

# FREEDOM TO EVANGELISE AND FREEDOM OF SPEECH



Changing Society to put the  
Hope of Christ at its Centre





# Freedom of Speech and Evangelism

## What Can Christians Say in the Context of Evangelism?

Human rights legislation confers certain rights on citizens of the United Kingdom. For example, Article 9 of the European Convention on Human Rights (ECHR) guarantees the right to freedom of religious belief. Article 10 of the same Convention guarantees the right to freedom of expression, including freedom of speech. Neither of these rights, however, is unqualified. The government may limit exercise of these rights using a number of justifications (e.g., maintaining public order, preventing disorder or crime, protecting the reputation or rights of others and other important considerations).<sup>1</sup>

Even in our “politically correct” society, people are free to say anything that does not denigrate or abuse another religion, cause public disorder, or interfere with the “rights of others”. Christians should not be afraid to continue to exercise their role in the public square and to proclaim Christian Truth, which may involve critiquing other religions. We must seek to be winsome and to appeal to others in doing this. We maintain it is legal to say that Islam is a “false religion”,<sup>2</sup> as it is to say that “Jesus Christ is the only Way to God”,<sup>3</sup> however, the police may decide to arrest you in order to test the law by having cases brought to court.<sup>4</sup> There is a danger that if you say something about Muhammad that a Muslim believes incites hatred against them that you could face criminal charges.

The Public Order Act 1986 (POA 1986) is the key piece of legislation that sets out the parameters of the kinds of speech and/or activity that is illegal. Of course you can say anything that is not prohibited. The POA has been amended by a number of other pieces of legislation:

- The Criminal Justice and Public Order Act 1994;

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<sup>1</sup> See articles 9.2 and 10.2 of the European Convention on Human Rights at: <http://conventions.coe.int/Treaty/en/Treaties/Word/005.doc>.

<sup>2</sup> Religion by its very nature seeks converts and seeks to distinguish itself from other faiths: see the European Court of Human Rights judgment *Kokkinakis v Greece of 25<sup>th</sup> May 1993*, Series A no. A260-A at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695704&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.

<sup>3</sup> By virtue of the principle in *Kokkinakis v Greece*, above.

<sup>4</sup> Please see the section entitled “How Should you Respond to Opposition from the Police?” below, at page 6.

- The Racial and Religious Hatred Act 2006; and
- The Criminal Justice and Immigration Act 2008.

It is important to note that the relevant sections of the POA 1986 cannot be used against the speaker when both parties are inside private dwellings.<sup>5</sup>

However, the following criminal offences are contained within the 1986 Act:

- Using “insulting words or behaviour” within the hearing or sight of a person likely to be caused harassment, alarm or distress by the words or behaviour<sup>6</sup>
- Using “insulting words or behaviour” with the intention of stirring up racial hatred [defined as “hatred against a group of persons... defined by reference to colour, race, nationality or ethnic or national origins”] or having regard to all the circumstances, racial hatred is likely to be stirred up as a result of the words or behaviour<sup>7</sup>
- Using “threatening words or behaviour” with the intention of stirring up religious hatred [defined as hatred against a group of persons, defined by reference to religious belief or lack of religious belief]<sup>8</sup>
- Using “threatening words or behaviour” with the intention of stirring up hatred on the grounds of sexual orientation [defined as hatred against a group of people, defined by reference to sexual orientation (whether towards persons of the same sex, the opposite or both)]<sup>9</sup>

At the time of writing (10<sup>th</sup> February 2010), the offence of “stirring up hatred on the grounds of sexual orientation” has not yet been brought into force. This means that Christians cannot yet be charged with that offence. However, the provision protecting the freedom of expression regarding sexual orientation is

<sup>5</sup> See sections 5(2), 18(2) and 29B(2) of the Public Order Act 1986 as amended by the Racial and Religious Hatred Act 2006 at: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Public+Order+Act+1986&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=2236942&ActiveTextDocId=2236947&filesize=154305> and <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Racial+and+Religious+Hatred+Act+2006&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=2320532&ActiveTextDocId=2320539&filesize=281>.

<sup>6</sup> Section 5 of the Public Order Act 1986.

<sup>7</sup> Section 18(1) of the Public Order Act 1986.

<sup>8</sup> Section 29B of the Public Order Act 1986.

<sup>9</sup> Section 29B of the Public Order 1986.

already in force. This is a very important section, as it provides a possible defence to a charge under the sexual orientation hatred offence. There is a corresponding clause relating to the offence of stirring up religious hatred.<sup>10</sup> The sections have not been tested in the courts yet and so it is unclear how widely the courts will construe them. True Christian evangelism should never appear to be threatening, either because of what you say and do, or because of the material that you show or distribute.<sup>11</sup> However, where a Christian is speaking about controversial issues such as Islam and its ideology, or the practice of homosexuality, the words are in greater danger of being construed as insulting or likely to “cause harassment, alarm or distress”, which could lead to a criminal charge, even though the Christian should always be motivated by Christ’s love when speaking on these issues.<sup>12</sup>

The case of *Harry Hammond v DPP* [2004] EWHC 69 demonstrates the approach that the courts are in danger of taking in future if Christians do not stand up for their rights. The High Court decided on the facts of that case, that a placard displaying the words “Stop immorality, stop homosexuality, stop lesbianism” was capable of being construed as “insulting”. This conclusion was reached because the court decided that the placard appeared to relate homosexuality and lesbianism to immorality.

The message of the Gospel itself could be construed as being insulting or offensive by some, but preaching it should not be construed as a public order offence, where the individual is free to ignore it or to move away.<sup>13</sup> Even unsolicited preaching at a gathering of Muslims is permitted, although if the reaction is violent, the police are likely to react by seeking to stop the preaching to prevent a “breach

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<sup>10</sup> See the Schedule to the Racial and Religious Hatred Act 2006 at: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Racial+and+Religious+Hatred+Act+2006&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=2320532&ActiveTextDocId=2320539&filesize=281>, of which paragraph 29] reads as follows:

***Protection of freedom of expression***

*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 practising their religion or belief system.*

<sup>11</sup> See sections 5(2), 18(2) and 29B(2) of the Public Order Act 1986 as amended by the Racial and Religious Hatred Act 2006 (above).

<sup>12</sup> *Hammond v Department of Public Prosecutions* [2004] EWHC 69 (Admin) (13 January 2004) at: <http://www.bailii.org/ew/cases/EWHC/Admin/2004/69.html>. See also section 5 of the Public Order Act 1986, which contains subjective and objective elements; unfortunately, the police tend to focus on the subjective element.

<sup>13</sup> Galatians 5:10-11. The police have been known to stop preaching if third parties threaten violence, but they are supposed to protect free speech: *Beatty v. Gillbanks* (1882) 9 QBD 308, [1881-5] All ER Rep 559.

of the Peace”. However, the police are supposed to protect free speech: *Redmond-Bate v DPP* (1999) 163 JP 789, [1999] Crim LR 998. Religious speech is by definition often directed at individuals who do not wish to hear it. This was recognised by the European Court of Human Rights, which said in a very well known passage:

*Freedom of expression constitutes one of the essential foundations of a democratic society subject to paragraph 2 of Article 10. 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. Freedom of expression as enshrined in Art 10 is subject to a number of exceptions which, however, must be narrowly interpreted and the necessity for any restrictions must be convincingly established.<sup>14</sup>*

Remember also that things are often seen in context and you could probably say slightly more strident things if you were participating in a debate at Hyde Park corner.<sup>15</sup>

## **What are our Rights and Responsibilities in relation to Street Evangelism?**

The right to freedom of expression is explicitly guaranteed by Article 10 of the European Convention on Human Rights. However, it is not an absolute right and it can be limited in certain circumstances, including national security and for the prevention of disorder or crime. There are also certain restrictions under the criminal law.

Article 9 of the European Convention on Human Rights sets out the position in relation to freedom of thought, conscience and religion:

### **Article 9 Freedom of thought, conscience and religion**

1. *Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.*

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<sup>14</sup> *Sunday Times v United Kingdom (No.2)* (1992) 14 EHRR 123, at para. 50(a).

<sup>15</sup> For further information, please see the Royal Parks website: [http://www.royalparks.org.uk/parks/hyde\\_park/history.cfm](http://www.royalparks.org.uk/parks/hyde_park/history.cfm).

2. **Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.**<sup>16</sup>

The European Court of Human Rights decided in the *Kokkinakis v. Greece* case that “proselytising” (seeking to convert others) was a part of this right, but made it clear that if the evangelism involves undue pressure or bribes or other inducements to convert, then that would be inappropriate and would not be protected under Article 9.<sup>17</sup>

When you are evangelising on the street you need to remember that you have a right to preach the Gospel in a particular area without giving notice to anyone, but be careful not to cause an obstruction on the road, pavement<sup>18</sup> or other public space. If you are causing an obstruction, be aware that the police have the right to move you on. However, it is important to know that you do not cause an obstruction, just by being present.<sup>19</sup> Some of the factors that will be considered, in order to determine whether or not an obstruction has been caused include the following:

- the period of time that you have been at the location;
- the reason why you are at the location;
- the extent to which you are actually obstructing the road/pavement or other public space.<sup>20</sup>

For example, if it is early on a Saturday morning, the area is heavily pedestrianized and you have a book table or other display that takes up half the pavement, then it may be found that you are causing an obstruction. On the other

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<sup>16</sup> Our emphasis. See the European Convention on Human Rights and Fundamental Freedoms at: <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>.

<sup>17</sup> See the case of *Kokkinakis v. Greece*, note 3, above.

<sup>18</sup> This is an offence under section 137 of the Highways Act 1980: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Highways+Act+1980&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=2198137&ActiveTextDocId=2198375&filesize=172051>. The maximum fine at the moment is £1,000, as laid down by section 17 of the Criminal Justice Act 1991: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Criminal+Justice+Act+1991&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=2252003&ActiveTextDocId=2252028&filesize=25267>.

<sup>19</sup> See for example *Hubbard v. Pitt* [1976] QB 142, [1975] 1 All ER 1056.

<sup>20</sup> As with much of the Common Law of England and Wales, the concept of reasonableness is the benchmark of lawful conduct.

hand, if you have allowed enough room for pedestrians to be able to move freely, whilst still being visible and able to make contact with passers-by, then it is unlikely that you will be causing an obstruction. You should also check local bye laws at the local town hall to ensure that you are not planning to gather in a prohibited area.

It need hardly be said that it is also important to remember not to obscure street signs or to put up any displays that might fall over or blow away for the safety of the public. Local shopkeepers and the disabled who may have more difficulty negotiating a narrowed pavement should be considered.

Another potential issue to take into consideration is noise nuisance. However, speaking at a volume loud enough for pedestrians to hear you in a busy street is acceptable; this can be relatively loud. A number of individuals can speak at the same time without the noise level becoming a nuisance.<sup>21</sup> For further information on the use of loudspeakers, see part 3 of the Control of Pollution Act 1974, from which it is clear that loudspeakers should not be used in the street between 9 pm and 8 am the following morning.<sup>22</sup> Local authorities often issue codes on noise and they can be very subjective. It is advisable to check with the local authority what their codes of practice say, although codes are a guide to what the local authority considers reasonable—they are not the law. Schedule 2 of the Noise and Statutory Nuisance Act 1993 allows local authorities to consent to the use of loud speakers in the street when they would not normally be allowed, but an application must be made in writing and an answer will be given within 21 days.<sup>23</sup>

If you are planning a procession of any kind, you would need to give written notice to the police at least 6 days before the event is to take place in order to comply with sections 11(1) and 11(3) of the Public Order Act 1986.<sup>24</sup> The police may impose conditions on a procession in accordance with section 12 of that Act, or on an assembly of people in accordance with section 14 if a senior police officer reasonably believes that “it may result in serious public disorder, serious damage to property or serious disruption to the life of the community” or if they think that the

<sup>21</sup> 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>.

<sup>22</sup> See in particular, section 62 at: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Control+of+Pollution+Act+1974&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=437758&ActiveTextDocId=437874&filesize=14282>.

<sup>23</sup> See sections 7 and 8 and Schedule 2 at: <http://www.statutelaw.gov.uk/legResults.aspx?LegType=All+Legislation&title=Noise+and+Statutory+Nuisance+Act+1993&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=1703712&PageNumber=1&SortAlpha=0>.

<sup>24</sup> See section 11(1) at: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Public+Order+Act+1986&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=2236942&ActiveTextDocId=2236973&filesize=56263>.

purpose of the procession or assembly is to intimidate people.<sup>25</sup> If the police make any irrational decisions, they can be challenged in court, just like any other public authority.

These considerations should not hinder Christians from doing street evangelism, but should remind us of the need to be considerate at all times. Evangelism will always be peaceful and should be appealing to passers-by.

## **What are Christians' Rights in Relation to Handing out Tracts and Leaflets?**

You are allowed to hand out Christian tracts, Bibles or other Christian books without a licence, but again, if the police decide that an obstruction is being caused they can move the leafleters on.<sup>26</sup> However, the police cannot move you on arbitrarily, their decision has to be both reasonable and proportionate.<sup>27</sup> 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. Seek to comply with any instructions they give you.

If you are challenged about your right to hand out tracts and books, give the police or the local authority representative a copy of the new Schedule 3A paragraph 1(4) to the Environmental Protection Act 1990 (as inserted by section 23 of the Clean Neighbourhoods and Environment Act 2005), which states as follows:

### **SCHEDULE 3A**

#### **FREE DISTRIBUTION OF PRINTED MATTER ON DESIGNATED LAND**

#### **Offence of unauthorised distribution**

*1 (1) A person commits an offence if he distributes any free printed matter without the consent of a principal litter authority on any land which is designated by the authority under this Schedule, where the person knows that the land is so designated.*

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<sup>25</sup> To view those sections, click on this link: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Public+Order+Act+1986&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=2236942&ActiveTextDocId=2236973&filesize=56263>.

<sup>26</sup> For further details, see this page at the website of Liberty: <http://www.yourrights.org.uk/yourrights/the-right-of-peaceful-protest/street-collections-leafletting-petitions-and-newspapers.html>.

<sup>27</sup> This is a basic principle of the doctrine of the Rule of Law; any arbitrary or perverse action on the part of a public authority can be reviewed in the High Court by way of judicial review.

(4) *Nothing in this paragraph applies to the distribution of printed matter—*  
(a) *by or on behalf of a charity within the meaning of the Charities Act 1993, where the printed matter relates to or is intended for the benefit of the charity;*  
(b) **where the distribution is for political purposes or for the purposes of a religion or belief.**<sup>28</sup>

These paragraphs make it clear that printed material can be handed out for religious, charitable or political purposes. You should also ask them to confirm that they will bring this law to the attention of colleagues, so that the issue does not arise again. If you notice that a large number of tracts or other materials have been improperly discarded, then you should dispose of them properly to avoid littering or causing a public nuisance. The manner in which you hand out material is also important—it is wise to be sensitive to people’s needs.

### **Is it Legal to Preach the Gospel on Public Transport?**

Evangelism on the underground and on trains in London is governed by the London Regional Transport Railway Byelaws. Evangelism at bus stops and bus stations is subject to the Road Transport Premises Byelaws. Breaking a byelaw is a criminal offence. A Consultation on the byelaws has recently closed, so it is likely that they will be changed in the near future. The current byelaws can be viewed on the Transport for London website.<sup>29</sup>

The sections of the byelaws that may be relevant are the ones that cover “unacceptable behaviour” and “music, sound, advertising and carrying on a trade”. At present, it is forbidden to distribute tracts, sing, play a musical instrument or use sound production equipment “except with written permission from the Operator”.

You are entitled to share the Gospel on the tube or train, but you need to ensure that you do not do anything that may be judged to fall within the following categories:

- “Using threatening, abusive, obscene or offensive language.” The Gospel is none of these things, but other passengers may claim that they find the Gospel offensive. If anyone does make that point to you, you should refrain from any further evangelising in that train carriage

<sup>28</sup> Our emphasis. See Schedule 3A of the Environmental Protection Act 1990 at: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Environmental+Protection+Act+1990&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=2247480&ActiveTextDocId=3427437&filesize=536>.

<sup>29</sup> See the following link: <http://www.tfl.gov.uk/termsandconditions/5004.aspx>.

or in that part of a bus. It is of course open to you, to try another carriage, if you feel led to do so.

- “Behaving in a disorderly, indecent or offensive manner.” The kinds of things that you should guard against are getting into an argument with a passenger who claims to be offended by your actions, raising your voice, or singling people out. In all things, it is important to be led by the Spirit, so that you always glorify the Name of the Lord.
- “Molesting or wilfully interfering with the comfort or convenience of any person on the railway.” This is a catch-all provision and most likely to be the one that railway staff will try to use to stop you from evangelising. If you are approached by staff and asked to stop evangelising, I would advise that you do so at that stage.

Evangelism on buses is covered by the Public Service Vehicle (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990 (as amended in 2002). Regulation 6 forbids the distribution of tracts “except with the permission of the operator” and the playing of a musical instrument or sound reproducing equipment “to the annoyance of any person” or in a manner likely to cause annoyance.<sup>30</sup> If you breach the Regulations, you can be removed from the bus.

### **What about Bye Laws and Codes of Practice?**

You should find out about bye laws in case they affect your street evangelising. They may have something to say about whether you can set up a book table, for example. Copies of local bye laws are available from the local town hall. Additionally, your local council may have a code of practice relating to street evangelism, which it is wise to consult. Nevertheless, no code of practice should be taken as a statement of the law and you should take further legal advice if you think that anything in a code may be incorrect and may limit your activities.

### **How Should you Respond to Opposition from the Police?**

Of course faithful proclamation of the Gospel should never provoke violence, disorder or riots, but various police officers have sometimes sought to say that it could or would do so. This assumption was the reason given for the command given by a Muslim police officer that two men must stop preaching the

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<sup>30</sup> You can view the original regulations at this link: [http://www.opsi.gov.uk/si/si1990/Uksi\\_19901020\\_en\\_2.htm#end](http://www.opsi.gov.uk/si/si1990/Uksi_19901020_en_2.htm#end).

Gospel in a Muslim area.<sup>31</sup> Police have a duty to prevent a breach of the peace or other violence. However, the presence of a street evangelism team does not in any way imply that a breach of the peace will follow. The case of *Redmond-Bate v Director of Public Prosecutions*<sup>32</sup> made it clear that the officers should identify where the threat of violence is coming from and deal with the threat, rather than focus on those who are evangelising. Where passers-by are demonstrating hostility, it may be wise to stop evangelising temporarily and allow them to move on. However, if the police do attend, remember that they are supposed to protect you and allow you to exercise your right to interest others in the Faith. Assuming you are not doing anything that appears to be illegal, they have no right to stop you from preaching.

Any attempt by the police to move you on should be politely resisted with a reminder that the police are there to allow you to preach. You should stand your ground so long as you know that you are within your rights. If the police were still concerned, they would then have to arrest you. The officer will not want to charge you, because such charges do not stand up and will get the officer into trouble. If the police officer is motivated by any prejudice against the Christian faith, s/he may try and give you a “bind over” or a penalty charge instead as a way of harassing you. If arrested, you should not accept a “bind over” or penalty charge. In the unlikely event that you are charged, do contact the Christian Legal Centre and they will help you to find legal representation if you need it. If you have followed the process above, then we would hope to see you acquitted if the need ever arises. You could of course sue the police for false arrest if charges are dropped.<sup>33</sup> Of course this approach takes strength of mind and fighting a case through the courts comes at great personal cost, but it is worth defending the freedom to preach the Gospel.

For the reasons just mentioned, it would be good to evangelise publicly in groups. That way you have witnesses as to whatever happens.

## Freedom of Speech in the Employment Context

We should not leave our Christianity at the door of our workplaces. We are free to speak about our faith naturally in the context of our jobs, however speaking to colleagues or customers about Jesus in the workplace may potentially expose a Christian to legal proceedings if it is unwanted and is found to amount to

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<sup>31</sup> See *The Daily Telegraph* article of 31<sup>st</sup> May 2008 at: <http://www.telegraph.co.uk/news/uknews/2058935/Police-advise-Christian-preachers-to-leave-Muslim-area-of-Birmingham.html>.

<sup>32</sup> See paragraph 7 of the judgment at: <http://www.bailii.org/ew/cases/EWHC/Admin/1999/732.html>.

<sup>33</sup> See *Green v South Wales Constabulary* [2009] and *Thompson v Commissioner of Police of the Metropolis* [1997] EWCA Civ 3083 (19 February 1997) at: <http://www.bailii.org/ew/cases/EWCA/Civ/1997/3083.html>.

“harassment”.<sup>34</sup> The law as set out in the Employment Equality (Religion or Belief) Regulations 2003 make “harassment” on the grounds of religion or belief unlawful in the workplace.<sup>35</sup>

Harassment is defined as “unwanted conduct” that violates a person’s dignity or can reasonably be regarded as “creating an intimidating, hostile, degrading, humiliating or offensive environment”, for the person, having regard to all the circumstances and in particular, to the perception of the victim.<sup>36</sup> It should also be noted that the “unwanted conduct” may be only a single occurrence.<sup>37</sup> The ACAS definition of harassment includes “behaviour that is offensive, frightening or in any way distressing”.<sup>38</sup> From both these definitions it is clear that there is a large subjective element as to what might be construed as “harassment” or “offensive”. The statutory definition of harassment is framed in terms of “reasonableness”<sup>39</sup>, but care should be taken in order to avoid offending fellow employees unnecessarily. If Christianity is discussed in the workplace in a respectful and temperate manner, it is very unlikely to lead to allegations of harassment, although the case of David Booker shows that this is not always the case.<sup>40</sup> Breaching any of these guidelines could result in a Christian being taken to an employment tribunal and having to pay compensation,<sup>41</sup> however, we must not be afraid to share our faith as the Spirit leads. The Christian Legal Centre offer advice and arrange legal representation for those who find themselves being discriminated against or persecuted for their faith.

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<sup>34</sup> See for example the Employment Equality (Sexual Orientation) Regulations 2003, regulation 5(1) at: [http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=The+Employment+Equality+\(Sexual+Orientation\)+Regulations+2003&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=850490&ActiveTextDocId=850539&filesize=1251](http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=The+Employment+Equality+(Sexual+Orientation)+Regulations+2003&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=850490&ActiveTextDocId=850539&filesize=1251).

<sup>35</sup> See the Employment Equality (Religion or Belief) Regulations 2003, regulation 5(1) at: [http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=+++The+Employment+Equality+\(Religion+or+Belief\)+Regulations+2003&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=850357&ActiveTextDocId=850410&filesize=1251](http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=+++The+Employment+Equality+(Religion+or+Belief)+Regulations+2003&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=850357&ActiveTextDocId=850410&filesize=1251).

<sup>36</sup> See regulation 5(2) of either of the Employment Equality Regulations mentioned above.

<sup>37</sup> See *Insitu Cleaning Co Ltd v. Heads* [1995] IRLR 4 at para. 11: <http://oxcheps.new.ox.ac.uk/new/casebook/cases/Cases%20Chapter%2011/Insitu%20Cleaning%20Co%20Ltd%20v%20Heads.doc>.

<sup>38</sup> See the ACAS Guide on *Religion or Belief and the Workplace* at para. 1.4: [http://www.acas.org.uk/media/pdf/9/9/guide\\_religionB\\_1.pdf](http://www.acas.org.uk/media/pdf/9/9/guide_religionB_1.pdf).

<sup>39</sup> See the Employment Equality (Religion or Belief) Regulations 2003, regulation 5(2), as above.

<sup>40</sup> David Booker was suspended for just such a conversation: <http://www.christianlegalcentre.com/view.php?id=723>.

<sup>41</sup> See for example the Foreword to the ACAS Code of Practice 1—*Disciplinary and Grievance Procedures*, 2009, available at: <http://www.acas.org.uk/CHttpHandler.ashx?id=1041>.

The Employment Equality (Sexual Orientation) Regulations 2003 contain similar restrictions against “harassment” on the grounds of sexual orientation. The ACAS guidance in respect of both sets of regulations, set out a test for employers that Christians could use to gauge the likely effect of their statement(s). The test requires employers to ask themselves “could what has taken place be reasonably considered to have caused offence?”<sup>42</sup>

### **What Should we Conclude?**

It is vital that we continue to preach the Gospel fearlessly in love. We live in extraordinary times and it is possible to imagine Christians being charged under the Racial and Religious Hatred Act. When CCFON/CLC Director Andrea Williams gave evidence to a Parliamentary Committee in early June 2008 on the new Charities Act the very idea of “proselytism” was viewed with deep scepticism as was the notion of Christianity being good for a society and deserving of charitable benefit.

We must press on with evangelism, knowing that the Gospel is an offence to many and we envisage increasingly difficult times. The pressure will come from Muslims who want to prohibit us talking about the uniqueness of Christ and consider it blasphemy, and from the secularists who do not want to hear some of the moral truths on life issues and sexual ethics. We must remain bold and fearless and demonstrate our love for Jesus and for those around us by telling them the most important news they will ever hear.

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<sup>42</sup> See the ACAS Guide: *Sexual Orientation and the Workplace* at page 6, paragraph 1.3: <http://www.acas.org.uk/CHttpHandler.ashx?id=105&p=0>.



**Develops New Policy** : From a Biblical Perspective  
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Address of account holders \_\_\_\_\_

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If you agree that Christian liberties need to be defended and want to raise your voice, you can do so by joining more than 20,000 people who support the work of Christian Concern for Our Nation and the Christian Legal Centre. Please visit [www.ccfon.org](http://www.ccfon.org) to find out more about how the law is changing in the area of Christian freedoms, and other issues of moral and social concern. You can join our e-mail list by clicking on the “join mailing list” button. This means you will receive the “Christian Weekly News” every Friday in your inbox, keeping you informed and up-to-date in a concise way through news summaries, web links and video links. Joining the e-mail list also means you can get involved and take action through prayer meetings, action rallies, quick and simple way to join others in writing to MP and other decision-makers—all of which makes a real difference on the key issues of the day. You can also help by volunteering or by making a donation.

## About Christian Concern for Our Nation (CCFON) and the Christian Legal Centre (CLC)

Christian Concern for Our Nation and its sister organisation, the Christian Legal Centre, are multi-disciplinary team of lawyers, IT and media specialists, church leaders, academics, development and support staff. Our mission is to put the hope of Christ at the heart of the nation. We do this through:

- Policy analysis and development
- Empowering individual Christians and the Church to act through information and campaign leading
- Informing key influencers in Parliament, the media and the Church
- Influencing the law through consultation responses and casework
- Defending the rights of Christians who have suffered discrimination because of the stand they have made for the Christian Faith

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