

# Detailed information on legislation related to intimidation offences

## Communications Act 2003

### Section 127 – Improper use of public electronic communications network

(1) A person is guilty of an offence if he:

- (a) sends by means of a public electronic communications network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or

causes any such message or matter to be so sent.

(2) A person is guilty of an offence if, for the purpose of causing annoyance, inconvenience or needless anxiety to another, he:

- (a) sends by means of a public electronic communications network, a message that he knows to be false;

causes such a message to be sent; or

persistently makes use of a public electronic communications network.

## Crime and Disorder Act 1998

### Section 28 – Meaning of racially or religiously aggravated

(1) An offence is racially or religiously aggravated for the purposes if:

- (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or

the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group.

## Protection from Harassment Act 1997

### Section 1 – Prohibition of Harassment

(1) A person must not pursue a course of conduct:

- (a) which amounts to harassment of another, and

which he knows or ought to know amounts to harassment of the other.

(1A) A person must not pursue a course of conduct:

(a) which involved harassment of two or more persons, and which he knows or ought to know involved harassment of those persons, and by which he intends to persuade any person (whether or not one of those mentioned above):

- (i) not to do something that he is entitled or required to do, or

to do something that he is not under any obligation to do.

#### Section 2A – Offence of Stalking

(1) A person is guilty of an offence if:

- (a) the person pursues a course of conduct in breach of section 1(1); and

the course of conduct amounts to stalking.

(2) For the purposes of subsection (1)(b) (and section 4A(1)(a)) a person's course of conduct amounts to stalking of another person if:

- (a) it amounts to harassment of that person;

the acts or omissions involved are ones associated with stalking; and

the person whose course of conduct it is knows or ought to know that the course of conduct amounts to harassment of the other person.

The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking:

following a person;

contacting, or attempting to contact, a person by any means;

publishing any statement or other material:

- (i) relating or purporting to relate to a person; or

purporting to originate from a person;

monitoring the use by a person of the internet, email or any other form of electronic communication; loitering in any place (whether public or private);

interfering with any property in the possession of a person;

watching or spying on a person.

#### Section 3 – Civil remedy

(1) An actual or apprehended breach of section 1(1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.

(2) On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment.

(3) Where:

(a) in such proceedings the High Court or the county court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment; and

the plaintiff considers that the defendant has done anything which he is prohibited from doing by the injunction;

the plaintiff may apply for the issue of a warrant for the arrest of the defendant.

### Section 3A – Injunctions to protect persons from harassment within section 1(1A)

- (1) This section applies where there is an actual or apprehended breach of section 1(1A) by any person (“the relevant person”).
- (2) In such a case:
  - (a) any person who is or may be a victim of the course of conduct in question; or

any person who is or may be a person falling within section 1(1A)(c);

may apply to the High Court or the county court for an injunction restraining the relevant person from pursuing any conduct which amounts to harassment in relation to any person or persons mentioned or described in the injunction.

### Section 4 – Putting people in fear of violence

- (1) A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions.
- (2) For the purposes of this section, the person whose course of conduct is in question ought to know that it will cause another to fear that violence will be used against him on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.
- (3) It is a defence for a person charged with an offence under this section to show that:
  - (a) his course of conduct was pursued for the purpose of preventing or detecting crime;

his course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment; or

the pursuit of his course of conduct was reasonable for the protection of himself or for the protection of his or another’s property.

### Section 4A – Stalking involving fear of violence or serious alarm or distress

- (1) A person (“A”) whose course of conduct:
  - (a) amounts to stalking, and

either:

- (i) causes another (“B”) to fear, on at least two occasions, that violence will be used against B, or

causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities,

is guilty of an offence if A knows or ought to know that A's course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress.

### **Malicious Communications Act 1988**

Section 1 – Offence of sending letters etc. with intent to cause distress or anxiety

(1) Any person who sends to another person:

- (a) a letter, electronic communication or article of any description which conveys:

a message which is indecent or grossly offensive;

a threat; or

information which is false and known or believed to be false by the sender; or

any article or electronic communication which is, in whole or part, of an indecent or grossly offensive nature,

is guilty of an offence if his purpose, or one of his purposes, in sending it is that it should, so far as falling within paragraph (a) or (b) above, cause distress or anxiety to the recipient or to any other person to whom he intends that it or its contents or nature should be communicated.

### **Public Order Act 1986**

Section 4 – Fear or provocation of violence

(1) A person is guilty of an offence if he:

- (a) uses towards another person threatening, abusive or insulting words or behaviour, or

distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting,

with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence ...

Section 4A – Intentional harassment, alarm or distress

(1) A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he:

- (a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or

displays any writing, sign or other visible representation which is threatening, abusive or insulting,

thereby causing that or another person harassment, alarm or distress ...

### **Criminal Damage Act 1971**

#### Section 1 – Destroying or damaging property

(1) A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged shall be guilty of an offence.

(2) A person who without lawful excuse destroys or damages any property, whether belonging to himself or another:

intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and

intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be thereby endangered;

shall be guilty of an offence.

### **Offences Against the Person Act 1861**

#### Section 16 – Threats to Kill

A person who without lawful excuse makes to another a threat intending that the other would fear it would be carried out, to kill that other or a third person shall be guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding ten years.

### **European Convention On Human Rights**

#### 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.

#### Article 10 – Freedom of expression

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public council and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the council and impartiality of the judiciary.

#### Article 14 – Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.