

Freedom of Speech

Street Evangelism



Key Facts

- We have freedom in the UK to share the Gospel with others.
- The European Convention on Human Rights grants the right to freedom of religious belief and freedom of expression.
- It is lawful to preach the Gospel and hand out Christian literature on the streets to the general public without prior permission.
- The police occasionally use Section 5 of the Public Order Act to stop street preaching. This section has sometimes been misused by the police. Section 5 makes it a criminal offence to use insulting, threatening or abusive words or behaviour that is likely to cause harassment, alarm or distress.
- It is a criminal offence to cause an obstruction on a road or pavement.

Introduction

We have freedom in the UK to share the Gospel with others, and this freedom must never be taken for granted. The UK has a long tradition of street preaching, and many Christians have followed Jesus' command to:

"Go into all the world and proclaim the gospel to the whole creation. Whoever believes and is baptized will be saved, but whoever does not believe will be condemned."¹

The UK has historically been known throughout the world as a bastion of free speech and tolerance, yet there have been a number of recent challenges to freedom of speech in relation to street evangelism.

This booklet examines the law in relation to preaching on the streets and offers guidance on the legal rights of Christians to preach the Gospel.

¹ Mark 16v15-16 ESV

Freedom of speech and expression

The European Convention on Human Rights guarantees the right to freedom of religious belief (Article 9) and freedom of expression, including freedom of speech (Article 10).

Under our domestic laws, however, Section 5 of the Public Order Act 1986 makes it a criminal offence to use threatening, abusive or insulting words or behaviour with intent to cause harassment, alarm or distress.

Whether something can be considered “insulting” is highly subjective and therefore many feel that Section 5 is open to abuse.

Street preaching and sexual ethics

Freedom of speech is often tested when it comes to the proclamation of Christian sexual ethics in the public sphere. However, it is completely lawful to preach in public that homosexual acts are sinful.

There is a free speech clause, tabled by Lord Waddington as section 29JA in the Public Order Act 1986, which states that:

“In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred”.

This clause allows people to criticise homosexual acts and to urge people to refrain from them, without breaching Section 5.



Case studies

Unfortunately, despite the Waddington free speech clause, there have been a number of Christians who have been arrested under Section 5 of the Public Order Act 1986 for mentioning homosexuality, often after the police have received a complaint from a member of the public that they felt “insulted”.

This has led to widespread concern at the way the police have used Section 5 when dealing with street preachers.

Christian Legal Centre client Michael Overd was arrested in October 2010 for preaching the gospel in Taunton, Somerset. During his preaching he stated:

“Even these dear men caught in homosexuality, if they ask God for forgiveness of sin can be forgiven their sin; God loves them that much.”

The two men concerned subsequently made an official complaint to the police, and Mr Overd was charged under Section 5 of the Public Order Act 1986 for words which allegedly caused harassment, alarm or distress.

Mr Overd denied that he insulted the homosexual couple and maintained that he simply acknowledged them and spoke about the hope, restoration and forgiveness that can be found in Christ.

Defended by Standing Counsel to the Christian Legal Centre, Paul Diamond, Mr Overd was acquitted as the magistrates found that he did not intend to cause harassment, alarm or distress. The case was a significant victory for freedom of speech.

Michael Overd’s case was not an isolated one however. There have been many incidents where the police have used Section 5 in an attempt to stop evangelism. For example:

- In 2002, Harry Hammond was successfully convicted under Section 5 for holding up a sign saying that homosexuality was immoral. Some members of the public had become angry. When police were called, they arrested Mr Hammond. He was convicted and fined several hundred pounds. The High Court later upheld the conviction saying that magistrates were entitled to find the sign “insulting” to homosexuals.
- In 2008, Anthony Rollins, who suffers from autism, was arrested under Section 5 and put in handcuffs after street preaching in Birmingham because a bystander complained that he read out a Bible passage on homosexuality. Mr Rollins described the event as making him feel “anxious, shocked and very humiliated”. Police were later ordered to pay him £4,250 in compensation.

- In 2008, police officers used Section 5 to try and stop Andy Robertson from preaching in Gainsborough marketplace, claiming that people might be “offended”. He refused to be intimidated, continued preaching and was not arrested.
- In 2008, Miguel Hayworth was questioned and detained by police in Kent after preaching from a passage in the Bible that states that homosexual behaviour is sinful. He was later released and allowed to continue preaching. After intervention by the Christian Legal Centre, the police offered him compensation for false imprisonment.
- In 2010, Dale Mcalpine was arrested and charged under Section 5 because he told a police officer, who was asking him questions following his street preaching, that he believed that homosexual acts were sinful. He had not actually mentioned homosexuality in his street preaching. Mr Mcalpine later won £7,000 plus costs from Cumbria Police in settlement for a claim of wrongful arrest, unlawful imprisonment and breach of his human rights.

It is clear from these examples that the police sometimes misinterpret the law in this area. Police officers often need to be reminded that criticism of sexual acts is permitted under the Waddington free speech clause.

If an arrest is made, the Courts usually uphold freedom of speech, and a number of street preachers have therefore been compensated for wrongful arrest.

If preaching includes references to homosexuality then we must remember that the Gospel is a message of hope and grace.

Section 29AB of the Public Order Act 1986 makes it a criminal offence to use threatening words or behaviour with the intention of stirring up hatred on the grounds of sexual orientation. Therefore Christians should be very careful to distinguish between homosexual ‘orientation’ and homosexual practices.

Reform of the law

There is now a campaign underway to remove the word “insulting” from Section 5 of the Public Order Act 1986 in order to protect freedom of speech from being eroded any further.

The Home Office recently held a consultation on whether or not to retain the word “insulting”, and is currently in the process of reviewing the public’s response.

Former Director of Public Prosecutions Lord Macdonald QC has thrown his weight behind the campaign and told Radio 5 in May 2012:

“I think if we got rid of the word insulting it would simply provide a better balance between public order and free speech.

“One of the things we need in the law is consistency and I think it’s precisely because the term insulting is so imprecise that you’re going to get rogue decisions if legislation contains those sorts of terms.”

There is strong cross-party support for a reform of the law in this area and we hope that the word “insulting” will be removed from Section 5.

Breach of the peace

Sometimes street preaching can cause those hostile to the message to become unruly and attempt to disrupt the preaching.

If people start being hostile or aggressive towards an evangelist, then it should not lead to the evangelist being arrested. The police should protect street evangelists whilst they exercise their right to freedom of expression. This was affirmed in the case of *Redmond-Bate v Director of Public Prosecutions* in 1999.²

In this case, a policeman arrested three Christian women after a crowd of people started showing hostility to the women’s preaching.

The police officer feared a breach of the peace and asked the women to stop preaching. After they refused, he arrested the women for breach of the peace. One of the women was later convicted for obstructing a police officer.

However, this conviction was overturned on appeal as the Court found that the threat of violence, and hence the breach of the peace, came from the crowd, not from the women who had been preaching.

In his ruling, Lord Justice Sedley clarified that:

“If the appellant and her companions were ... being so provocative that someone in the crowd, without behaving wholly unreasonably, might be moved to violence, he was entitled to ask them to stop and to arrest them if they would not. If the threat of disorder or violence was coming from passers-by who were taking the opportunity to react so as to cause trouble ... then it was they and not the preachers who should be asked to desist and arrested if they would not.”

² See *Redmond-Bate v Director of Public Prosecutions* [1999] EWHC Admin 732 (23rd July 1999) Case no: CO/188/99 Queen’s Bench Division (Divisional Court).

Can Christians hand out tracts?

Christians are allowed to hand out tracts, Bibles or other Christian books without a licence, but if the police decide that an obstruction is being caused then they can move you on.

You should feel free to seek to resolve any difficulties by speaking in a friendly and calm manner to the police officer in charge. A minor obstruction may be resolved by moving on a short way, or by reducing the number of people distributing leaflets.

Obstruction or noise nuisance

Should you wish to preach the Gospel on the streets, there is no requirement to give notice to anyone in order to do so.

However, it is worth checking whether there are any Bye laws (i.e. laws made by the local authority in your chosen area) which may affect street evangelism by restricting certain activities.

Be careful not to:

- Cause obstruction on the road or pavement e.g. by using a table or display that occupies a large proportion of the pavement in a heavily used area. If you are causing an obstruction this amounts to a criminal offence under section 137 of the Highways Act 1980 punishable by a fine of £1000 as laid down by section 17 of the Criminal Justice Act 1991; or
- Cause a noise nuisance by, for example, using loudspeakers between 9pm and 8am. Speaking at a volume loud enough for pedestrians to hear you in a busy street is acceptable; this can be relatively loud, and you can use voice amplification if necessary. A number of individuals can speak at the same time without the noise level becoming a nuisance.³ Since local authorities often issue codes on permissible noise levels, it is advisable to check the codes with the local authority of your chosen area in case any restrictions are in place.

³ See for example *Munt v Beasley* [2006] EWCA Civ 370 (04 April 2006) at: <http://www.bailii.org/ew/cases/EWCA/Civ/2006/370.html>

What happens if I am arrested?

If the police are in attendance during any street evangelism, you must remember that they are supposed to protect you and allow you to exercise your right to share your faith. Assuming you are not doing anything that appears to be illegal, they have no right to stop you from preaching. However, in the rare event that there is opposition from the police and you are arrested, make sure that you contact a solicitor.

You can call the Christian Legal Centre's 24-hour emergency phone number, 07712591164, and we will endeavour to represent you at the police station, or to send a responsible agent to represent you. There is a strong possibility that you will be interviewed before you are released. It is always advisable to have someone at the police station with you when you are being interviewed.

Make Your Voice Heard

If you agree that the freedom to preach the Gospel should be defended, and if you want to help us promote Christian truth in the public sphere, then you can do so by joining our mailing list (details below) and finding out more.



About Christian Concern and the Christian Legal Centre

Christian Concern is a campaign group and a policy and legal resource centre that seeks to promote Christian truth in the public sphere.

The team of lawyers and advisers at Christian Concern conduct research into, and campaign on, legislation and policy changes that may affect Christian freedoms or the moral values of the UK. Christian Concern reaches a mailing list of over 65,000 supporters.

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Please visit our website at www.christianconcern.com to join our mailing list and to find out how you can join in with our campaigns.

In particular, please join our 'Not Ashamed' campaign, where you can buy merchandise which contains the sign of the cross and which can be used for evangelistic purposes. You can visit the website at:

<http://www.notashamed.org.uk/>

Christian Concern has a sister organisation, the Christian Legal Centre, which takes up cases affecting Christian freedoms and supports individuals who have been persecuted for their faith. <http://www.christianlegalcentre.com>

Important Note

This booklet is designed to give you a clearer understanding of your rights and responsibilities when sharing your faith in public. It is not legal advice and we will not be held liable for any inaccuracies or for anything said or done in response to its contents. This is a specialist field of law and each case is dependent on its own facts. You should seek the advice of a solicitor if you have any specific queries, or contact the Christian Legal Centre.

