



Free speech and street evangelism

Publicly proclaiming the Word of God is entirely lawful in the United Kingdom. We enjoy great freedom. But it is wise to have some idea of the law relating to free speech before engaging in street evangelism. This briefing provides an overview of some relevant criminal and civil laws in England and Wales. It is intended to equip open-air preachers and others with the confidence that they are not breaking the law when they share their faith in public.

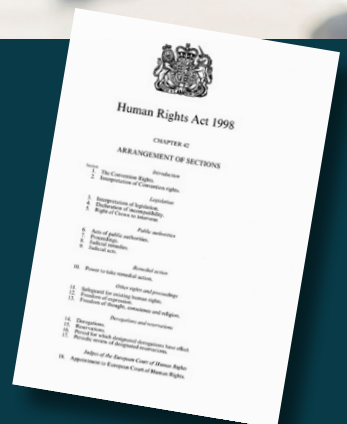
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HUMAN RIGHTS AND FREE SPEECH

The European Convention on Human Rights is incorporated into UK law by the Human Rights Act 1998.

Article 10 of the Convention protects freedom of expression, and includes the right to “*impart information and ideas without interference by public authority*”.

This right is *qualified*, rather than absolute, meaning that it can be restricted. But any restriction must be necessary for one of the reasons set out in the Convention, such as the protection of public order. There is no right not to be offended.



Criminal Matters

PUBLIC ORDER OFFENCES

The criminal law does step in where speech or behaviour threatens public order. But there is more protection for free speech after a successful campaign to reform Section 5 of the Public Order Act 1986.

Section 5 of the Public Order Act

Prior to 2014, this section made it a criminal offence to use insulting words or behaviour likely to cause distress to someone. It had been used by the police to investigate and even charge some Christians with a crime, simply for expressing their beliefs. The Government agreed to remove the word “insulting” from Section 5. It now provides that a person is guilty of an offence if they use *threatening or abusive* words or behaviour within the hearing or sight of a person “likely to be caused harassment, alarm or distress” by it. Faithful open-air preaching should never meet this threshold.

Section 4A of the Public Order Act

After reform of Section 5, Section 4A of the Public Order Act is more likely to be applied instead. This criminalises “threatening, abusive or insulting words or behaviour” where the person *intends* to cause a person harassment, alarm or distress and where they *do* cause harassment, alarm or distress. It is more likely to be used in situations where

a preacher singles someone out to address. Like Section 5, it is a defence under Section 4A for the accused to show that his conduct was reasonable. Faithful gospel preaching may cause alarm because of the issues at stake. But a crime has not been committed if the preacher has acted reasonably.



Stirring up hatred offences

It is also an offence under the Public Order Act to stir up hatred on the grounds of religion or sexual orientation.¹ These offences capture threatening words, behaviour or material where a person intends to stir up religious hatred or hatred on the grounds of sexual orientation. But these offences have a high threshold. Indeed, free speech clauses were added to the legislation following various campaigns in which the Institute was heavily involved.

Section 29J makes clear that criticising particular religions or beliefs is lawful. So is urging people to change their religious beliefs. Section 29JA protects the right to criticise sexual practices and, specifically, same-sex marriage.

It is difficult to imagine a Christian preacher being convicted of stirring up hatred. But the free speech clauses are important because they may guide how law enforcers apply other parts of the Public Order Act, such as Section 5 or 4A. They make clear that the mere expression of disagreement with same-sex relationships or other faiths is lawful. And so these clauses have a positive effect on how courts will apply the right to freedom of expression in the European Convention.

Breach of the peace

Open-air preachers should also be aware that the police can make an arrest if they anticipate a breach of the peace occurring. Officers, however, should not intervene unless someone is likely to be provoked to violence.



Civil Matters

ANTI-SOCIAL BEHAVIOUR ORDERS

The Anti-social Behaviour, Crime and Policing Act 2014 introduced new anti-social behaviour orders. People can be banned from certain activities if:

- The court is satisfied, "on the balance of probabilities, that the person has engaged or threatens to engage in anti-social behaviour"; and
- The court considers it "just and convenient" to grant the injunction to prevent the person from engaging in such behaviour.

Anti-social behaviour is "conduct that has caused, or is likely to cause, harassment, alarm or distress to any person".² Breaching an order could lead to criminal sanctions.

To use these injunctions the police or local authority must apply to the court, which takes time and involves weighing the evidence.

PUBLIC SPACES PROTECTION ORDERS

The 2014 Act also created Public Spaces Protection Orders (PSPOs).³ These are made by local authorities and attach to particular areas rather than named individuals. PSPOs can prohibit certain activities in a restricted area if:

- Those activities have had, or will have, a detrimental effect on the quality of life of those in the locality; and
- The effect, or likely effect, of those

activities is, or is likely to be, of a persistent or continuing nature and such as to make the activities unreasonable.

Breaching a PSPO is a criminal offence. These orders have the potential to restrict the activities of open-air preachers, but cases are only likely to arise in extreme circumstances. Council websites should provide information on any PSPOs currently in place.



COMMUNITY PROTECTION NOTICES

Under the 2014 Act a person or body can be made subject to a Community Protection Notice (CPN).⁴ The police or a local authority must be "satisfied on reasonable grounds" that:

- The conduct of the person or body "is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality"; and
- The conduct is unreasonable.

A CPN can require a person or body to stop or do certain things. But it can only be issued if a warning has first been given and there has been time to deal with the matter. Not complying with a CPN is a criminal offence, and the authority can issue a fixed penalty notice.

DISPERSAL POWERS

The 2014 Act allows a police constable to direct someone to leave an area in certain circumstances. He must usually give a direction in writing, and must reasonably believe it is necessary to prevent:

- The public being harassed, alarmed or distressed; or
- Crime or disorder.⁵

These powers can only be used in a specified area and for a limited time, as authorised by a senior officer. Particular regard must be given to rights to freedom of assembly and expression. Refusal to comply with a direction is a criminal offence.

DISTRIBUTING MATERIALS

On public land, Christian tracts and literature can generally be distributed without permission from the local authority. Paragraph 1(4) of Schedule 3A to the Environmental Protection Act 1990 (as amended in 2005)

exempts religious literature from limitations on the distribution of free materials.⁶ This Act therefore **does not apply** to Christian literature.

On privately-owned land restrictions can be imposed and

must be followed. Many indoor shopping centres are privately owned. Without permission, anyone entering such a shopping centre to preach and/or distribute literature could be trespassing.

OBSTRUCTION

The Highways Act 1980 contains various provisions on the public use of the highway. For example, it is an offence "to deposit any thing whatsoever on a highway to the interruption of any user".⁷ Open-air preachers should avoid using displays which unreasonably interfere with the public's use of the highway.



BY-LAWS

Certain areas may have by-laws in place that impact street evangelism. Where it is alleged that there is an infringement of a by-law, seek clarification (preferably in writing) of the by-law and how it has been infringed as well as how an infringement could be avoided.



Good practice advice

- Open-air preachers should always ensure they communicate with the public in a calm and reasonable manner.
- It is best to keep to what the Bible teaches and include references (if appropriate).
- It is advisable to make an audio recording of any open-air preaching, in case a complaint is made. Notes should be made of any incidents that do occur, including the date, time and location of the incident.
- Instead of singling out e.g. homosexual practice, refer more generally to sexual sin.
- Avoid using displays in areas of highly concentrated pedestrian flow and be sensitive to other reasonable needs of the area.
- If any difficulties arise, contact The Christian Institute's Legal Defence Fund by telephoning 0191 281 5664 or emailing LDF@christian.org.uk



References available at christian.org.uk/StreetEvangelism-ref