

Equality and Human Rights Commission publishes new freedom of expression guidelines

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New guidance on freedom of expression has been published by the Equality and Human Rights Commission (EHRC).

The new advice, coming after the attack on the Paris offices of *Charlie Hebdo*, is aimed at clearing up "muddle and misunderstanding" over UK free speech laws.

NSS executive director Keith Porteous Wood said: "Those seeking hardest to shut down freedom of expression in the UK should heed the Commission's welcome reminder that, in effect, no one has the right not to be offended. The law however does not explicitly make this clear.

"Given the PM's commendable emphasis in Paris on the importance of freedom of expression, we call on him to initiate a long-overdue root and branch review of our patchwork of laws in this area, which this guidance shows to be so contradictory.

"His top priority should be to introduce freedom of expression safeguards into the Public Order Act, where threatening, abusive or insulting behaviour prosecution thresholds are very low - but convictions can result in a 7 year prison term where the offence is deemed to be religiously aggravated. This is in effect a draconian 'all religion' blasphemy law that has no place in a liberal democracy."

Whilst the guidance makes clear that freedom of expression is a "fundamental right" protected by the Human Rights Act 1998 and Article 10 of the European Convention on Human Rights, the guidance does set out areas where some statements are not classified as protected speech.

The guidance explains that Article 10 "extends to the expression of views that may shock, disturb or offend the deeply-held beliefs of others", but notes that "freedom of expression does not protect statements that discriminate against or harass, or incite violence or hatred against, other persons and groups, particularly by reference to their race, religious belief, gender or sexual orientation."

EHRC Chief Executive Mark Hammond said: "The recent tragic events in Paris have again highlighted the importance of freedom of expression in our society. We have a long history of debating free speech in this country and the law recognises its value and importance.

"Today's guidance aims to address any muddle and misunderstanding about the law. What goes beyond causing offence and promotes hatred is sometimes a fine line and the source of intense debate. As an expert body and National Human Rights Institution, we hope we can play an important role in helping public bodies to understand and navigate this complex area."

The guidance states that there are "legitimate ways the state restrains what we can say but the test for curtailing freedom of expression in law is a stringent one."

It adds, "Any restrictions on freedom of expression must always be clearly set out in law, necessary in a democratic society for a legitimate aim, and proportionate. Subject to these conditions, freedom of expression may be limited in certain circumstances, including in order to protect others from violence, hatred and discrimination."

The EHRC add: "The boundary between the expression of intolerant or offensive views and hate speech is not always an easy one to draw. However, a number of factors are likely to be relevant, including the intention of the person making the statement, the context in which they are making it, the intended audience, and the particular words used."

The guidance notes that "freedom of expression is protected more strongly in some contexts than others."

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