

Success: free speech clause in hate crime bill to be strengthened

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The National Secular Society has welcomed a decision from Scotland's justice secretary to strengthen a clause on free speech on religion in his government's proposed hate crime bill.

On Tuesday Humza Yousaf (*pictured*) announced that the bill would be amended to provide greater protection to expressions of "antipathy, dislike, ridicule and insult" of religion.

The [Hate Crime and Public Order \(Scotland\) Bill](#) will criminalise 'stirring up hatred' on a variety of grounds, including religion.

A conviction for 'stirring up hatred' would require the prosecution to demonstrate that the accused had behaved in a manner which is "threatening or abusive" and intended to stir up hatred.

Change to free speech protection

Currently a provision in the bill says behaviour or material shouldn't be considered threatening or abusive "solely on the basis that it involves or includes discussion or criticism of religion or religious practices".

The NSS has strongly argued that this provision should be strengthened since the bill's introduction, including in a [meeting with government representatives](#) and in [evidence to the justice committee](#) in recent weeks.

The bill will now make clear that people are free to express "antipathy, ridicule, dislike of a religion or religions, or the absence of religious belief, or to insult religions, or the absence of religious belief" – if they do not do so in a way that is "threatening or abusive and intended to stir up hatred".

Difference from equivalent in England and Wales

An equivalent clause in England and Wales's [Racial and Religious Hatred Act](#) says the law shouldn't restrict "discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents".

It also protects religious proselytising and does not include a qualifier about the manner or intent of communication.

The Scottish government does not propose to include expressions of "abuse" of religion in the new free expression provision, because the bill criminalises conduct or communications which are "abusive".

The equivalent provisions in the Racial and Religious Hatred Act only cover conduct which is "threatening", rather than "abusive".

NSS comment

NSS chief executive Stephen Evans said: "This is a significant and welcome step from the justice secretary which will go a long way towards protecting free speech on religion in Scotland.

"But we continue to urge ministers to at least match the free speech protection offered in England and Wales's Racial and Religious Hatred Act. This bill's weaker provision will mean it still risks capturing speech which people find offensive – and therefore subjectively abusive."

Other concessions and previous amendment on intent

Yousaf's announcement was one of [several concessions he made](#) as he gave evidence to the Scottish parliament's justice committee, and follows another concession on the threshold for prosecution.

In September he [announced](#) an amendment to ensure the prosecution would need to demonstrate intent to secure a conviction for 'stirring up hatred'.

The bill as initially drafted would have also enabled convictions in circumstances where it was "likely" that hatred would be stirred up.

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