The Right Honorable Theresa May MP
Secretary of State for the Home Department
Home Office
2 Marsham Street
London
SW1P 4DF

14th January 2014

Dear Mrs May,

We write to urge you to accept the amendment to clause 1 of the Anti-social Behaviour, Crime and Policing Bill passed by the House of Lords on 8 January.

Extending the "nuisance or annoyance" definition of anti-social behaviour from social housing to the entire public sphere is a grave mistake. It will damage civil liberties and clog up the courts with needless applications, preventing them focusing on genuine anti-social behaviour. The Lords amendment accepts that the annoyance test should continue to operate in the limited context of social housing management. But it rejects the idea of giving police and local authorities power to apply for injunctions against people simply for being annoying in public.

Such a broad power, with potential application to any person in any place, is bound to lead to misuse and injustice. The temptation to use it against inconvenient, unfashionable, irritating or unwelcome expressions of opinion is far too great. We saw this happen with the word "insulting" in Section 5 of the Public Order Act. The Government accepted that change when the Lords voted for it in 2012. We hope you will do the same with annoyance injunctions. Norman Baker has suggested the Lords only voted for the amendment because they don't understand what "nuisance and annoyance" means. We feel bound to point out that the list of lawyers and police officers who voted for the amendment is long and impressive. It was proposed by a former Chief Constable and supported by four former Commissioners of the Met, along with a former Lord Chancellor, a former Attorney General, a former President of the Supreme Court, a former Deputy President of the Supreme Court, a former Director of Public Prosecutions and numerous other judges and QCs. We do not think such people can be accused of not understanding the law.

It has also been suggested that Peers fell for "scare stories". It is always possible to find examples of a case being overstated, but Peers in last week's debate were not doing so. They were asking legitimate questions about the meaning of words they were being asked to endorse in statute and which would affect the civil liberties of people throughout England and Wales. They concluded that injunctions based around the words "harassment, alarm or distress", borrowed from existing ASBO and public order law, provided the right balance between protecting people from anti-social behaviour, and protecting their fundamental freedoms of expression and assembly.

The amendment passed by the Lords did not do everything we would have wanted. Some of us also wanted a proper defence of reasonableness, an explicit necessity test, and a criminal standard of proof. All of these safeguards appear in current ASBO legislation and all of them are removed by clause 1. A key concern raised by Government is the need to obtain injunctions quickly. This will still be possible with a higher threshold test, especially applying the civil standard of proof.

We are prepared to settle for the removal of the "nuisance or annoyance" threshold, outside the social housing context, and its replacement with "harassment, alarm or distress". This is modest and reasonable and we urge you to accept it.

Yours sincerely,

Simon Calvert, **The Christian Institute**

Jodie Blackstock, **JUSTICE**

Keith Porteous Wood, **National Secular Society**

Peter Tatchell, **Peter Tatchell Foundation**

Simon Richards, **The Freedom Association**

Don Horrocks, **Evangelical Alliance**

Vicki Helyar-Cardwell, **Criminal Justice Alliance**

Sir Barney White-Spunner, **Countryside Alliance**

Nick Pickles, **Big Brother Watch**

Josie Appleton, **Manifesto Club**

Penelope Gibbs, **Standing Committee for Youth Justice**

cc. Norman Baker MP