

Sydney Anglicans

2026: UK Special Edition - Free Speech **FREEDOM MATTERS**

Religious Freedom Update



Informing and equipping you to
take action to protect religious freedom

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Reflection

UK Special Edition on Free Speech

I was in the UK recently attending a conference and had the opportunity to meet with a number of religious freedom advocates. The episode of 'Freedom Matters' which accompanies this document is an interview with Robert Clarke, Head of Advocacy at Alliance Defending Freedom International ('ADF'). ADF is a legal non profit organisation that defends religious freedom, parental rights, free speech, and supports Christians (and others) who have been charged under British 'hate speech' laws.

The UK experience of laws that restrict speech based on subjective feelings that speech may 'offend', 'insult' or 'harass' is a cautionary tale for Australia. Christians there have been charged for preaching the gospel or making statements of Biblical truths regarding sexual ethics or gender identity. Similar laws restricting speech have been proposed in Australia in 2026. This is a significant threat to religious freedom and the ability of Christians to share and preach the gospel.

Another related threat in Australia is the proposed introduction of a 'digital duty of care' into the *Online Safety Act*, as a way of reducing 'hate speech' and antisemitism. This would require online platforms to remove or block content which is 'harmful' (but not necessarily illegal). A similar duty in the UK has created significant censorship issues as platforms are removing or blocking content rather than risking fines. This gives online platforms and the government the power to determine what is 'true' or 'harmful'.

Michael Stead (Bishop of South Sydney)

This document sets out a summary of threats to freedom of expression or 'free speech' in the UK and Australia. The **Overall** threat level to freedom of expression in Australia is **HIGH**



Taking Action

Resources to assist you to contact your local MP on current issues can be found at: www.contactyourmp.org.au

For more information on current issues, go to: www.freedomforfaith.org.au/current-issues/

UK Special Edition Free Speech



What is 'free speech'?

- 'Free speech' or 'freedom of expression' is the freedom to receive and share information and ideas of all kinds.
- It is downstream from the absolute right to freedom of thought, conscience and religion (Article 18.1 *International Covenant on Civil and Political Rights* 'ICCPR') and the right to hold opinions without interference (Article 19.1 ICCPR). Freedom of thought is a fundamental human right as it protects an individual's internal cognitive freedom, agency and dignity without state interference.
- The freedom to *express* those thoughts and opinions (free speech) is protected by Article 19 ICCPR.
- Whilst the freedom to express thoughts and opinions carries with it special duties and responsibilities (words have an effect on others), the ICCPR recognises that limiting the free expression of ideas is not taken lightly and should only be limited by legislation when **necessary** to protect:
 - the rights or reputations of others, or
 - national security, public order, or public health or moralsand the limitation must be **proportionate** to the need to limit such speech.

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Why does 'free speech' matter?

- A liberal democratic society must enable the free exchange of information and ideas. Those ideas won't always agree with one another; people's opinions will vary on different topics. Without that pluralism, tolerance and broadmindedness we would not have a democratic society.
- Free speech is especially important to ensure we have strong democratic political systems as it allows citizens to criticize officials and politicians, to discuss policies, to hold protests, and debate ideas. Tolerating opposing ideas is essential for a democratic society as a necessary brake on abuse of power.
- The opposite of allowing free speech is censorship. Controlling speech and opposing ideas is symptomatic of authoritarianism. Increasingly governments in Australia and the UK have sought to restrict speech even online in the name of minimising 'harm' or 'misinformation'.
- Free speech enables individuals to communicate their beliefs, it encourages intellectual development, truth seeking and artistic endeavour. For Christians, it is essential to enable us to share the gospel – which is communicated through speech. How can people respond to the gospel if they cannot hear it?
- Courts have recognised the importance of free speech as essential for a democratic society:

"Freedom of expression constitutes one of the essential foundations of [a democratic] society... it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'."

Handyside v the United Kingdom, European Court of Human Rights, 7 December 1976

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What are 'hate speech' laws that restrict free speech? What has been the UK Experience?

- So-called "hate speech" laws are ambiguously worded laws that criminalise certain speech usually based on subjective criteria. Speech is considered hateful from the perspective of the hearer or reader, with little to no regard for the content of the speech itself and without a truth defence.
- Because "hate speech" laws rely on vague terms such as 'insult' and 'offend', they are inconsistently interpreted and arbitrarily enforced, often with the threat of serious criminal penalties.
- The UK has seen a sharp rise in arrests for speech offences based on speech which is '*likely to cause harassment, alarm or distress*' (s5 *Public Order Act, 2023*) and for online offences that are 'grossly offensive' causing '*annoyance, inconvenience or needless anxiety*' (s127 *Communications Act, 2003*).
- When laws are based on subjective feelings of 'harassment' or 'offence' the bar is set very low for criminality.
- The UK has seen over 30 arrests per day for online offences (12,000+ per annum) and similar rates for arrests under the *Public Order Act*.
- In one case 6 police officers attended to arrest a couple at home over a WhatsApp post and email complaints regarding the recruitment process for a replacement head teacher at their child's school. The couple were held in a jail cell for 8 hours before being released. The matter is now under review.
- Many Christians have been arrested for 'hate crimes' for expressing orthodox Biblical views of sexual ethics, or anthropology or for absolute truth claims of the gospel. The scope of the terms 'threaten', 'abusive', 'harassment', 'alarm' and 'distress' accompanied with the vague tests of 'reasonableness' and 'proportionality' have created a plethora of litigation in the UK.

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What are the lessons for Australia?

- Criminal vilification provisions based on the subjective test of 'fear harassment' or 'offend' may lead to similar outcomes to the hate speech regime in the UK. The evidence from the UK is that this has undermined social cohesion, by polarising communities and empowering one group to utilise the police to enforce their grievances against another. These laws have given rise to prosecutions where traditional truth claims concerning marriage or the exclusivity of religious beliefs were made. In effect it is being used as a 'blasphemy law'.
- It is not appropriate to criminalise speech where it does not amount to a threat of or an incitement to force or violence. Increasingly legislation in Australia at both a Federal and State level seeks to criminalise speech at this lower level, which does not threaten or incite violence.
- The proposed s80.2BF of the *Combatting Antisemitism Hate and Extremism Act 2026* (Cth) created a criminal offence with a sentence of imprisonment for 5 years for what may be as little as speech that a person regards as 'intimidating' or 'harassing' which is extraordinary.
- Regulating speech can be understood as falling into 3 categories:
 - **Category 1 criminal sanctions** on speech (traditionally treason, sedition, threat or incitement to violence)
 - **Category 2 civil sanctions** on speech (consequences for speech which defames (slander/libel), misrepresents etc)
 - **Category 3 'awful' but not 'unlawful' speech** (speech which offends or insults)
- Difficulties arise when we re-categorise speech from one category to another, civil to criminal (and now awful to criminal). A liberal democratic society allows speech which may insult or offend. We should counter 'awful' speech in the marketplace of ideas with good speech.

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What risks are there from a 'digital duty of care' in the *Online Safety Act 2021 (Cth)*'?

- The 2024 Australian Rickard Review into the *Online Safety Act* recommended that a 'digital duty of care' be introduced (as in the UK) to prevent content that is 'harmful' from being accessed especially by young people. It would require online platforms to remove or block content which is 'online hate material' – according to a new definition – which is wider than vilification laws. It is defined as material which an ordinary reasonable person would conclude is an 'online attack' against a person based on protected attributes. An 'attack' is defined to include violent or dehumanising material, **harmful stereotypes, statements of inferiority**, expressions of contempt, disgust or dismissal, cursing and calls for exclusion or segregation.
- Statements regarding the absolute truth claims of the gospel, the superiority of Christ, God's good design of marriage and sexuality could all potentially breach such a definition. In the UK 'harm' has been equated with 'misinformation' and content has been blocked which criticises the government's approach to policing or complaints about censorship itself. In addition content on women's health matters, posts regarding historical matters or classical art have been blocked as being 'harmful'. The UK Act also included the criminalisation of 'false communication' and people have been arrested, convicted and jailed for posts on their social media pages for statements as innocuous as 'I was running for my life' which was admitted to be a joke.
- The Royal Commission into Antisemitism has heard evidence that AI could be used to review and edit content on the internet and social media to prevent content appearing (rather than wait for the e-Safety Commissioner to issue a 'take down' order). This poses a grave risk to freedom of expression in Australia.
- The age-verification processes in the UK have raised privacy concerns as well as resulting in a default model of suppression of speech and expression, where access to lawful content is no longer presumed but withheld until age verification is provided. The slide from safeguarding to suppression was almost instantaneous.

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What next?

- Free speech is a key foundation to a democratic society which enables criticism of authorities, the testing of ideas, and the outworking of fundamental freedoms of thought, conscience and belief.
- It is important to support freedom of expression in Australia and to resist attempts to criminalise speech which does not incite or threaten violence. Such laws are a direct threat to gospel ministry.
- Christians should be encouraged to speak up when they hear of proposed 'hate speech' laws which criminalise speech which 'insults', 'offends' or causes someone to 'fear harassment'. 'Hate speech' is not 'speech that I hate'.
- Regulating speech including (online content) has a direct impact on word-based ministry especially the ability to preach the gospel, call people to repentance, and to teach Biblical truths concerning gender identity and sexual ethics.

Disclaimer

The content of this document is intended only to provide a summary and general overview on religious freedom matters. It is not intended to be comprehensive nor does it constitute legal advice. If you need advice in relation to a particular situation you should seek your own independent legal advice.