

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM YOUTH COMMUNITY SUPPORT AGENCY

**YCSA is a Glasgow based Scottish Charity that has worked with Black and Minority Ethnic (BME) young people and their families for the past 25 years. Our work challenges discrimination and works to influence policy and practice change in relation to youth. YCSA helps BME young people embrace their potential to become active and valued members of our diverse society, developing the skills and leadership abilities to succeed in life.**

**YCSA has an advisory Youth Panel which brings the voice of BME young people into YCSA's planning, and also feeds into broader consultations.**

**YCSA's Youth Panel held a special discussion to consider the legislation and made the following observations**

**• Parts 1 and 3**

Aggravation of an existing offence based on prejudice, makes it a criminal offence if an offender evinces (shows or indicates) malice or ill-will towards a victim based on their membership or perceived membership of a group protected by the Bill. These groups are listed as:

- Age
- Disability
- Race
- Religion
- Sexual Orientation
- Transgender Identity
- Variations of sex characteristics

**Discussion initially focussed on age, which is a new characteristic being added, with the majority of the young people agreeing that it was important to include.**

**Young people gave examples of their experience of race and religion (islamophobic) based discrimination, some of which fell within hate crime but was often not recognised as such by e.g. housing authorities. More needs to be done to ensure that agencies recognise hate crime when dealing with e.g. neighbour disputes. On-line hate crime is a big problem, and more needs to be done to prevent this**

**There was also concern that those with the most power, e.g. white people, know how to use the legislation whereas minority groups often don't, and the legislation can be used to harass more vulnerable categories the legislation is designed to protect.**

**This led on to a discussion about the reality of hate crime, which is that it often relates to more than one characteristic (intersectionality). Therefore reporting and recognition of offences should allow for multiple characteristics, with guidance to encourage that, otherwise the true picture of hate offences will be distorted.**

**The groups listed were supported but there was also discussion about gender being left to a later stage, with the young people feeling that it is important that this is included as soon as possible.**

**There was a brief discussion about sectarianism but it was largely felt that the religion category could cover this.**

## **Part 2**

**Creates two different offences of stirring up hatred.**

**It was felt that it was important to have legislation to prevent this, including strong measures to deal with stirring up online**

YCSA Board also considered the legislation

YCSA had responded to Lord Bracadale's consultation and still feels there are points from this that are worth reiterating:

### **Definition:**

**It is important to have a clear legal definition or policy that it is about the hate or prejudice against those holding the protected characteristics, and that this is shown by their evidenced prejudice or hostility towards the group the victim is perceived as belonging to.**

**However we need to find everyday, plain English ways of explaining it better than we currently do, (and preferably in the way any legislation is drafted) to get the message across to the public as there is a lot of misunderstanding about hate crime and what it covers at present.**

To help with this it was suggested that:

**It is important to raise understanding of how the legal system operates and the requirement for corroboration. Many people do not understand the difference between a hate crime and a hate incident, or why reporting is useful even if there is no corroboration for a particular occurrence (i.e. Police intelligence to target and help prevent, possibilities that different reports might help provide corroboration).**

**People also do not understand the difference between a hate crime and a hate motivated aggravation which may undermine confidence in the system if people feel it is not being taken seriously enough where an aggravation is used. (Again**

**The Police often get blamed when no action is taken – so better public education on the role of Police and of Procurator Fiscal (maybe could get a Scottish soap drama to feature as a way to get the message across?). This can sometimes unfairly lead to a breakdown in confidence in the Police.**

**Better targeting of victim support services in relation to hate crime might be useful to ensure that where it is reported, victims (a disempowering word, but used in this context as it is the current terminology in the legal system) are fully supported and really understand what is going on, perhaps similar to the ASSIST model run by Community Safety Glasgow in Domestic Abuse cases. Given the nature of hate crime, ensuring access to support in relevant languages and formats would also be important.**

Lord Bracadale had asked: Does the current legislation operate effectively where conduct involves malice and ill-will based on more than one protected characteristic?

YCSA's response to that is still relevant:

**It is important that inter-sectionality is taken account of and this would become even more important if the protected characteristics are added to**

**e.g. Muslim women are far more likely to be targeted than Muslim men because of both Islamophobic and misogynistic views of perpetrators, so by taking both into account, legislation and sentencing could help prevent future attacks by changing the perception of potential perpetrators**

**It is also important that the statistics on this are kept in sufficient detail to be able to inform policy responses to prevention and support**

On stirring up hatred YCSA said:

**Stirring up hatred makes it more likely that hate crime offences will occur, and creates a climate of fear for those it is aimed at. It seriously undermines societal cohesion and alienates those it is aimed at if it is not confronted by the legal system.**

**All protected characteristics should be included. Religious hatred in particular is currently used by groups such as the EDL to evade prosecution on the stirring up on racial grounds, by targeting Muslims and the Islamic faith rather than using race.**

**While online hate may at present be harder to deal with in terms of identifying perpetrators, there is still a perception that it is not taken as seriously, or that Police do not know how to deal with it. Due to its very nature – impinging on the privacy of the victim wherever they may be, it can be particularly devastating.**

**Individuals should be prosecuted for online offences; abuse, harassment and incitement**

**But social media companies need to be forced to take more responsibility for speedily taking down posts and blocking such people than they seem willing to do at present.**

This is still pertinent

The Board also agrees with inflammatory material being included where it could stir up hatred against a group, and for racial issues that the material is defined as threatening, abusive or insulting, given the increasing levels of race hate crime.

Freedom of expression

**There is a difficult balance between stirring up hatred and freedom of expression, but in many cases the intention will be clear and it is not beyond the competence of the legal system to deal with this.**

**Carefully worded legislation should be able to help distinguish between the two**

Designated Characteristics

YCSA supports the revision of terminology and inclusion of age as a designated Characteristic. It also welcomes the inclusion of gender to be further considered with the possibility of standalone statutory aggravation in relation to sex, but urges that this is considered very soon. However any legislation on gender should ensure that intersectionality can be taken into account.

The response to Lord Bracadale's consultation stated:

**Gender is the most complex one. It may be worth considering whether it would be more effective for gender based violence legislation to be extended to cover eg street harassment, propositioning women in the street etc, rather than hate crime legislation.**

**However the growth of online harassment and incitement to hatred against women would be best dealt with via hate crime legislation.**

Once the legislation is passed the following will be important to enable community understanding and buy-in to the legislation:

**Proper resourcing of work to combat hate crime**

**Better explanations of the law, and the positive outcomes of reporting for the whole community as well as individual justice, in a variety of accessible formats**

**Feedback to those who report hate crime – whether or not this is being taken forward, and if not, why not. Many of the young people we work with have indicated that they felt left in limbo, not knowing what was happening, and would not report again as a result. This also damages community relationships with the police.**

**Far better publicity eg national campaigns using media and social media that are well crafted.**

**Link with TV and radio eg local radio to create interesting ways to publicise both what hate crime is, its impacts and how to report eg fictional human life stories**

**Police statistics of hate crime and incidents (the latter will not show up in Crown Office statistics) broken down within overall categories eg ethnicity or religion of those targeted, so that communities can see that their issue is being taken seriously, and appropriate responses can be developed by agencies**

**Multi-agency work to coordinate activity such as Glasgow's Hate Crime Working Group which sits within the Community Planning framework**

Youth Community Support Agency  
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