153–4, 288–9
  - liability risk 140
  - police 134–5
  - ‘report abuse’ link 130, 143, 144
  - transparency 149–50
  - privacy check up tool 199
  - quasi-public sphere 153–4
  - Statement of Rights and Responsibilities 143, 181, 182
  - workplace 204–5, 207, 211–13, 217–18, 219
- fair trial 25, 84, 99, 102
  - residual jurisdiction rules of English courts for cross-border torts 250, 261, 262, 263, 265, 266–9
- fines 240
- forgotten, right to be 60, 78, 98, 239–40
- forum conveniens* 256, 264–9
- fragmentation of law 282
- France 27, 31
- Fuller, LL 20, 32
- gender 130–31
  - CPS Guidelines 137, 138
  - Facebook 127–9, 143–4, 150–51
  - hate speech 122, 127–9, 143–4, 147, 150–52, 153
  - incitement to hatred 122–3
  - jokes, offensive 127–9, 143–4, 147, 150–52
  - online sexual harassment 151
- Godwin’s law 144
- good faith
  - journalists 50
- Grieve, Dominic 63, 90, 97
- habitual residence 268, 276, 278, 279
- hacktivism 106
- harassment 39, 41, 42, 75–6, 114, 120, 215–16
  - abuse from the crowd 57–8
  - course of conduct 165
  - CPS guidelines 53, 136, 137–8
  - Editors’ Code 75
  - Facebook 145
  - jokes, offensive 131, 132, 145
  - ‘oppressive and unacceptable’ 45
  - private and family life 121–3
  - reasonable conduct 48
  - revenge pornography 56, 131
  - sexual 151
  - Twitter 147, 148
  - young adults 151
- Hart, HLA 19, 20, 30–32
- hate speech 72, 270
  - Facebook 127–9, 143–4, 145
  - gender 122, 127–9, 143–4, 147, 150–52, 153
  - jokes, offence and 129, 132, 139, 141, 143–4, 145, 146, 147
  - gender 127–9, 143–4, 147, 150–52, 153
  - line between 150–54
  - private and family life 124
  - State’s obligation to take action against 114–15
  - Twitter 146, 147
- House of Lords
  - Communications Committee 57–9
- human rights 85, 102
  - contractual terms of service 129
  - expression, freedom of *see separate entry*
  - fair trial *see separate entry*
  - jurors and internet 96, 99
  - private and family life *see separate entry*
  - religion, freedom of 213

- in residual jurisdiction rules of
  - English courts 8, 249–69
- UN Guiding Principles (GPs):
  - businesses and 142, 150
- human rights in residual jurisdiction
  - rules of English courts 8, 249–69
  - challenges of social media 252–3
  - human and fundamental rights in digital age 256–61
    - expression, freedom of 257–61
    - fair hearing and trial 261
    - private and family life 257
  - integrating human rights 262–9
    - CPR gateways 264
    - double actionability rule 266
    - expression, freedom of 262, 263, 265, 266, 268–9
    - fair trial 262, 263, 265, 266–9
    - reconciling supranational and national norms 254–6
    - role of private international law 250–52
    - serious harm: section 9 of Defamation Act (2013) 250, 263–4, 267, 268, 269
- hyperlinks 102, 140
- illiberal viewpoints 174
- incitement to hatred 100
  - gender 122–3
  - race 166
- incitement to violence 114
- Information Commissioner
  - data protection 238
  - press regulation 81
- information society service providers:
  - defamation defences in arts 12–15 of E-Commerce Directive 230–32, 233
  - cache content 231
  - host content 231
  - mere conduits 231
  - online newspaper article plus reader's comment section 231
- injunctive 91, 98, 157, 172, 290
  - data protection 238
  - interim 238, 242, 243–4
- intangible property 193
- intellectual property 139, 140, 259
  - Facebook 143
    - death and content on 178
- intermediaries 60, 154
  - abuse from the crowd 58
  - censorship 60, 222, 223, 228–9, 286, 288
  - complaints to SNPs 138–42, 149–50, 154
  - contempt of court 100, 101–2, 103
  - intermediary liability in English
    - defamation and data protection law *see separate entry*
- Internet Service Providers (ISPs) 15, 100, 121, 141
  - data controllers 237–8
  - defamation: publication 225–7
  - defences: arts 12–15 of E-Commerce Directive 230–32
    - E-Commerce Directive: definition of 'information society services' 230
- intermediary liability in English
  - defamation and data protection law 8, 222–45
    - alternative in defamation law 223, 241–4
    - civil court allocation 244
    - Norwich Pharmacal* orders 243
    - Spycatcher* principle 242
    - take-down order under section 13 of 2013 Act 243
  - data protection 235–41, 244–5
    - data controller 236–8, 239, 244
    - erasure 239–40
    - rectification 239
    - restrict processing 240
- defamation defences 222–3, 227–9
  - Articles 12–15 of E-Commerce Directive 230–232, 233
  - common law 229
  - section 1 of Defamation Act (1996) 229–30, 232, 233
  - section 5 of Defamation Act (2013) 232–5, 241

- publication for purposes of
  - defamation 223–8
  - defences 228–34
  - search services 225, 226, 227
  - summary 234–5
  - time limits 233, 234
- Internet Watch Foundation (IWF) 142
- intestacy 178, 187, 196, 198–9
- Iran 27
- Ireland 88
  - death and content on Facebook 195
- Johnson, D 22, 23
- joint enterprise
  - abuse from the crowd 57–8
- joint and several liability 228
- jokes, offence and hate speech *see*
  - mapping path of speech complaint on social networks
- journalism
  - citizen 67, 82, 271
  - data protection 236, 240–41
  - freedom of expression 50, 77–8, 167, 221
  - pornography
    - revenge 56
  - press regulation *see separate entry*
- judicial activism 19
- juries
  - contempt of court 85, 87, 88, 90, 93–6, 98–9, 103
- jurisdiction 179
  - human rights in residual jurisdiction
    - rules of English courts *see separate entry*
- Kerr, OS 23, 24, 32, 33
- knowledge
  - actual 231–2
- Law Commission
  - England and Wales 86, 99–102, 103
  - New Zealand 95–6, 100, 102–3
- legal positivism 19, 20, 30–32
- Levenson, Bruce 158–9, 162–3, 164, 173, 174–5
- Leveson Inquiry 63, 68, 70, 71, 73, 77, 81
- Lewis, CS 2–3
- libel *see* defamation
- liberalism 174
- libraries 224
- 'like' icon 106
- LinkedIn 4, 18, 113, 118
- Look Back video 179, 184–5, 195
- MacKay, Malky 160–61, 162–3, 173, 174–5
- malice 232
- mapping path of speech complaint on social networks 7, 127–54
  - complaints to
    - police 46, 131–8, 148
    - social networking providers 138–42, 149–50, 154
  - Facebook 127–9, 130–131, 134–5, 140, 141–2, 148–9
    - law of 143–5, 153–4, 288–9
  - grievance mechanisms 149–50
  - line between hate speech, offence and jokes 150–54
  - mens rea* 46, 133–5, 140
  - regulatory path of speech 129–31
  - Twitter 129, 130, 132–4, 136, 139, 142
    - abuse filter 131
    - law of 145–9, 289
- margin of appreciation
  - expression, freedom of 108–9, 117, 118, 258, 259
  - private and family life 115, 117, 119, 121, 123
- market failure 157
- Mill, JS 156, 164, 171, 214
- minorities, rights of
  - expression, freedom of 150
    - staying in touch with a culture 110–11, 112
  - private and family life 119, 122, 123
- misogyny 122–3, 130–31
- misuse of private information (MOPI)
  - tor 155, 165–6, 167, 171, 193, 275

- human rights in residual jurisdiction
  - rules of English courts *see separate entry*
- mobile handsets 78
- Moody, Iain 160–61, 162–3, 175
- moral rights 192, 194
- morality 31, 108–9
  - sporting figures, social media and regulation of *see separate entry*
- mosaic effect 282, 287
  
- national security 9, 29
- natural law 20, 32
- network attacks 19
- New Zealand 28, 87–8
  - Law Commission 95–6, 100, 102–3
- Nigeria 26
- non-state public online realm 287–90, 291
- Northern Ireland 93
- Norwich Pharmacal* orders 243
  
- obscenity 55–6, 129
  - jokes 132, 136, 139
  
- parodies 146
- personality 260
  - right to develop one's 117
  - rights 194
- Phone-paid Services Authority 68
- photographs 189
  - contempt of court
    - contempt by publication and the internet 86–7, 91–2
  - copyright 140, 188, 189–90
  - death and content on Facebook
    - copyright 188, 189–90
    - Legacy Contact 186
    - memorialisation 184
  - Editors' Code
    - already in public domain 74–5
    - children 81
    - reporting of crime 80–81
  - injunctions 157
  - private and family life 116
  - public security 259
  - revenge pornography 56–7, 129, 131, 136, 143
- platformisation 18–19
- police 88
  - mapping path of speech complaint on social networks: complaints to 46, 131–8, 148
  - press regulation 81
    - Twitter 132–4, 136, 148
- polycentric law 20
- pornography 19, 119
  - revenge 56–7, 129, 131, 136, 143
- Post, D 22, 23
- press regulation 6, 61–82
  - accuracy 72, 76
  - citizen journalism 67, 82
  - confidential sources 70
  - controlling content 69
    - common and 'un-common' issues 71–3
    - Editors' Code *see below*
- digital 73–5, 81–2
  - applying Code online 78–81
  - operational issues 75–8
- Editors' Code 62, 69, 70–71, 74–5
  - already in public domain 75, 80
  - applying online 78–82
  - Committee 71
  - common and 'uncommon' issues 71–3
  - online comments and moderation 76–7
  - post-moderation 77
  - readers' letters 76
- enforcement 63, 68, 81
- facts and opinions 73
- impartiality 72, 73, 82
- Independent Monitor for the Press (IMPRESS) 81
- Independent Press Standards
  - Organisation (IPSO) 68, 70, 71, 76, 81, 82
  - applying Code online 78–9, 80–81
  - online comments and moderation 76–7
  - publication of correction or adjudication 77–8
- NUJ: Code of Conduct 62

- offensive material 72–3
- Office of Communications (Ofcom)
  - 65–6, 68, 70
- post-moderation 77
- Press Complaints Commission (PCC)
  - 67–8, 70, 71, 72, 74–5, 81
  - applying Code online 78–80
  - publication of correction or adjudication 77
  - readers' letters 76
- Press Council 67
- press law 81–2
  - press obligations (Law+) 62–3
  - press rights (Law–) 62, 63
  - public law (Law=) 62, 63
- Press Recognition Panel 68, 81
- regulatory boundaries 64–7
  - citizen journalism 67
  - newspapers and 'on demand programme services' 64–6
- regulatory structures 67–9
- Royal Charter on Self-Regulation 68, 81
- Twitter 78
- printers 224–5, 230
- privacy 56, 101, 129, 140
  - Broadcast Code 72
  - data protection 235, 238, 240
  - death and content on Facebook 178, 179, 181, 188, 192, 193, 194–7, 200
  - memorialisation 184–5, 195–6, 199
  - solutions for transmission 197–9
- Editors' Code 70, 72, 74–5, 79–81
- residual jurisdiction rules of English courts for cross-border torts 250, 251, 254, 256, 260, 263, 269
- Rome II Regulation 275, 276
  - proposed amendment 278
- settings on social media 79, 130, 191
  - Facebook: memorialisation 184–5
- sporting figures, social media and regulation of morality *see separate entry*
- Twitter 146
- private censorship *see censorship*
- private and family life 104–5, 107, 257, 267
  - communication in private sphere 115–24
  - autonomy 116–17
  - business activity 118
  - close ties, not limited to 117, 118
  - online persona 118
  - personal development 116–17
  - personality, right to develop one's 117
  - private sector and positive obligations 118–21
  - protection from bullying and harassment 121–3
- private international law
  - choice of law in defamation and regulation of free speech *see separate entry*
  - human rights in residual jurisdiction
  - rules of English courts *see separate entry*
- property rights 120
  - property in Facebook content 178, 179, 180, 191, 193, 199
- 'public by default' settings 79
- public figure, definition of 170–71
- public interest 110, 258
  - comedians 153
  - CPS Guidelines 53, 137, 138
  - crime, communication and free expression 47, 49–50, 51, 52, 53, 56, 59
  - data protection 254
  - intermediary liability in English defamation and data protection law 227
  - non-state public online realm 287
  - private sector and positive obligations 113, 114
  - sporting figures, social media and regulation of morality 163, 165, 166, 167–71, 173–4, 175, 176
  - workplace 213
- public shaming 60
- publicity, right of 193

- 'race to the bottom' 283–4, 285, 290
- 'race to the top' 285, 290–91
- rape jokes 152–3
  - rape joke groups 127–9, 130, 142, 144, 150–52, 153, 154
  - and Twitter's abusive behaviour rules 147
- rating websites 255
- rectification 239
- regulator, community as 127–9
- regulatory sanctions 60
- religion, freedom of 213
- republishers 225
- reputation
  - data protection 238, 240
  - private international law 251, 256, 258, 260
  - right to 123
  - workplace *see* employers' business reputation, protection of
  - see also* defamation
- retailers 224, 225
- Roma 122, 123
- rule of law on the internet 5, 33, 97
  - conflict of laws 27, 30
  - cyberlaw and cyber-regulatory theory 13–20
    - judicial activism 19
    - legal positivism 19, 20, 30–32
    - Lessig: 'code is law' 16–18, 23
    - platformisation 18–19
    - polycentric law 20
    - Reidenberg: *Lex Informatica* 15–16
  - definition 21
  - Dworkin 19–20, 32
  - empirical level 24–30
  - Hart's rule of recognition 19, 30–32
  - natural law 20, 32
  - principles 21
    - applied to everyone 21, 27–8
    - clear 21, 27
    - general 21, 27
    - law made public 21, 27
    - prospective 21, 26
    - stable and certain 21, 27
  - theoretical level 21–4, 26–7
- Russia 289–90
- Sacco, Justine 130, 147
- Scotland 88, 93
- search engines 101
  - data protection 238–9
  - data controller 237
  - forgotten, right to be 60, 78, 98, 239–40
  - injunctions 98
- search services 225, 226, 227
- self-regulation 16, 67–9, 71, 81–2, 139
- shame justice 152
- shaming, public 60
- slander *see* defamation
- Snowden, Edward 29
- social norm 4
- Solove, DJ 164
- sporting figures, social media and
  - regulation of morality 7, 155–76
  - coercion 156, 162, 165, 171–4, 175, 176
  - criticism vs individualism 166–76
  - definition of public figure 170–71
  - freedom-to-criticise doctrine 168–9
  - lionising and vilifying 175
  - misuse of private information (MOPI) tort 155, 165–6, 167, 171
  - privacy 155, 156–66
    - definition 163
    - Evans, Ched 161–3, 172–3, 175–6
    - invasion of 164–5
    - Levenson, Bruce 158–9, 162–3, 164, 173, 174–5
    - MacKay, Malky 160–61, 162–3, 173, 174–5
    - Moody, Iain 160–61, 162–3, 175
    - Sterling, Donald 158, 162–4, 173, 174
    - Woods, Tiger 157–8, 162–3, 173, 175
  - public image: device to sell products 175
  - role-model 168, 169–70, 173
- stalking 151
- statutory interpretation
  - compatibility with ECHR 44–6
- stereotypes 122, 159

- Sterling, Donald 158, 162–4, 173, 174  
 succession 178, 180, 187, 191–2, 196–7, 198  
     freedom of testation 194, 195  
 Tamanaha, BZ 21  
 technical standards  
     Reidenberg: *Lex Informatica* 15  
 terrorism 9, 270  
     -related/supporting speech 129, 139, 141  
     Facebook 143  
 Thailand 26, 27  
 torts 215  
     cross-border  
         defamation *see* choice of law in  
             defamation and regulation of  
             free speech  
         human rights in residual  
             jurisdiction rules of English  
             courts *see separate entry*  
         defamation *see separate entry*  
         fragmentation of law 282  
         misuse of private information  
             (MOPI) *see separate entry*  
         trespass to land 165  
 trade marks 146  
 trade secrets 193  
 transnational law 287  
 transparency  
     social networking providers (SNPs)  
         145, 149–50, 154  
 trespass to land 165  
 trolling 155, 156–7  
 tumblr 18  
 Twitter 18, 90–91, 92, 106, 107, 271, 285  
     abuse filter 131  
     mapping path of complaint 129, 130, 131, 142  
     context 152  
     hashtags 147  
     law of Twitter 145–9, 289  
     mute, block and report 147  
     police 132–4, 136, 148  
     ‘report abuse’ link 130, 148  
     safe harbour 139  
     transparency 145, 149–50  
     workplace 210  
 unconscionability 182  
 United Arab Emirates (UAE) 24–5  
 United Nations  
     Guiding Principles (GPs) 142, 150  
 United States  
     copyright 25–6, 27, 28  
         death and content on Facebook  
             189, 190, 192  
         notice-and-takedown regime 140  
     data transfers from EU 28–30, 31–2  
     death and content on Facebook 178, 179, 194, 196  
     copyright 189, 190, 192  
     probate assets 180  
     solutions 197–8  
     defamation 27  
         ‘single publication’ rule 283  
     extradition to 25–6, 28  
         .net domain name 26  
     free speech 27, 244, 277  
     intangible property 193  
     jokes, offensive 131, 134–5  
         complaints to SNPs 138, 139–40, 141  
     moral rights 192  
     rule of law for internet 17–18, 27, 33  
         data transfers from EU 28–30, 31–2  
         extradition 25–6, 28  
     sporting figures, social media and  
         regulation of morality  
         privacy 155  
     tort law: loss distribution 273  
 Verisign 26  
 VKontakte 290  
 waivers  
     moral rights 192  
 Web 2.0 252–3, 255, 261  
 Weibo 18  
 whistleblowing 217, 219  
 Wikipedia 88, 89

wills 178, 187, 191, 192, 198  
    freedom of testation 194, 195  
Women, Action and the Media 128  
Woods, Tiger 157–8, 162–3, 173,  
    175

WordPress 113  
workplace *see* employers' business  
    reputation, protection of

YouTube 89, 112

