



EXTREMISM BILL: EDOs BRIEFING

We strongly support the Government's intention to combat terrorism both at home and abroad. But sweeping new powers set to be included in the Extremism Bill go way beyond combating radical Islamists – they could even cover those who obey the law but who speak against equality laws. The new powers are so broadly defined that even traditional marriage supporters could be branded as 'extremists'.

1. WHAT ARE EDOS?

Plans to introduce new Extremism Disruption Orders (EDOs) were confirmed by the Prime Minister shortly after the General Election.¹

Although the actual legislation has not yet been published, detailed comments from senior Government ministers and media reports indicate:

- The Home Office's new strategy seeks to go "beyond terrorism" to "eliminate extremism in all its forms".
- EDOs would be triggered by "harmful activities of extremist individuals who spread hate but do not break laws".²
- For a court to impose restrictions upon an individual, it would have to be persuaded that the individual was "spreading, inciting, promoting or justifying hatred on the grounds of disability, gender, race, religion, sexual orientation and/or transgender identity".³
- The orders will also be used to "tackle those venues and facilitators that help extremists to continue their activities".⁴

Crucially, press reports indicate that the authorities **would only have to show that the individual had fulfilled the above criteria on the civil legal test of 'balance of probabilities'** rather than the stronger criminal test of 'beyond reasonable doubt'.⁵ **Even the mere risk of causing "distress"** would be enough to trigger the new powers.⁶

The BBC reports that a court could impose any of the following conditions: banning someone from speaking in public, in social media or on the news; restricting who they could associate with; and banning them taking a position of authority, such as a school governor.⁷ It appears likely that an individual could face prosecution and a possible jail sentence for breaching the EDO's conditions.⁸

David Cameron himself has said: "For too long, we have been a passively tolerant society, saying to our citizens: as long as you obey the law, we will leave you alone. It's often meant we have stood neutral between different values. And that's helped foster a narrative of extremism and grievance. This government will conclusively turn the page on this failed approach."⁹

2. WHAT THIS COULD MEAN FOR MARRIAGE SUPPORTERS

a) Freedom of speech

The proposed EDOs have quickly come under fire from politicians, free speech campaigners and the media.

Senior Conservative David Davis MP described the measures as "quite incredible powers to limit democratic rights",¹⁰ while civil liberties groups have warned that the proposals will inevitably place "major restrictions" on people's freedoms,¹¹ and "restrict our civil liberties".¹²

Dominic Raab MP has said: "Those engaged in passionate debates", in which he includes those "objecting to gay marriage", could find themselves "slapped down."¹³ *The Independent* newspaper said that the Home Secretary's response to the threat of extremism leans "too far in the direction of authoritarianism"¹⁴ and an editorial in *The Guardian* said they are "dangerous" and "need to be rethought".¹⁵

Veteran broadcaster John Humphrys recognised the genuine cause for concern when he interviewed Theresa May on BBC Radio 4's *Today* programme. Calling the Government's approach "woolly" he asked: "If you don't believe in gay marriage, you are absolutely entitled not to believe in gay marriage and presumably you would still be entitled to say 'I don't believe in gay marriage, I think it damages society'".¹⁶ Mrs May denied it would be an issue.

But at the first meeting of the National Security Council she promised to introduce legislation “to combat groups and individuals who reject our values and promote messages of hate” and “empower institutions to stand up against the extremists and challenge bigotry and ignorance”.¹⁷

b) Vague wording

The term ‘extreme’ is already used in many situations where it is not appropriate. C4M, for example, has previously been described as ‘extreme’ by the National Secular Society.¹⁸

As former Red Cross volunteer Bryan Barkley has already discovered, one person’s peaceful protest may be regarded as ‘extreme’ by someone else. Broadening the scope even further to incorporate “extremism in all its forms” (as Theresa May said) has the potential to catch all manner of other innocent behaviour.

What is more, the police will be able to apply for a court order to restrict ‘harmful activities’. But again what constitutes harmful activity is also wide open to interpretation.

c) Misapplication of equality law

Phrases such as ‘spreading or justifying hatred’ threaten to widen the scope even further. Some supporters of same-sex marriage would clearly regard those who take a stand for traditional marriage as “spreading hatred on the grounds of sexual orientation”.

As one commentator has said: “The law should be about preventing specific harm to the public, not deciding whose ideas are acceptable and whose aren’t.”¹⁹

d) Civil standard of proof

Former Attorney General Dominic Grieve said: “Any restriction on freedom of expression of individuals outside the criminal law is something that has to be approached with very great caution.”²⁰ However, the combination of such vague terms, coupled with a civil standard of proof, leaves huge scope for EDOs to be “used and misused by over-zealous police officers and judges”.²¹

e) Existing legislation

There is a lack of political will to implement existing laws. Yet more legal powers are not the remedy for ‘extremism’. As Dominic Grieve further pointed out, we “already have a substantial armoury of laws in this country, including the criminalisation of incitement to hatred”.²²

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