

**JUSTICE COMMITTEE**

**HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL**

**SUBMISSION FROM VERA BURGESS**

To the Committee

I note from the text that the protected characteristics do not include the characteristic of “sex”. Protections by sex of, particularly, females has long been an important protection

I have highlighted this in the copy of the text below.

Section 3) f. mentions only “variations in sex characteristics”.

Please expand this section to include “sex” as a protected characteristic.

- (b) either—
  - (i) in doing so, the person intends to stir up hatred against a group of persons based on the group being defined by reference to race, colour, nationality (including citizenship), or ethnic or national origins, or
  - (ii) as a result, it is likely that hatred will be stirred up against such a group.
- (2) A person commits an offence if—
  - (a) the person—
    - (i) behaves in a threatening or abusive manner, or
    - (ii) communicates threatening or abusive material to another person, and
  - (b) either—
    - (i) in doing so, the person intends to stir up hatred against a group of persons based on the group being defined by reference to a characteristic mentioned in subsection (3), or
    - (ii) as a result, it is likely that hatred will be stirred up against such a group.
- (3) The characteristics are—
  - (a) age,
  - (b) disability,
  - (c) religion or, in the case of a social or cultural group, perceived religious affiliation,
  - (d) sexual orientation,
  - (e) transgender identity,
  - (f) variations in sex characteristics
- (4) It is a defence for a person charged with an offence under this section to show that the behaviour or the communication of the material was, in the particular circumstances, reasonable.
- (5) For the purposes of subsection (4), it is shown that the behaviour or the communication of the material was, in the particular circumstances, reasonable if—
  - (a) evidence adduced is enough to raise an issue as to whether that is the case, and
  - (b) the prosecution does not prove beyond reasonable doubt that it is not the case.
- (6) For the purposes of subsections (1)(a)(i) and (2)(a)(i), a person's behaviour—
  - (a) includes behaviour of any kind and, in particular, things that the person says, or otherwise communicates, as well as things that the person does,
  - (b) may consist of—
    - (i) a single act, or
    - (ii) a course of conduct.
- (7) For the purposes of subsections (1)(a)(ii) and (2)(a)(ii), the ways in which a person may communicate material to another person are by—
  - (a) displaying, publishing or distributing the material,
  - (b) giving, sending, showing or playing the material to another person,
  - (c) making the material available to another person in any other way.

Vera Burgess  
21 July 2020