

Freedom of Speech

Key Facts

- We have freedom in the UK to share the gospel with others.
- It is lawful to preach the gospel and hand out Christian literature on the streets to the general public without prior permission.
- The European Convention on Human Rights grants the right to freedom of religious belief and freedom of expression.
- The police occasionally use UK law (Public Order Act 1986 and the Crime and Disorder Act 1998) to stop street preaching, but sometimes the police misuse their powers, leading to Christians being arrested and charged with criminal offences.

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.” Mark 16:15-16 ESV

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

This booklet examines the law in relation to evangelism on the streets and offers guidance on the legal rights of Christians to share the gospel.

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, which includes freedom of speech (Article 10).

Controversial opinions expressed in strong language are protected under Article 10,¹ and the court must have regard to “the special degree of protection” afforded to expressions of opinions which are made “in the course of a debate on matters of public interest.”²

1 Such protections do not extend to statements that incite violence against an individual or a sector of the population.

2 ECHR, *Hoffer and Annen v. Germany*, Application nos. 397/07 and 2322/07, judgment of 13 January 2011, § 44.

Under UK law, however, Section 5 of the Public Order Act 1986 makes it a criminal offence to use threatening or abusive words or behaviour with intent to cause harassment, alarm or distress. This law is the one which is most commonly used by police officers when they want to challenge those who are taking part in street evangelism and street preaching.

Even so, public authorities must ensure that their interpretation and application of the Public Order Act is compatible with the protections guaranteed under the European Convention on Human Rights.³

Examples of Protected Speech

Sandown Free Presbyterian Church [2011]

A church in Northern Ireland sought to respond to a gay pride parade which had a banner that read: *Jesus is a fag*.

The church responded stating that *“The act of sodomy is a grave offence”* and *“an abomination.”* The High Court held that:

“The applicant’s religious views and the biblical scripture which underpins those views no doubt cause offence, even serious offence, to those of a certain sexual orientation. Likewise, the practice of homosexuality may have a similar effect on those of a particular religious faith. But Art 10 protects expressive rights which offend shock or disturb”.

Michael Overd

Christian Legal Centre client Michael Overd was arrested

³ Section 3 (1) of the Human Rights Act 1998 states: “So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.”

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.

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.

Redmond Bates v DPP, per Sedley J

Free speech principles were outlined as follows:

“Free speech includes not only the inoffensive, but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative, provided it does not tend to provoke violence. Freedom only to speak inoffensively is not worth having.”

Handyside v. United Kingdom

The court noted that:

*“Freedom of expression constitutes one of the essential foundations of a [democratic] society, one of the basic conditions for its progress and for the development of every man... it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that **offend, shock or disturb** the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no ‘democratic society’”. [emphasis added]*

There is no right not to be offended, or subject to views that one does not agree with.

Preaching from the Bible

Freedom of speech on the streets is often tested when people talk about the exclusive nature of salvation through Jesus Christ alone, that no other religious belief can lead to God and when they talk about the biblical position on marriage and sexual ethics. This can lead to the preacher being wrongly accused of espousing hate, though it is completely lawful to explain what the bible teaches and it is loving to do so.

The term 'hate speech' lacks a clear legal meaning, and has become highly politicised with the police and the courts showing extreme sensitivity when either homosexuality or Islam are criticised. In making an arrest, the police may say that their focus is not on the content of the message, but rather on the manner of the speech, and thus they are not censoring the speech but rather the individual who was 'abusive' in the delivery of their message.

However, for a restriction on a peaceful protest to be justified under paragraph 2 of Articles 10 or 11 and therefore lawful, the interference in question must be: (1) prescribed by law; (2) in pursuit of a legitimate aim; (3) and necessary in a democratic society. The three conditions must be met concurrently for the interference to be justified.

Only “*convincing and compelling reasons*” can justify a restriction on freedom of expression or assembly. Moreover, there is very little scope under the Convention for restrictions on the debate of questions of public interest and Contracting States “*have only a limited margin of appreciation*” in restricting freedom of

expression and assembly.

In considering the legal position when discussing Islam or homosexuality, one must have regard to Section 29J and 29JA of the Public Order Act 1986, which specifically protects the right to criticise homosexual conduct and religious conduct.

“Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practicing their religion or belief system.” (Section 29J)

This allows people to criticise and even express antipathy towards religion and encourage people to stop following religions, without breaking the law.

“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”. (Section 29JA)

This allows people to criticise all sexual behaviour which is contrary to biblical teaching, and to encourage people to stop behaving in such a way, without breaking the law. The pressing social need of the state cannot be set lower than this level by the court.

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. Christians should distinguish between homosexual 'orientation' or feelings and homosexual practices and of course, whenever preaching refers to sexual sin, then we must remember that the gospel is a message of grace, forgiveness, hope and change.

Dispersal Notice

Under Sections 34 and 35 of the Anti-social Behaviour, Crime and Policing Act 2014, the police have the power to issue dispersal notices, preventing anyone from being in a specified location for up to 48 hours.

This power may be exercised if the police deem that members of the public are being, or are likely to be, harassed, alarmed or distressed by the content of the individual's message, or to prevent the occurrence in the locality of crime or disorder.

After being given a dispersal notice, it is a criminal offence to return to the specified location within the specified time frame.

We believe that using this power against Christian street evangelists is wrong, because we do not believe that the word of God causes harassment, alarm or distress, and we have the freedom to manifest our beliefs.

The Inspector authorising the dispersal notice must consider Article 10 (freedom of speech) and Article 11 (freedom of assembly) of the European Convention on Human Rights.

Heckler's Veto

The court has specifically rejected the development of a 'heckler's veto'; the use of emotive, non-rational or physical attempts to prevent the exercise of free speech.

In *Vajnai v Hungary* (2010) 50 EHRR 44, the court held that...

A legal system which applies restrictions on human rights in order to satisfy the dictates of public feeling – real or imaginary – cannot be regarded as meeting the pressing social needs recognised in a democratic society, since that society must remain reasonable in its judgment. To hold otherwise would mean that freedom of speech and opinion is subjected to the 'heckler's veto'.

The public authorities must protect religious speech, even when people do not want to be exposed to the message. Otherwise, a 'hekler's veto' would be created whereby the speaker could be prevented from speaking by a member of the public complaining that they are unhappy with the content of the message. Such a curtailment of free speech is contrary to the proper functioning of a democratic society.

What If I Face Problems?

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 someone who is preaching, or those with them, then it should not lead to arrests. The police should protect people who are exercising

their right to freedom of expression. This was affirmed in the case of *Redmond-Bate v Director of Public Prosecutions* in 1999.

In our experience the police sometimes misinterpret the law. Police officers often need to be reminded that criticism of other religions and of sexual acts is permitted. We would encourage people to have ready a copy of the free speech guarantees set out above to show to the police if a problem arises.

If an arrest is made and the case is heard by a court, the courts usually uphold freedom of speech. A number of street preachers have even been compensated by the police for wrongful arrest.

Can Christians Hand out Leaflets?

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

If you are approached by the police or a council officer, you should try to resolve any difficulties by speaking in a friendly and calm manner. A minor obstruction may be resolved by moving on a short way, or by reducing the number of people distributing leaflets. Ensure that any unwanted literature is removed from the vicinity before you leave.

Obstruction or Noise Nuisance

You can preach on the street without asking for prior

permission from the police or from the council.

However, it is worth checking whether there are any by-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.
- 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 amplification if you have permission from the local council. A number of individuals can speak at the same time without the noise level becoming a nuisance. Since local councils often issue codes on permissible noise levels it is advisable to check the codes with the local authority of your chosen area beforehand.

What Happens If I Get into Trouble?

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, make sure that you call the Christian Legal Centre's 24-hour emergency phone number, 07712 591164.

If you are arrested, we will endeavour to represent you at the police station or send a responsible agent to represent you. There is a strong possibility that you will be interviewed by the police, so it is always advisable to have a legal professional with you when you are being interviewed.

Important Note

This publication 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 contact the Christian Legal Centre if you have specific enquiries:

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