

## **LIST OF KEY RELEVANT OFFENCES & LEGAL RESTRICTIONS ON SPEECH**

### **Public Order Act 1986**

- a. Fear or provocation of violence

A person is guilty of an offence if they use toward another person threatening, abusive, or insulting words or behaviour; or, distribute or display material which is threatening, abusive or threatening with intent to cause someone to fear immediate unlawful violence or provoke such violence.

- b. Intentional harassment, alarm or distress.

A person is guilty of an offence if, with intent to cause a person harassment, alarm, or distress, they use threatening, abusive or insulting words, behavior or disorderly behavior or display material which is threatening, abusive or insulting causing that or another person harassment, alarm of distress.

- c. Harassment, alarm or distress.

A person is guilty of an offence if they use threatening or abusive words, behavior or disorderly behavior or display material which is threatening or abusive within the hearing or sight of a person likely to be caused harassment, alarm or distress. The key difference to (b) above is that there is no requirement to prove intent.

- d. Acts intended to stir up religious hatred or hatred on the grounds of sexual orientation.

A person who uses threatening words or behavior or displays written material which is threatening is guilty of an offence if they intend to stir up religious hatred or hatred on the grounds of sexual orientation.

### **Terrorism Acts**

- a. Support for a Proscribed Organization

- Inviting support for a proscribed organisation (including moral support or approval).
- Expressing an opinion or belief supportive of a proscribed organisation, reckless as to whether it might encourage others.
- Arranging, managing, or assisting in arranging a meeting to support or further the activities of a proscribed organization or to be addressed by a person who belongs or professes to belong to a proscribed organization.
- Addressing a meeting with the purpose of encouraging support for or furthering the activities of a proscribed organisation.

- b. Wearing or Displaying Symbols of a Proscribed Organisation

- In a public place, wearing clothing or carrying/displaying an article in such a way or circumstances as to arouse reasonable suspicion that they are a member or supporter of a proscribed organisation.
- Publishing an image (still or moving) of such items of clothing or any other articles in similar circumstances.

- c. Encouragement of Terrorism

- Publishing a statement that is likely to be understood as encouraging terrorism, by either intending that members of the public to be encouraged to induced by the statement to commit terrorism offences or is reckless as to this encouragement or inducement.

The offence applies even if the person did not intend to encourage terrorism, provided they were reckless as to whether their statement might do so.

d. Dissemination of Terrorist Publications

- A person commits an offence if they engage in distributing, circulating, selling, loaning, providing access or transmits electronically a terrorist publication with the intent to encourage either directly or indirectly preparation or instigation of acts of terrorism or intends to have an effect of assistance in the commission or preparation of such acts or is reckless as to whether their conduct has the effects mentioned.

### **Malicious Communications Act 1988**

a. Sending communications

The offence involves sending communications (letters, emails, texts, etc.) that are:

- Indecent or grossly offensive

- with intent to cause distress or anxiety to the recipient or any other person the sender intends it to be communicated.

### **Communications Act 2003**

a. Misuse of public electronic communications networks (e.g. internet, mobile networks):

A person is guilty of an offence if they:

- Send by means of a public electronic communication network a message that is grossly offensive, indecent, obscene, or menacing; or
- Cause any such message or matter to be sent.

A person is also guilty of an offence if, for the purpose of causing annoyance, inconvenience, or needless anxiety to another, they:

- Send by means of a public electronic network a message that they know to be false;
- Causes such a message to be sent; or
- Persistently makes use of a public electronic communications network.

## Online Safety Act 2023

Offences include:

- a. Sending a false communication with intent to cause non trivial psychological or physical harm.
- b. Sending a communication threatening death or serious harm
- c. Epilepsy trolling – sending or showing flashing images electronically which is reasonably foreseeable to cause the recipient to suffer harm.
- d. Sending a communication that encourages serious self-harm with intention.
- e. Cyberflashing – sending an unsolicited sexual image intending the recipient to become alarmed, distressed, or humiliated.
- f. Sharing/threatening to share an intimate image or film

## Protection from Harassment Act 1997

Provides both civil and criminal remedies against harassment and prohibits a course of conduct that amounts to harassment or collective harassment which the person knows or ought to know amounts to harassment of the other or those persons.

The person whose course of conduct is in question ought to know that it amounts to, or involves harassment of, another if a reasonable person in possession of the same information would think the course of conduct amounted to, or involved harassment of, the other.

This legislation also provides for an offence if the harassing conduct amounts to stalking, and there is a more serious criminal offence in relation to both stalking and harassment.

These apply in relation to harassment, where the conduct causes the victim to fear violence on at least two occasions, and in relation to stalking, where the conduct causes the victim to fear violence or suffer serious alarm or distress that has a substantial adverse effect on their day-to-day activities.

## Defamation

A defamatory statement is one which is untrue, and which (a) lowers a person in the estimation of right thinking members of society generally; and(b) has a substantially adverse effect on the way people would treat that person..

To succeed in a defamation claim, a person (claimant) must show that the statement made:

- is defamatory;
- refer to them.
- was published to a third party by the accused person (defendant); and
- has caused or is likely to cause serious harm to their reputation.

There are a number of defences available to defendants:

- Truth: If the statement is substantially true, it is a complete defence
- Honest Opinion: The statement was a genuinely held opinion based on existing facts.

- Privilege:
  - \* Absolute Privilege: Applies to statements made in Parliament or court.
  - \* Qualified Privilege: Applies when there is a duty or interest in making the statement.
- Public Interest: The defendant reasonably believed that publishing the statement was in the public interest.