

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM ELAINE SMITH

Dear Scottish Parliament Justice Committee,

I am writing in response to question six of the proposed Hate Crime and Public Order (Scotland) Bill.

I am gravely concerned by the current draft of the Bill for a number of reasons:

Firstly, I want to say that I agree wholeheartedly that no-one should be in threat of physical harm for any reason. However, 'abusive behaviour' is extremely subjective language. What one person views as abusive behaviour another may view as someone simply stating a belief. We must protect a free society which allows its citizens the right to share and debate their beliefs without fearing prosecution. It is absolutely essential that the Bill shows that it must be proved beyond the shadow of a doubt that a person being prosecuted for the crime of 'stirring up hatred' has deliberately intended harm. Otherwise any person holding opposing views on religion, sexuality or gender can be accused of 'abusive behaviour'.

It is also my understanding that if the current Bill is allowed then people could unwittingly 'stir up hatred' without realising that their words may have caused offense. This is ludicrous and a violation of free speech. It also appears that confidential conversations in private homes are not free from scrutiny. This would seem to be a gross violation of people's privacy and fundamental rights.

As mentioned, I absolutely agree that no-one should feel in danger because of their lifestyle or beliefs, but it is my understanding that genuinely threatening and abusive behaviour is already covered by section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. Therefore, there is simply no requirement for this extension to the law.

Clause 11 and 12 are not strong enough and should allow for rigorous challenge to beliefs of religion, sexuality and gender without legal ramifications. This would help prevent Police Scotland from being inundated with reports from people informing on others essentially for holding opposing opinions.

A truly free society is one in which healthy and robust debates on beliefs on religion, sexuality and gender can happen without censorship or sanction. Democracy can only survive if the people are allowed free speech. This is what we want for Scotland.

As it stands, the Bill is a dangerous threat to freedom of speech and undermines a free society. We need a society where debate thrives and people are allowed to hear

all sides of an argument, therefore being able to make up their own minds and change them when they want.

Please consider Lord Bracadale's Independent Review which stresses the need for a clear distinction between legitimate debate and rabble rousing. As the Bill currently stands it does not come close to reflecting this.

Thank you for your time.

Yours faithfully,

Elaine Smith
09 July 2020