



Home Office

2 Marsham Street
Westminster
London
SW1P 4DF
www.gov.uk/home-office

Council of Europe Commissioner for Human Rights
Michael O'Flaherty
Council of Europe
Office of the Commissioner for Human Rights
67075 Strasbourg Cedex
FRANCE

15 October 2025

Dear Commissioner O'Flaherty,

I write in response to your letter of 23 September. I need to challenge several assertions made in your correspondence that do not accurately reflect the United Kingdom's legal framework or operational realities.

The United Kingdom government is absolutely committed to protecting freedom of expression. Free speech is a fundamental right and a core value of our democratic society. Our laws support open debate, even on sensitive topics. At the same time, the law is clear that free speech cannot be used to justify criminal conduct. Where individuals cross the line into unlawful behaviour, it is therefore right that they should face legal consequences.

Proscription powers

Proscription is one of the most powerful counter-terrorism tools available, and any decision to proscribe is taken with great care and follows rigorous consideration, as noted by the Independent Reviewer of Terrorism Legislation Jonathan Hall KC in his report on the operation of the Terrorism Acts of 2022. The decision to proscribe Palestine Action was not taken lightly; it was made by the previous Home Secretary after a robust, evidence-based process, with advice from a wide range of experts across government, the police, and the Security Service.

Contrary to your assertion, it remains lawful to disagree with the government's decision to proscribe Palestine Action. Anyone is free to criticise or debate our terror laws. What is not acceptable and what is a crime under the law is to support a proscribed organisation. This Government has been and will continue to be clear

about the importance of upholding the rule of law. This Government has also been unequivocally clear that supporting Palestine and supporting a proscribed terrorist group are not the same thing. Those who choose to protest in support of Palestine are not only free to exercise that right but also have been repeatedly facilitated by police in doing so for the last two years. By contrast, those that intentionally break the law in order to overwhelm the criminal justice system, as many of those arrested since proscription have done, can rightly expect to be arrested.

Freedom of assembly and association

Similarly, freedom of assembly and association is a fundamental right. However, this freedom does not extend to unlawful behaviour. This includes actions that are violent or cause harassment, alarm, or distress to others. The Public Order Act 1986, Police Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023 provide the police with the powers they need to protect individuals from harassment and intimidation as well as to impose any conditions on protest activity to address serious disruption. The legislative framework is a proportionate response to real-world challenges.

We recognise the importance of ensuring that any restrictions on the right to freedom of expression and peaceful protest are lawful, necessary and proportionate. The government continues to keep the legal framework under review to ensure it aligns with our human rights obligations and I have already announced an independent review of public order legislation.

It is also important to emphasise that the management of demonstrations is an operational matter for the police. Powers are exercised independently by individual forces, based on local circumstances and their professional judgement. Ministers do not intervene in decisions about how the police apply these laws. The government expects police to act in accordance with the Human Rights Act 1998 and to ensure proportionality in all decisions.

Crime and Policing Bill

You express concern about some of the measures in the Crime and Policing Bill. These are targeted measures to address specific gaps in police powers in response to evolving protest tactics. These measures are not blanket bans but carefully calibrated to prevent criminality while safeguarding peaceful expression.

The new **concealing identity** measure introduces a criminal offence for wearing, or otherwise using, an item that conceals identity in a public place that has been designated by the police. It is targeted at a minority of individuals who are using items to conceal their identity as a means of evading conviction for criminal offences committed during protests. The offence only applies at localities designated by the police, where they reasonably believe a protest is taking place which is likely to

involve the commission of offences. The offence is narrowly defined and subject to operational discretion, ensuring that peaceful demonstrators are not unfairly targeted – indeed, the majority of peaceful protests will not be impacted by this new measure.

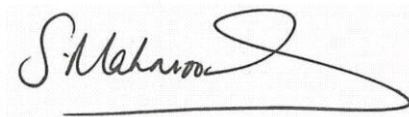
You also raise concerns about the provision relating to assemblies held “**in the vicinity of a place of worship**”, including the scope of the term “vicinity”. This is an important measure for protecting religious communities from intimidation caused by protests near their place of worship. The measure does not ban protests near places of worship but enables police to impose conditions on protests where there is a reasonable belief that a protest may create an intimidating atmosphere for worshippers. I believe, in light of the terrible recent experiences that we have had here in recent days, that the necessity of this power is clear. Decisions on imposing such conditions are again operational matters for the police based on local circumstances.

Human rights of trans people

Lastly, I want to address your comments in your letter to Lord Alton and Sarah Owen MP on the human rights situation of trans people in the UK. I would like to take this opportunity to emphasise that I consider it unacceptable to question the validity of the Supreme Court in making this decision. The court has provided legal clarity on this issue, exactly as they are expected to. I find any attempt to cast aspersions on the Supreme Court’s decision disappointing.

Ministerial colleagues responsible for Equalities will be able to write to you on this issue more fully, in due course.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Mahmood', with a long, sweeping horizontal line underneath.

**RT HON SHABANA MAHMOOD MP
HOME SECRETARY**