

NSS criticises guidance advising religious accommodations in court

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The National Secular Society has criticised guidance to judges which recommends restricting or altering court activities to accommodate religious sensitivities.

Advice from the Judicial College, which is responsible for training judges in England and Wales, says religious requirements "may mean proceedings need to be conducted in a certain way".

The advice is presented in a new [edition](#) of the Equal Treatment Bench Book, a 422-page guide which aims to ensure "all those in and using a court leave it conscious of having appeared before a fair-minded tribunal".

The authors cite "fasting (and its impact on metabolism), the need to undertake purification rituals during the day, prayers at regular intervals, Sabbaths and religious holy days and oaths" as "just a few of the observances that may have to be considered".

They add that "breaks, adjustment of hours and to the order of events may be appropriate" to accommodate them.

In a section on the wearing of the veil, it says the right to freedom of religion "is not an absolute one" and "a judge can ask anyone giving evidence to take off her veil whilst she gives that evidence, but only if a fair trial requires it". It says "the identity of a witness or party can be established in private by a female member of staff without requiring removal of the veil in the courtroom".

It adds that when defendants or witnesses are compelled to remove their veils, judges "must consider arrangements to minimise discomfort or concern". It suggests restricting the number of observers allowed in court, banning court artists from drawing those required to lift their veils or providing limited screening, to allow only judges and juries to gain a clear view.

The guidance says "serious consideration should be given to responding positively to requests to alter the date" of a hearing for religious reasons and says judges should show "understanding of any issues regarding times when a Muslim person cannot attend court".

In its introduction the book quotes the former US Supreme Court judge Harry Blackmun, who said: "In order to treat some persons equally, we must treat them differently". It includes sections on subjects including anti-semitism and 'Islamophobia' which were not included in previous editions.

In a section on 'anti-Muslim racism: Islamophobia', the guidance tells judges "it is important to demonstrate respect for cultural difference" and draws heavily on evidence from the Muslim Council of Britain, Baroness Warsi and the Runnymede Trust.

It notes the Muslim Council of Britain's definition of 'Islamophobia' without rebuttal and cites its research to show "the prevalence of Islamophobic hate crime across England and Wales". It also cites the Runnymede Trust's assertion that elements of 'Islamophobia' include "non-recognition of

Muslim identities and concerns, and removal of Muslim symbols in public space".

Its section on anti-semitism cites the Home Affairs Committee, which says critics of Israel "should criticise 'the Israeli Government', and not 'Zionists'".

The guidance also has a 'glossary of religions', which gives a guide to 16 religious traditions.

NSS spokesperson Chris Sloggett said the proposals included "too many unreasonable concessions" and would "undermine public confidence that judges serve us all equally".

"This guidance appears well-intentioned, and any reasonable judge should seek to treat people from any religious background fairly and respectfully. But these recommendations give far too much special treatment based on religious practice.

"Rescheduling hearings, for example, is expensive and time-consuming. And our commitment to open justice is more important than some defendants' and witnesses' desire to hide their faces from the public.

"This guidance also goes far beyond its remit. It is particularly worrying that in places it presents the politicised arguments of the Islamic religious right as if they were uncontentious and encourages judges to alter their behaviour based on the feelings of those affected."

In January Lady Hale, the president of the Supreme Court, gave a qualified backing to the removal of veils in court.

In remarks to the Oxford Centre for Islamic Studies, which were [reported](#) yesterday, she said: "We do take it for granted in this country that observing a person's facial expressions, body language and general demeanour are an important part of assessing their credibility." She added that it was not her role to give guidance to the courts on the wearing of the veil.

The NSS has previously called on the Lord Chief Justice to introduce clear guidance on the wearing of the veil in court. A public consultation [promised](#) by the former occupant of the role, Lord Thomas, in 2013 failed to materialise.

In 2015 a poll by the Bar Council [found](#) that over 90% of barristers would support limits on the wearing of face veils during trials.

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