

## **JUSTICE COMMITTEE**

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

#### **SUBMISSION FROM SOUTH LANARKSHIRE COUNCIL**

South Lanarkshire Council welcome the opportunity to contribute to the consultation on the Hate Crime and Public Order (Scotland) Bill.

When considering the questions posed by the consultation discussion was informed by the overall vision for community justice in Scotland which is underpinned by the following principles:

- People must be held to account for their offences, in a way that recognises the impact on victims of crime and is mindful of risks to the public, while being proportionate and effective in preventing and reducing further offending.
- Re-integrating those who have committed offences into the community, and helping them to realise their potential, will create a safer and fairer society for all.
- Every intervention should maximise opportunities for preventing and reducing offending as early as possible, before problems escalate.
- Community justice outcomes cannot be improved by one stakeholder alone. We must work in partnership to address these complex issues.
- Informed communities who participate in community justice will lead to more effective services and policies with greater legitimacy.
- High quality, person-centred and collaborative services should be available to address the needs of those who have committed offences, their families, and victims of crime.

#### **General**

There is a need to consider the overall benefits and expected outcomes that new legislation would provide, or whether there is existing legislation which could be used more effectively.

There is agreement that people must be held to account for their crimes and the introduction of new hate crime legislation provides the means for processing those involved in such types of offending behaviour.

However on its own legislation does not address the underlying issues within our communities and there is a need for other non-legislative approaches to support positive change such as programmes of awareness raising to promote an understanding of the impact of hate crime on victims and communities. The involvement of third sector organisations could promote better relationships within communities however legislation may undermine community efforts made as it could criminalise those whom we would seek to engage thereby potentially alienating those most at risk of perpetrating such behaviour

Consideration should also be given to the effectiveness of criminalisation in changing behaviours. Any legal response should be proportionate and effective in preventing

and reducing further offending. Historically cases with an aggravation are more likely to be prosecuted in court more often than cases without aggravations therefore there is a potential for more cases identified as hate crime aggravations to proceed through court and the option for direct measures as an alternative to prosecution such as diversion may be overlooked.

It is however important that there is investment in appropriate interventions to address hate crime, and where necessary custodial sentences will be considered. Research supports the view that community-based interventions are more effective and have better outcomes than disruptive short prison sentences. In order that interventions are proportionate and effective they should be provided by those with expertise in this area, for example SACRO's "Stop" programme.

The use of Bail Supervision or Structured Deferred Sentences where appropriate with conditions to attend "Stop" or a similar programme may enable the pertinent issues to be addressed with the individual whilst diverting from further involvement with criminal justice services.

### **How to prosecute hate crime**

To quote from the National Strategy for Community Justice responding to offending behaviour in our communities is about being "smart on crime" and "Every interaction with the justice system should be seen as an opportunity to reduce and prevent further offending"

A focus of the Scottish Government's community justice model is on strong partnership working to ensure effective intervention from the point of arrest onwards. Evidence suggests that cases with an aggravation are likely to be prosecuted in court more often than cases without aggravations as noted above. In order to support rehabilitation and reduce/prevent reoffending it is important that prosecution through the courts is not viewed as a routine response in relation to hate crime aggravations. More consideration could be given to other non-conviction disposals as an effective intervention. An example of this would be where the perpetrator is a young person (under 21 years) where the focus should be on a whole systems approach to address needs and risk rather than criminalisation.

### **Other forms of crime not included**

The Bill appears to meet its aims to address "modern" hate crimes, and there is scope for Ministers to make Regulation in future.

### **Stirring up offences**

Although the Bill does give provision for freedom of speech it was felt that there is still a vagueness to this offence which may raise issues as to the focus for social work intervention should statutory supervision be imposed by the court. This may

require further exploration with regards to the need for programme development, training and understanding of this aspect of hate crime, and creative approaches employed to address this within the community. Within the current system there is limited information provided about the detail of the offence/aggravation at the time of referral to justice social work although this would be of benefit for an intervention to be informed, targeted and supported by evidence particularly where there may be issues of public protection and specific areas of risk management

### **Other issues**

As the Bill stands there does appear to be a sufficient balance between the approach to protection of freedom of expression and prosecution of hate crime.

With regards to the plans for abolition of the blasphemy offence there were no objections raised.

South Lanarkshire Council  
8 July 2020