

## Harassment

This file contains three directions;

- 1, Putting a person in fear of violence by harassment;
- 2, Acting in Breach of a Restraining Order - only issue contact; and
- 3, Religiously aggravated harassment

### (1) Putting a person in fear of violence by harassment

Someone is guilty of this offence if her course of conduct, which amounted to harassment, caused another to fear, on at least two occasions, that violence would be used against her and she knew or ought to have known that her course of conduct would cause the other so to fear on each of those occasions.

So, for the defendant to be guilty, you have to be sure that:

(a) she pursued a course of conduct which amounted to harassment. A course of conduct must involve conduct on at least two occasions. Conduct includes speech. Harassment includes alarming a person or causing distress.

(b) on at least two occasions that conduct must have caused C\*\* to fear that violence would be used against her.

(c) D\*\* knew or ought to have known that her course of conduct would cause C\*\* so to fear on each of those occasions. When considering the phrase "ought to have known", you should decide whether a reasonable person in possession of the same information would think that the course of conduct would cause C\*\* to fear that violence would be used against her.

The prosecution case is that \*\*.

D\*\* denies making any of these threats.

It has not been disputed that, if those threats were made in the circumstances of this case, the offence of putting a person in fear of violence by harassment would have been committed. It has not been disputed that they were so connected in type and in context as to justify the conclusion that they amounted to a course of conduct.

So, the key question for you to answer in relation to Count \*, having regard to all the evidence and the directions which I give you, is

Did D\*\* make at least two of those threats in the circumstances described by C\*\*?

If you are sure that the answer is "yes" she is guilty of Count \*. If the answer may be "no", she is not guilty of Count \*.

### (2) Religiously aggravated harassment

Someone is guilty of this offence if

- he pursued a course of conduct, which amounted to harassment. A course of conduct must involve conduct on at least two occasions which are connected in type and context. Conduct includes speech. Harassment includes alarming a person or causing distress;

- he knew or ought to have known it amounted to harassment. When considering the phrase “ought to have known”, you should decide whether a reasonable person in possession of the same information would think that the course of conduct amounted to harassment; and
- At the time of pursuing the course of conduct, or immediately before doing so, he demonstrated towards the complainant hostility based on his membership or presumed membership of a particular religious group. It is not disputed that calling someone “a fucking Muslim,” is a demonstration of hostility based on religion.

The prosecution case is that between \*\* and \*\*, on a number of occasions, the defendant \*\*\*

D\*\* denies all of this.

It has not been disputed that, if the defendant behaved in the way alleged, the offence of racially aggravated harassment would have been committed. So, the key question that you have to answer, having regard to all the evidence and the directions which I give you is

Between \*\* and \*\*, on at least two occasions, did D\*\* behave in the way described by C\*\* and refer to C\*\* as a “fucking Muslim”?

If you are sure that the answer is “yes” he is guilty. If the answer may be “no”, he is not guilty.

### **(3) Acting in Breach of a Restraining Order - only issue contact**

“without reasonable excuse” It has not been suggested by the defendant that there was any reasonable excuse for anything that he did in this case. So, you do not have to consider these words.

“contacted C\*\* directly or indirectly” This is the key issue in relation to these counts. The prosecution case is that D\*\* contacted C\*\*\* in the different ways alleged in each count or charge. They say that some of it was direct contact; some of it was indirect contact. He denies any contact.

“Contact” is an ordinary English word with no special legal meaning. It includes any form of communication.

The words “contacted ... directly or indirectly” deliberately have a wide meaning. The phrase includes direct contact – such as sending a postcard or an email and phoning and leaving a voice mail on C\*\*’s voicemail. But it can also include indirect contact – e.g. making contact with other people with the intention that they pass the contact on to C\*\*\* or electronic contact which is notified to C\*\*\* – provided in either case that the indirect contact reaches C\*\*\*. For example, \*\*\*

“which he was prohibited from doing by a restraining order” There is no dispute about this. You have a copy of the Restraining Order at Tab \*\* in the bundle.

As I have said, the defendant says that he did not breach the restraining order. He denies contacting C\*\*\*in any way. He says that \*\*\*.

So, the key question for you to answer in relation to Count \*, having regard to all the evidence and the directions which I give you, is this

Did D\*\*?

If you are sure that the answer is “yes”, he is guilty. If the answer may be “no”, he is not guilty.