

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM DISABILITY EQUALITY SCOTLAND

Introduction

Disability Equality Scotland welcomes the opportunity to submit the views of our members to the Bill. Our aim is for every disabled person to have the opportunity to participate in a fulfilling life and for their voice(s) to be heard.

Hate crime has become an increasing focus of our work and we work to raise awareness of the issue among our members and with the general public.

We note that in June 2020, the Crown Prosecution Service released its latest report 'Hate Crime in Scotland, 2019-20' showing the latest figures on hate crime¹. The report indicates that there has been an increase in the number of charges reported in 2019-20 compared to 2018-19 for all categories of hate crime. The number of hate crimes relating to disability had increased by 29% to 387.

We deliver the Disability Safety Hub which offers practical advice, tools and services to support the reporting of hate crime.² Funded by the Scottish Government this enabling service can be used by disabled people to support them to recognise and report hate crime. We hope that the increase in recorded figures is in some part to an increased level of reporting of disability hate crimes.

Engaging with disabled people - Nothing About us Without Us

We are a Disabled Persons Organisation. We are a membership organisation. That means we are predominantly led and governed by disabled people. We advocated for the realisation of our rights as disabled people through the adherence to human rights-based approaches. As such, in line with the principle of 'Nothing About Us Without Us' upon which the United Nations Convention on the Rights of Persons with Disabilities is built, our membership directs our work.

Each week Disability Equality Scotland send out a poll question to our members on a topical issue. For the week beginning 22 June 2020, we asked questions about the Hate Crime Bill.

¹ www.copfs.gov.uk/media-site-news-from-copfs/1887-hate-crime-in-scotland-2019-20

² Available at www.disabilitysafety.scot

Question 1. Do you think the new Bill will improve on existing legislation for hate crime in Scotland?

YES – 68% (32respondents)

NO – 32% (15respondents)

Question 2. Does the Bill give the right protections for disabled people?

YES – 57% (26respondents)

NO – 43% (20respondents)

Question 3. Are there any groups that are overlooked in the Bill?

YES – 32% (12respondents)

NO – 68% (26respondents)

The following will summarise the main themes and key concerns of our members regarding the Bill and mostly relate to the ‘general’ and ‘consolidation’ elements of the Bill. We provide verbatim comments as appropriate to illustrate strength of feeling or personal experience.

Most respondents (68%) agreed that the new Bill improves on existing hate crime legislation. However, there are several factors that must be taken into consideration to ensure disabled people receive the right protections. Recent stats show an increase in disability hate crime, although it is still significantly under-reported. There are many reasons why disability hate crime is under-reported, including failure to recognise it as a crime, fear of making the situation worse and a lack of confidence to report it.

“I have reported hate crime to police but been dissuaded from taking it further as it would be hard to prove without witnesses. I was on my own at the time and felt scared. It prevented me going out for several weeks and even at that I wouldn’t go out on my own.”

“The Bill overlooks lots of folks that don't consider themselves disabled and those that do not understand what hate crime looks like.”

At Disability Equality Scotland we host the Disability Safety Hub, (www.disabilitysafety.scot) a website we developed in partnership with Police Scotland to help disabled people recognise hate crime and encourage them to report it.

Understanding the law and differentiating between hate crime and hate incidents

Some respondents were unclear on how disability is defined within the Bill. From a public recognition perspective, it may be beneficial to explicitly state the broadness of

the definition to ensure the general public are aware of the varied nature of disability, including hidden disabilities.

“What does the word disabled cover? Will the Bill cover a list of disabilities?”

“Not all disabilities are visible.”

A few respondents felt that more could be done to distinguish the variables between hate crime and hate incidents.

“Disabled people like me who have to experience repeated hate incidents, rather than hate crimes, for which the police are not interested. Hate incidents are wrong and very unpleasant yet the police don't even bother to speak to the perpetrators so what is the point in reporting any hate incident/crime to the police as they do nothing about them.”

“Something like this is needed as the verbal abuse I have received as a disabled person has always seemed a bit ‘light’ to involve the police.”

Data published by COPFS³ are helpful and offer a degree of continuity over time. However, we recall the critical training which has taken place for members of the Scottish police⁴ and criminal justice community which differentiates between hate crime and hate incidents. We recall the latter allowing a lower threshold for investigation by police services in recognition of the corrosive nature of such prejudicial actions have on our communities and their cohesion. We recommend that legislation requires police to report data also so that the full life cycle of the investigation of such incidents can be known. We believe that this is particularly important when it comes to disability because of real and perceived challenges which some disabled people may experience as witnesses.

Data disaggregation

Data available are limited. Where data are available, they homogenise disabled people. There is no disaggregation to show if people with specific disabilities are more likely to experience hate crime. There is no geographical analysis available of disability hate crime from Government.

³ Crown Office Procurator Fiscal Service (2020). Hate Crime in Scotland 2019-20. COPFS, online.

⁴ Detailed guidance on the differentiation between hate crimes and hate incidents is still available and published on the Police Scotland website. Available online [here](#).

There is no intersectional analysis of hate crime available from Government sources. Making these data available will drive better public policy responses and will support the development of better interventions. The new law should mandate the publication of intersectional analysis. Historic ad-hoc analysis conducted by the Equality and Human Rights Commission has shown that the experiences of hate crime of disabled people are not homogenous and that there are intersectional inequalities at play.⁵ This legislation offers an opportunity to require public bodies to gather, analyse, publish and act upon data more effectively.

Together for safer communities

Partnerships require strategic and tactical investment. At the tactical level, the Equality and Human Rights Commission have repeatedly recognized the necessity and value of public agencies working in partnership to derive solutions for the prevention and management of hate crime.⁶ Responding to the crime might involve bringing together service providers to identify a shared solution based around a learning or living environment for example. This legislation provides an opportunity for interagency work to be mandated and secured in law. Parallels are to be found in the structured interagency approaches which are secured under specific law in Scotland to address child poverty.⁷ We call for new hate crime legislation to mandate interagency coordination in response to hate crime so that the pockets of good practice which we have seen historically can be translated into a cohesive high level of public service for disabled people in Scotland.

We recognise the significant contributions made by Police Scotland colleagues. However, we note that it has often been difficult to secure the time to engage in the coproduction of strategic interventions with colleagues from Police Scotland. This is because they have been redeployed to deal with emergent issues. We recognise that Police Scotland will need to remain agile to deal with emergent and existential issues such as Covid-19 and Brexit. However, the ubiquitous nature of such issues and the consistent de-prioritisation of disability community engagement is set against a backdrop of year-on-year increases in disability related hate crime. The human rights principles which should guide all Scottish legislation require that disabled people should be involved in the decisions which impact on their lives⁸. However, compliance with this principle is undermined by the consistent de-prioritisation of community engagement at the policy level. The system lacks absorptive capacity.

⁵ Equality and Human Rights Commission (2016). Crime and disabled people. Research report 103. EHRC, online.

⁶ Equality and Human Rights Commission (2011). Hidden in plain sight. Inquiry into disability-related harassment, EHRC, online.

⁷ Provisions of Child Poverty (Scotland) Act 2017

⁸ The Convention on the Rights of Persons with Disabilities is built on the principle 'Nothing About Us Without Us' requiring that disabled people are involved in a meaningful way in the decisions impacting on their lives.

COVID-19 Hate Crime

There has also been an increase in disability hate crime during the COVID- 19 pandemic. We are very concerned at the number of responses from our members indicating their experiences of hate crime during the pandemic. This is specifically where members of the public have approached and accused disabled people of breaking lockdown or questioned why they are outside; the assumption being that all disabled people should be shielding. There were several examples of disabled people being verbally abused by members of the public, causing extreme anxiety.

“I have had a couple of bad experiences with people questioning me why I’m out if I am disabled. I’m now too anxious to go out and staying in even though I know my mental health is deteriorating but it’s embarrassing to be told to get home before you infect people.”

“Attitudes towards disabled people are terrible. I have been asked repeatedly if I’m allowed out because I’m disabled and should not be infecting people.”

“Fed up with people looking at me in my chair strangely then eventually asking if I should be out. Sheer discrimination.”

At Disability Equality Scotland, we host the Disability Safety Hub (www.disabilitysafety.scot), a website we developed in partnership with Police Scotland to raise awareness of disability hate crime and how to report it. We are updating the Disability Safety Hub with the latest COVID- 19 information and resources on how to stay safe during this time.

Public Awareness Campaign

Disabled people experience systematic and structural barriers to their enjoyment of their human rights on a daily basis. Their experience of accessing justice is no exception. The Equality and Human Rights Commission (2011, *ibid*) have recognised that people with learning disabilities can find it especially difficult to report crime because reporting is complicated, they may not be perceived as credible witnesses and staff/ services do not understand or take account of their needs.

There was agreement from respondents that alongside the Bill there must be an awareness campaign to help influence the attitudes and behaviours of the general public towards disabled people.

“It is the attitude of people that needs changed. Some people think that it is okay to have a go at disabled people as has been seen during the coronavirus pandemic. Disabled people being accused of breaking lockdown or causing the coronavirus.”

“It improves the legislation but will it improve or change lives? People will only be protected if there is sufficient public awareness campaigning and policing response etc.”

“Zero tolerance campaigns and public education is needed. I have been subjected to hate crime on a few occasions especially when people have been drinking.”

Hate Crime Charter

At Disability Equality Scotland, we have been working with partners at Transport Scotland, Stagecoach East, First Scotland East and ScotRail to pilot a Hate Crime Charter. The aim of the Pilot is to encourage transport providers, members of the public and other services to support a zero- tolerance approach to hate crime. We have recently extended the pilot to the ferries network in partnership with CalMac. This will provide further insight and inform the national roll out of the Charter in early 2021.

Conclusion

Disability Equality Scotland welcome the opportunity to raise specific issues with regards to the Bill. We hope that the suggestion for this legislation to offer an opportunity to require public bodies to gather, analyse, publish and act upon data more effectively is considered, as is the suggestion for interagency work to be mandated and secured in law. Overall, we would like to see an awareness campaign to help influence the attitudes and behaviours of the general public towards disabled people, supporting the reduction in disability hatecrime.

About Disability Equality Scotland

Disability Equality Scotland is a national charity working to achieve full access and inclusion for disabled people in Scotland.

We promote access in its widest sense. This includes access to the built and natural environment and access to the same opportunities as are enjoyed by others in our communities thus promoting a life of dignity, respect and independence. This extends beyond physical access to include access to information, access to inclusive communication and inclusion in decision-making,

whether with planners over inclusive design or transport providers about accessible travel.

Our aim is for every disabled person to have the opportunity to participate in a fulfilling life and for their voice(s) to be heard. We represent the views of individuals with any type of impairment, as well as disability organisations and groups who share our values.

We are a membership organisation and as such listen to the views of disabled people and champion on their behalf. We work to influence the policies of the Scottish Government, which affect how disabled people live, and work to encourage others to be inclusive and informed in their attitudes towards disabled people.

We are also the umbrella organisation for all disability Access Panels in Scotland and the principal provider of support and guidance to the Access Panels presently representing disabled persons at a local level throughout Scotland. Access Panels are committed to improving access and equality in its widest form, which means access to the physical environment, Education, Housing, Health, Transport, Leisure & Recreation and Social Justice amongst other areas.

Disability Equality Scotland

23 July 2020