

FREEDOM TO EVANGELISE AND FREEDOM OF SPEECH



Changing Society to put the
Hope of Christ at its Centre



Freedom to Evangelise and Freedom of Speech

This booklet is designed to give you a clearer idea of your rights and responsibilities when evangelising or speaking about your faith in public or at work. We think it is accurate, but it is not legal advice and you should seek the advice of a solicitor if you have any specific queries. We will not be held responsible for any inaccuracies in this booklet.

What Can Christians Say in the Context of Evangelism?

As a general rule, human rights legislation gives all United Kingdom citizens the right to evangelise freely. Article 9 of the European Convention on Human Rights (ECHR) guarantees the right to freedom of religious belief and 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 the exercise of these rights.¹

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”,² as it is to say that “Jesus Christ is the only way to God”,³ however, the police may decide to arrest you in order to test the law by having cases brought to court.⁴ There is a danger that you could face criminal charges if you say something about Muhammad that a Muslim believes incites hatred against them.

¹ The government may use a number of justifications (e.g. maintaining public order, preventing disorder or crime, protecting the reputation or rights of others) and other important considerations to limit people’s rights to freedom of thought, conscience and religion and to freedom of expression. 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>

² 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 25th 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>

³ By virtue of the principle in *Kokkinakis v Greece*, above.

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

The Public Order Act 1986 (as amended) (“POA 1986”) is the key piece of legislation that sets out the parameters of the kinds of speech and/or activity that is illegal.

It is important to note that the POA 1986 cannot be used against the speaker when both parties are inside a private dwelling.⁵

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 behaviour⁶
- 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 behaviour⁷
- 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]⁸
- 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)]⁹

Please remember with all of the above offences that they are only committed if the speech or behaviour used is threatening, abusive and/or insulting AND it is likely to cause harassment, alarm or distress. The House of Lords decided in the case of *Brutus v Cozens* [1973] AC 854, that these words should be given their ordinary meanings when people’s words and actions are judged. Many people have

⁵ 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>

⁶ Section 5 of the Public Order Act 1986.

⁷ Section 18(1) of the Public Order Act 1986.

⁸ Section 29A of the Public Order Act 1986.

⁹ Section 29AB of the Public Order 1986.

informed us that some police officers believe that if the hearer feels distressed, then the offence has been committed. This is categorically not the case. If any Police officer says that to you, make sure that you correct them and refer them to this leaflet.

How as Christians can we Deal with Difficult Questions?

In evangelism, we often come across people who either want to catch us out by asking difficult questions, or who are easily offended. We would suggest that the following are good ways to deal with difficult issues:

1. Can I say that homosexuality is a sin?

It is still lawful to say that homosexual acts are sinful; however it is suggested that you consider the following points when speaking to people:

- The offence of “stirring up hatred on the grounds of sexual orientation” was brought into force on 23rd March 2010. However, there is a free speech clause that provides a defence to a charge under the sexual orientation hatred offence as long as the words used were not “threatening”. The free speech clause allows people to discuss or criticise sexual conduct or practices and to urge people “to refrain from or modify such conduct”. There is a corresponding clause relating to the offence of stirring up religious hatred.¹⁰ The sections have not been tested in the courts yet and so it is unclear how widely the courts will construe them.
- 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

¹⁰ 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.

being construed as “insulting”. This conclusion was reached because the court decided that the placard appeared to relate homosexuality and lesbianism to immorality.

- 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.¹¹ However, where a Christian is speaking about controversial issues such as Islam and its ideology, or about the practice of homosexuality, the words used are in greater danger of being construed as insulting or likely to “cause harassment, alarm or distress”, even though the Christian should always be motivated by Christ’s love when speaking on these issues.¹²

It is advisable that Christians be very careful to distinguish between homosexual desires and homosexual acts. The Bible specifically condemns homosexual acts, but not homosexual temptation. We must “love the sinner but hate the sin”. It is also useful to make it clear when speaking about homosexuality that you are not giving your own opinion, but telling the hearers what the Bible teaches.

2. Jesus Christ is the only way to heaven and all other religions must therefore be false—can I say that?

Once again, it is still lawful to say that, and once again, we would urge you to consider the following when speaking to people:

- If you are speaking to people of another faith, directly criticising their faith is not always the best place to start, because as Christians we will not know their faith as well as they do, and inevitably, it will make people more hostile to us.
- It is suggested that it is best to focus on the claims of the Bible, and once again to emphasise that it is not our opinion as Christians that matters, but it is what the Bible says that is important. Then refer people to pertinent Bible passages that talk of the claims of Jesus Christ to be the only Way to God.

¹¹ 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).

¹² *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.

3. What if someone threatens to hit me, or it appears as though my evangelism is causing public unrest?

Again, it is wise to be as gentle and winsome as possible; we would suggest that you consider the following:

- The message of the Gospel itself could be construed as being insulting or offensive to 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.¹³ Even unsolicited preaching at a gathering of Muslims is permitted, although it may cause a violent reaction.
- If people respond to preaching in a threatening way, the police are likely to react by seeking to stop the preaching to prevent a “breach of the peace”. If they try to arrest you, remind them that they are supposed to protect free speech, not silence it the moment it causes people offence: *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”.¹⁴
- Remember also that things are often seen in context and you would probably encounter more leniency from the police if you were participating in a debate at Speakers’ Corner in Hyde Park, although there is no immunity from the law there.¹⁵

¹³ 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.

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

¹⁵ 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 and Wikipedia at: http://en.wikipedia.org/wiki/Speakers%27_Corner

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.*
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.***¹⁶

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 inducements to convert, that would be inappropriate and would not be protected under Article 9.¹⁷

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, pavement¹⁸ or other public

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

¹⁷ See the case of *Kokkinakis v. Greece*, note 3, above.

¹⁸ 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>

space. If you are causing an obstruction, be aware that the police have the right to move you on. However, you do not cause an obstruction, just by being present.¹⁹ 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.²⁰

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 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 is also important to remember not to obscure street signs or to put up any displays that might fall over or blow away for public safety. 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.²¹ 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.²² 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

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

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

²¹ 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>

²² 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>

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.²³

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 1986.²⁴ 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 purpose of the procession or assembly is to intimidate people.²⁵ 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 should always be conducted peacefully.

Are Christians Allowed to Hand 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.²⁶ However, the police cannot move you on without good reason; their decision has to be both reasonable and proportionate.²⁷ 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.

²³ 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>

²⁴ 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>

²⁵ 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>

²⁶ 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>

²⁷ 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.

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.

...

(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.²⁸

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

²⁸ 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>

that they will be changed in the near future. The current byelaws can be viewed on the Transport for London website.²⁹

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 of 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 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, it would probably be best to do so.

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.³⁰ If you breach the Regulations, you can be removed from the bus.

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

³⁰ You can view the original regulations at this link: http://www.opsi.gov.uk/si/si1990/Uksi_19901020_en_2.htm#end

What about Bye Laws and Codes of Practice?

You should find out about byelaws 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 byelaws 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. For the most part, the local Council cannot stop you from evangelising in a public area.

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 Gospel in a Muslim area.³¹ 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*³² 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 as long as you know that you are within your rights. If the police were still concerned, they would then have to arrest you.

What Happens if I am Arrested?

Arrest is not a very common occurrence and most officers will be reluctant to arrest. However, if you are arrested, make sure that you do the following:

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

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

1. Contact the Christian Legal Centre's (CLC) 24-hour emergency phone number, (07712) 591164, 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.
2. If you are unable to contact CLC, ask to speak to the duty solicitor and to be represented by him/her. The duty solicitor's services are free of charge, and s/he works independently of the police. There are only very limited circumstances where the police can refuse to allow you access to the duty solicitor.
3. If you are interviewed without representation, make sure that you give a full and honest account as the interview will be recorded and played back at trial, should you be charged.
4. At the end of the interview, the police will have to make a decision as to what to do with your case. They have the following options:
 - i) They may decide to take "no further action" or "refuse charge"—in other words, to let you go without charge.
 - ii) They may decide to release you on bail while they take advice from the Crown Prosecution Service, or take further statements to strengthen their case, in which case, you would have to go back to the police station a few weeks later. In the interim, you would be on Police Bail and you would therefore be under a legal obligation to go back to the police station. In the meantime, you should get in contact with CLC.
 - iii) They may decide to give you a fixed penalty notice, which is not a conviction, but an agreement to pay a fixed penalty fine, usually of about £60. This is a quick way to dispose of a case, but the police keep a record of the notice, and it would be disclosed on an enhanced CRB check. Therefore, there will be a record that you have "been in trouble". We would not recommend that you accept the offer of a fixed penalty notice.
 - iv) They may decide to give you a caution. A caution is a police warning, which is kept for 5 years, and although it is not a criminal conviction, it will come up on an enhanced CRB check. Therefore the police will have a record that you have "been in trouble". We would not recommend that you accept this offer either. The police are under pressure from the

government to meet the targets set for them, and getting you to accept a caution or a fixed penalty notice is deemed to be a “detection”, which helps them meet their targets.

- v) Finally, the police may decide to charge you with an offence, which would mean that your case would go to the local Magistrates’ Court. It is very rare. However, if you are charged, please do not hesitate to contact CLC and we will help you to find legal representation, or we will represent you ourselves. If you have followed our advice, then we would hope to see you acquitted if the matter proceeds to trial.

If arrested, you will have to give DNA samples and fingerprints, but if you are acquitted or released without charge, you can apply to have your DNA and fingerprint record deleted.

After an acquittal, you may wish to sue the police for false arrest if charges are dropped.³³ 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. Once again, this is something that we can help you with.

For the reasons just mentioned, it is advisable 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 faith at the door of our workplaces. We are free to speak about our faith naturally in the context of our jobs, however we must take care to use ordinary, non-religious language and to speak in a gentle way. One client of CLC quoted the verse “the wages of sin is death” and the non-Christian she was writing to took that phrase as a death threat. It is important to use words and phrases that cannot be twisted or taken the wrong way. If your employer is trying to be provocative or to twist things, please contact CLC for advice.

Some of the things non-Christians say and do can make Christians very angry, but it is important always to be as calm and patient as possible. The courts do not look kindly on actions done and words said in a fit of temper. Unfortunately, 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

³³ 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”.³⁴ The law as set out in the Employment Equality (Religion or Belief) Regulations 2003 makes “harassment” on the grounds of religion or belief unlawful in the workplace.³⁵

Harassment

Harassment in the employment context 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.³⁶ It should also be noted that the “unwanted conduct” may be only a single occurrence.³⁷ The ACAS³⁸ definition of harassment includes “behaviour that is offensive, frightening or in any way distressing”.³⁹ From both of 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”,⁴⁰ 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.⁴¹ Breaching any of these guidelines could result in you being sacked for “gross misconduct”. Gross misconduct means that your employer has lost trust and confidence in you because of your behaviour, and is therefore unable to

³⁴ 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)

³⁵ 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&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&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=850357&ActiveTextDocId=850410&filesize=1251)

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

³⁷ 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>

³⁸ The Advisory, Conciliation and Arbitration Service (“ACAS”) is the official and independent body whose role is to improve employment relations: <http://www.acas.org.uk/index.aspx?articleid=1461>

³⁹ See the ACAS Guide on *Religion or Belief and the Workplace* at para. 1.4: http://www.acas.org.uk/media/pdf/9/j/guide_religionB_1.pdf

⁴⁰ See the Employment Equality (Religion or Belief) Regulations 2003, regulation 5(2), as above.

⁴¹ David Booker was suspended for just such a conversation, which included questions about the Church’s teaching on sexual ethics and David Booker’s answers. It seems his employer was using a non-discrimination policy to suppress Christian freedom of speech, see: <http://www.christianlegalcentre.com/view.php?id=723>

maintain your employment. You can be sacked without notice for gross misconduct.

Should you be sacked, (or in the unlikely event that you are sued for harassment) please contact CLC immediately. In the case of unfair dismissal, you must lodge a claim within 3 months of being dismissed, because you may be able to claim compensation against your employer if they have not acted reasonably. However, we must not be afraid to share our faith as the Spirit leads. CLC offer advice and arrange legal representation for those who find themselves being discriminated against or persecuted for their faith.

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 sets 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?”⁴²

The Protection from Harassment Act 1997⁴³ also forbids anyone from pursuing “a course of conduct...which amounts to harassment of another, and which he knows or ought to know amounts to harassment of the other” unless the circumstances make the course of conduct “reasonable”. This kind of harassment is both a criminal offence and can attract claims for civil damages, but it is not meant to be used lightly. In the case of *Huntingdon Life Sciences v Curtin* [1997], Mr. Justice Eady made the following comment in the High Court when talking about the Act:

*It was clearly not intended by Parliament to be used to clamp down on the discussion of matters of public interest or upon the rights of political protest and public demonstration which are so much part of our democratic tradition. I have little doubt that the courts will resist any such wide interpretation as and when the occasion arises...*⁴⁴

Can I Share My Faith with Clients/Service Users?

This is a very difficult area of the law, because if you are speaking to a client/service user in your role as a professional, the client will often be in a vulnerable position, and is more likely to make a complaint about you (in our experience) than a colleague. Speaking to a client about faith may be deemed to be “gross misconduct”, and could result in you losing your job.

⁴² 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>

⁴³ See the following link: http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1997/cukpga_19970040_en_1

⁴⁴ See *Huntingdon Life Sciences Ltd and another v Curtin and others*, *The Times* 11 December 1997, available at: [http://www.freebeagles.org/caselaw/CL_hs_Curtin%20\(2\)_full.html](http://www.freebeagles.org/caselaw/CL_hs_Curtin%20(2)_full.html)

However, there is nothing in law which says that you cannot share your faith. Indeed, it could be argued that as people of other religions seek to manifest their faith by wearing a turban or veil, Christians should also be allowed to manifest their faith at work through talking about their faith. This is an argument that has been made in a number of Employment Tribunal cases, but it has not yet succeeded.

Key Points in Conclusion

1. We still have the right to evangelise on a public street and to hand out literature (tracts).
2. We still have the right to tell others that homosexual acts are sinful and other religions are not right.
3. If people are offended by what we say, it should not lead to arrest; the words or behaviour **MUST** also be threatening, insulting or abusive before the police can arrest a person.
4. If arrested, ask for the attendance of a solicitor from CLC or the duty solicitor.
5. In the workplace, remember that you have the right to evangelise, but be careful that your behaviour does not amount to “harassment”. Be especially careful when talking to a client/customer about your faith.

A Final Word

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 other faith groups who may want to prohibit us talking about the uniqueness of Christ, and from secularists who do not want to hear about our moral stance, particularly regarding 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.

Make Your Voice Heard

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 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 a 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

Our information and legal support services are free of charge to the user. We are not-for-profit and rely entirely on the generosity of supporters to sustain our work. Please help us if you can with a one-off or regular gift. Visit www.ccfon.org for details of how to join our free e-mail update list, make a donation and become a campaigner for Christian liberties and standards.

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