Chilling Effects and Lawful Expression: Policy Briefing

Sam Glover, September 2026

Executive summary

- Evidence supports the notion that factors like surveillance disclosures, hostile audiences and the threat or anticipation of sanctions can create a chilling effect in particular settings, discouraging people from expressing themselves or seeking information. However, the strength of the evidence varies significantly between different activities and populations. Taking the evidence as a whole, it is not possible to estimate a clean, accurate figure for how much lawful expression is 'lost' in the UK. Similarly, the evidence does not establish that every restriction on speech produces this chilling effect – in fact, it suggests that some do not.

- Much of this briefing looks at recorded behaviour, which offers some of the strongest evidence. We can see clear reductions in certain types of information seeking, such as visits to sensitive Wikipedia articles or particular Google searches once individuals become aware they might be being surveilled. This can sometimes offer more compelling evidence than someone simply saying they feel silenced, but that doesn't mean we can equate these findings directly with reduced public expression, nor can we rule out individuals merely moving away from the studied platforms (Wikipedia, Google etc.) to seek information elsewhere.

- This briefing also looks at studies which measure reported discomfort or recollections of self-censorship. While these evidence are clearly relevant, we cannot simply count them all as instances of speech that would have otherwise occurred. In other words, a change in willingness to post alone does not necessarily demonstrate a change in real-world posting.

- Journalism also provides a useful lens to look at how legal threats can act as a mechanism for a chilling effect, through uncertainty, potential costs and unequal access to advice. However, the evidence does not allow us to establish the scale of lost lawful reporting. The evidence also suggests that some restrictions do not have a chilling effect, such as one study of Germany's NetzDG which found no reduction in commenting on the Facebook pages examined.

- In summary, chilling effects should absolutely be treated as a real risk – we should not simply assume they are from the fact a restriction exists, nor should we dismiss their existence because such an effect might be too difficult to observe. But context – as always – is key, and it is important to take care to distinguish between lawful and unlawful content, actual behaviour from self-reported behaviour, and actual withdrawal from a mere change in audience or platform.

Review question and scope

This policy briefing addresses three questions:

1. What is the evidence that surveillance, hostile audiences, legal threats and the threat of other sanctions – real or perceived – deter lawful expression?

2. What percentage of that evidence relates to observed behaviour, and how much relates to reported feelings or recollections?

3. What conclusions can reasonably inform UK policies on speech and expression, and where is more research required/does substantial uncertainty remain?

In this review, a 'chilling effect' can be understood as the deterrence of lawful expression, or the lawful seeking of information, that people intend to undertake but decide not to due to the impact of perceived surveillance or other adverse consequences. Care should be taken to not combine all outcomes into a single measure of harm. For example, abandoning a lawful criticism due to these adverse consequences is a very different outcome from the consequences deterring an unlawful threat, or declining to reveal private information. This paper is particularly concerned with examples of when such activity is lawful. Legal and theoretical literature shows that the threat or risk of adverse consequences can discourage individuals from engaging in such activity even in cases where they end up facing no actual, real-world consequences. This literature also warns that the concept alone cannot determine the appropriate legal rule (Schauer, 1978; Kendrick, 2013; Penney, 2022).

In assessing the evidence, we tried to determine two things: whether any causal effect can be identified (e.g. a randomised study of intentions might pick up on a cause of changed intentions), and whether the evidence measures the activity of interest. We were particularly interested in comparisons that help us to establish what might have happened with exposure to perceived surveillance, hostile audiences or the threat of sanctions. Particular weight was also given to studies that distinguish between different forms of expression, such as public expression, information seeking and personal disclosure.

This policy briefing also contains findings from surveys and interviews as they are able to reveal experiences and mechanisms that can often be missed by platform records. These are identified as reported experiences rather than independently observed changes. The number of cited documents should not be read as the number of independent tests, as some sources we have cited draw on the same or related research programmes.

Findings

Recorded information seeking provides credible evidence of change, but not necessarily why it changed or what the consequences were

It is possible in some cases to measure chilling effects outside of individuals or groups actively and publicly expressing concern. In fact, such cases often offer some of the most persuasive evidence. Penney (2016) shows that average monthly views of terrorism-related Wikipedia articles were around 19.5% lower after the June 2013 Snowden disclosures, perhaps demonstrating that, in light of the revelation that the NSA were viewing more of people's data than they previously thought, people were more reluctant to visit lawful content that could be perceived as showing an interest in terrorism. Using an interrupted time-series model, Penney establishes an immediate decline before and after the disclosures, one which is not reflected in broader use of Wikipedia as a whole.

Penney's study pertains to information consumption, and therefore is relevant to expression but does not directly measure whether individuals actively avoided expressing their opinions. Caution should be taken in drawing definitive conclusions from this 19.5% figure, which is a descriptive comparison rather than a causal estimate of how surveillance or perceived surveillance affected expression. Interest in terrorism-related information can, of course, fluctuate according to the news of the day, and while the additional comparisons made by Penney strengthen the inference, they cannot rule out every other possible explanation. It is also possible that people simply read similar material away from Wikipedia, something which the study does not measure.

Marthews and Tucker (2017) also examine internet activity before and after the Snowden disclosures, providing related evidence from Google searches in the United States and its 40 leading trading partners. The paper not only identifies a negative pattern in relation to information or interests that individuals might not want the government to know, but also to information or interests that individuals might want to keep private from people in their own personal lives, as well as searches related to health. Clearly, this broadens the concern beyond content that is overtly political. However, the study does not measure the effects of the surveillance programme itself; only the selected search terms in the wake of a publicity shock and increased public awareness of surveillance.

Penney et al. (2025) investigate the 2022 Dobbs decision in the United States, which overturned Roe v. Wade and ruled that the US constitution does not protect a right to abortion. They estimate that Wikipedia views relating to period-tracking apps received about 13% fewer views than researchers would have expected. Various comparison topics did not show an equivalent drop, suggesting that the context of the Dobbs decision may have led people to change how they search for information online. It does not, however, show that people searched for this information less than they previously did – they may have simply moved their searching away from Wikipedia specifically.

These studies give credible support to the hypothesis that individuals can be discouraged from seeking out information if they believe they are being watched, or that they might be at risk legally. The fact that we can see these patterns across different events and services strengthens that hypothesis further. However, the two Snowden studies, of course, share a major exposure, so we cannot use them alone as independent replications of different policy changes. We also cannot use the studies discussed to establish an easily-mappable percentage reduction for use in informing any potential new British policy. Rosso et al. (2020) also observe increased DuckDuckGo traffic in the wake of the Snowden disclosures, suggesting that some users placed

greater weight on the importance of online privacy. It is possible that such movement may mean that information seeking is preserved, even as search behaviour on monitored services changes.

Experiments strengthen causal inference, but tend to measure immediate responses rather than sustained public speech over a longer period

Festic et al. (2026) conducted a preregistered study, in which 827 German-speaking Swiss internet users were given 19 prompts over a period of six weeks. Each prompt was designed to bring surveillance to the front of the user's mind. The study showed that exposure to these prompts reduced an individual's comfort with sharing their opinion by 0.17 points on a five-point scale, with a 95% confidence interval from 0.13 to 0.21 points lower. Therefore, the study offers compelling evidence of a modest effect on the sharing of one's opinion when one is confronted with material reminding them of the existence of surveillance.

The study's methods and outcomes require careful description. Three separate things were measured: opinion sharing (users reported how comfortable they were with sharing an opinion), information seeking (users reported their comfort levels and were also asked to carry out a search and paste a result and link) and personal disclosure (users answered a question or chose an option which indicated their discomfort). However, it is important to state that these were structured tasks rather than any kind of observation into users' regular day-to-day lives. There were also two topics which were left out of the analysis because the attempt to make the surveillance more salient did not work as intended. Finally, there was no indication that more reminders reliably added up to greater discomfort.

Similarly, Stoycheff (2016) finds that reminders of surveillance condition the relationship between perceived opinion support and an individual's willingness to comment, share and like a hypothetical Facebook post. Stoycheff (2023), meanwhile, manipulates information about cookies and content moderation, finding evidence of chilling through negative emotion for surveillance, but not the same pattern for moderation. Here, the outcome is the stated likelihood of undertaking political activities in the following week. These results help to explain how surveillance cues can affect willingness – it should be noted that neither study counts subsequently published political statements.

However, there is also meaningful counter-evidence. Stubenvoll and Binder (2024) show that, from a study of 252 participants drawn from a larger sample of Austrian students, interventions designed to increase awareness of privacy issues did increase concerns around privacy, but did not result in the predicted changes in Google searching, news use or visits to social media. Furthermore, a difference in self-reported inhibition was not replicated in measured behaviour. The data was collected from the participants' main computer browser rather than all of their devices, but it still indicated that greater concern around issues of surveillance does not necessarily translate into less observable activity.

Similarly, Meier and Masur find that among 774 participants, surveillance-related news resulted in a small increase in participants' intentions to inhibit activity, but no clear, meaningful relationship was found between perceived surveillance and such inhibition. The study also found no clear evidence that participants experienced stronger or lasting effects from repeated exposure to such surveillance-related news. Therefore, the emerging literature does support some immediate effects but any conclusions on persistence, everyday behavioural magnitude and cumulative consequences are very hard to draw.

Observed silence is not automatically evidence of a chilling effect

While studies that make use of large behavioural datasets can help to reveal what people do, they don't provide any insight into why people refrain from engaging in lawful expression. Das and Kramer (2013) examine examples of drafted but unpublished Facebook content among 3.9 million users over 17 days. 71% of Facebook users exhibited at least some of this behaviour, indicating that refraining from publishing drafted content is relatively common among users of the site. That is to say, when reviewing the literature, it is important to consider that failure to publish content does not in and of itself indicate that someone is the subject of a chilling effect. Instead, they may have concerns about the quality of the content they're posting, or simply otherwise decide not to post content that they had drafted.

Research has also observed how expression changes under experimentally varied conditions. Hayes et al. (2010) pair people in discussions and find that participants were more likely to self-censor when their conversation partner disagreed with them. Nonetheless, showing that this effect occurs in a controlled experiment is not the same as showing whether or how strongly it affects ordinary public discussion in everyday life.

Research has also been conducted in relation to harassment. Wang et al. (2025) analyse interactions on X involving 13 women journalists and find that attacks are associated with slower posting or responses after said attacks. However, the small sample size of this selected group clearly limits generalisation. Furthermore, many other factors could also influence posting, such as changes in workload and the news issue of the day.

Evidence suggests threats of legal action can prevent lawful speech, but does not allow us to estimate how much lawful speech is being withheld

There is clear and relevant evidence of the effect of legal pressure on journalistic decisions in England and Wales. Townend (2014) reports two 2013 surveys of journalists and online publishers, in which respondents describe changing or abandoning reporting which they felt to be in the public interest because of concerns around libel or other privacy concerns. It is impossible to measure this effect solely through litigation statistics, because many encounters with the law involve threats or uncertainty outside of court proceedings. In other words, a threatened claim can affect publication without becoming a decided case.

However, there is no guarantee that these 'lost' stories would have been lawful, even if they served the public interest. The survey itself also has a small sample size, and was self-selecting. Therefore, it is very difficult to separate examples where appropriate legal care has been taken from ones where legal pressure has overstepped the mark.

Penney (2017) sheds light on how different forms of pressure can elicit different responses, adding comparative evidence from hypothetical online scenarios involving, for example, surveillance, regulation and/or legal notices. Notices that were personally received, alongside knowledge of government surveillance, elicited the strongest reported deterrence. On the other hand, an anti-cyberbullying scenario pointed towards greater willingness to share. It should be noted that, because respondents were describing reactions to scenarios, it does not establish how actual recipients of legal threats subsequently behaved.

Townend and Doughty (2025) analyse these issues through the prism of cases involving women's public allegations of abuse. Legal uncertainty, cost and interactions between proceedings are all shown to have the potential to restrict expression. The study is also one of the few to recognise that the field has a lack of reliable quantitative evidence on any potential gendered chilling effect.

In relation to protests over the proscription of Palestine Action under the Terrorism Act 2000 in 2025, conversations around protest have been particularly prominent in the UK in recent times. Gilmore et al. (2020), drawing on interviews with 31 anti-fracking protesters and visits to various protest sites, highlight experiences of policing and legal restrictions which protesters viewed as discouraging participation. Nonetheless, its findings concern the period studied and therefore should not be treated as an evaluation of later UK legislation, and so its relevance to the specific case of Palestine Action is limited.

Journalists can also be affected indirectly by surveillance, through their sources and professional practices. Human Rights Watch and ACLU (2014) report journalists and lawyers telling them that it can become harder to meet with sources and discuss potentially sensitive information under the threat of being surveilled. Journalists also report the added precautions being taken as indirectly chilling due to the hoops both parties have to jump through, like arranging in-person meetings or complicated encryption of communications – these steps can take time and cost money. Bradshaw (2017), on the other hand, finds that regional UK journalists have actually not significantly adapted their practices when dealing with sources. That does not in itself mean that surveillance is not having a chilling effect in this regard, but suggests we should not assume a uniform response across the country.

Surveys identify experienced inhibition, but we cannot estimate a policy's causal effect based solely on the percentage of those who experienced it

There are significant differences between feeling constrained by surveillance, intending to limit one's own speech and actions, and actually doing so – we should not conflate these three. In a survey of US writers by the PEN American Center and FDR Group (2013), 16% said that they had decided not to write or speak about a specific topic because of concerns around surveillance, while a further 11% said they had seriously considered doing so. Clearly, we cannot neatly combine these figures to say that 27% of these journalists chilled their speech or actions as a result of surveillance.

Hampton et al. (2014) highlights the discrepancy between what people say online and what people are comfortable saying in person – 86% of US adults say that they would discuss the Snowden revelations in person, while only 42% of Facebook and X (then known as Twitter) users said they would post about the revelations on those social media platforms. Factors like audience agreement, which we have already looked at, may feed into this discrepancy – the 86% know who they are 'talking' to, whereas the 42% do not.

Matthes et al. (2018) look further into this issue of perceived opinion support. From a synthesis of 66 studies with more than 27,000 participants in total, they conclude that there is a weak correlation of 0.10 between expression and the perception that an opinion will be supported or received sympathetically. That relationship can change according to the social setting, a finding which is backed up by Gibson and Sutherland (2023), who report increased self-censorship over time in US surveys but also report the importance of whether the subject is addressing or talking to a group which they perceive to be sympathetic.

Hayes et al. (2005) measure respondents' general tendency to withhold opinions when their audience disagrees, but the study does not identify exactly which opinions they decided to self-censor and why. Recent studies have delved deeper into understanding exactly what people are holding back in situations where they expect the other party to disagree. Segijn et al. (2026) distinguish reported responses to surveillance from companies from responses to surveillance by government, which provides more nuance. Sakariassen and Meijer (2021) show that people

can hold back for several reasons: the discussion feels hostile, they do not believe speaking up will do anything, or they worry about how others will see them.

Kappeler et al. (2023) explore how people understand surveillance and its effect on what they hold back, essentially asking how someone's knowledge that they are being watched relates to what they say or avoid saying. Daoust-Braun et al. (2026) find a link between the sense that one is being watched, the expectation of negative consequences, and the reporting that one has 'held back', but cannot establish that any of these individual senses or behaviours directly causes another. Büchi et al. (2022) proposes a potential pathway between believing an activity could have consequences, becoming more cautious, and intending to change one's speech. Together, these studies alone do not prove that new restrictions cause a behavioural change.

Restrictions can prompt people to adapt and/or resist

There are also studies in which the measured activity shows no decline. Maaß et al. (2024) analyse posts and comments on 10 popular Facebook pages before and after Germany's NetzDG came into effect, and find no change in either the number of comments, or a shift towards less negative comments. This is relevant counter-evidence to the belief that regulation by definition suppresses participation.

While repression has the power to silence its immediate targets, research shows that it can lead to others being provoked into expression. Pan and Siegel (2020) analyse more than 300 million X posts alongside search history, finding that, while previously imprisoned Saudi opinion leaders subsequently reduced their online expression, their followers increased their dissent and other prominent figures were not deterred from posting online. It is difficult to map an authoritarian legal environment onto the UK, but this is at least evidence that we have to take into account more than just the individual who is experiencing the repression.

Some studies also suggest that the sense that one is being watched can sometimes encourage an individual to remain engaged or increase engagement with a cause. Mak et al. (2024) find that, around the introduction of Hong Kong's national security law, fear of surveillance was linked to taking more privacy precautions, but continuing to participate in political expression and activity online. The reported response was often a narrowing of one's audience i.e. sharing with fewer or more carefully chosen people, rather than a full withdrawal. Krueger (2005) observes a similar link in the US, whereby opponents of the US administration tended to report more online political participation as they perceived themselves to be monitored.

Murray et al. (2024) and Stevens et al. (2023) show that counting posts or comments can overlook other nuances – their studies of affected participants in Uganda and Zimbabwe showed a more pervasive pattern of fear, distrust and difficulties organising collective action. Similarly, Posetti et al. (2021) document women journalists' accounts of experiencing their work in connection with threats and abuse online. In essence, these studies demonstrate that we need to think of the issue as more than just a question of how much people are speaking and posting; we must also consider who can still speak, to whom, and at what cost.

Discussion and policy implications

There is strong evidence that chilling effects can occur in certain settings. Experiments and detailed accounts of individual activity support the claim that when people are aware of potential surveillance or consequences for lawful activity, this is likely to inhibit both communication and information seeking. A broader claim, that surveillance in general is likely to produce a large and persistent reduction in lawful expression, is less strongly evidenced by the existing literature. Similarly, effects vary depending on methodology, exposure, and setting, and multiple studies produce null results.

With regards to surveillance in particular, the literature provides credible evidence that information-seeking activity can be reduced in response to known or anticipated surveillance. Similarly, there is strong support for a causal mechanism between surveillance (or anticipated surveillance) and reduced online information seeking.

Policymakers, when considering whether to implement some surveillance measure or other measure that could plausibly have a chilling effect, would be wise to interpret the uncertainty around the impact of chilling effects as a reason to be cautious about implementing more restrictions or surveillance measures. As a general principle, if we don't know whether some intervention is likely to have a chilling effect, the precautionary principle suggests that we ought to refrain from implementing the intervention without a specific analysis as to whether it is likely to have a negative impact on lawful expression.

There are several other key takeaways for policymakers in light of the evidence presented in this report. Firstly, the evidence suggests that people respond to perceived surveillance as much as actual surveillance. A law can therefore deter legal conduct even if the actual incidence of surveillance is rare. Similarly, laws that clamp down on speech can deter lawful individual expression even if the law results in only a small number of prosecutions for unlawful expression. When considering whether a law is effective, policymakers must consider the impact on ordinary lawful expression as well as the impact on "undesirable" speech.

Similarly, insofar as speech restrictions are necessary to prevent genuinely harmful speech (such as true threats or incitement to imminent lawless action), specific and narrow policy measures should be preferred to broad measures that can infringe on ordinary legal speech. Given uncertainty about the consequences of specific legislation or other rules can be part of the mechanism of chilling effects, policymakers should assume that broader laws are likely to have greater negative effects than narrow laws targeted at specific forms of speech.

It is also advisable for specific freedom of expression impact assessments to be carried out on any legislation or mechanism that could plausibly induce chilling effects. This would follow a broader principle already used in human rights law and other regulatory impact assessment: likely harmful effects of policy should be identified and reviewed before the implementation of policy, rather than after the legislation or policy has already been introduced.

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