

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM CENTRAL SCOTLAND REGIONAL EQUALITY COUNCIL

1. Do you think there is a need for this Bill and, if so, why? Are there alternatives to this legislation that would be effective, such as non-legislative measures, wider reforms to police or criminal justice procedures? Are there other provisions you would have liked to have seen in the Bill or other improvements that should have been made to the law on hate crime?

We agree with the bill in general and we also think that other non-legislative measures and reforms are needed to support a wider strategy to eliminate hate crime in Scotland.

It is important to distinguish between individuals with variations in sex characteristics and those who are Trans, and the language around Trans individuals as currently stands is outdated and ought to keep pace with modern discourse.

We feel that protections against gender hostility / misogynistic harassment need to be strengthened in the law. While we welcome the Scottish Government leaving open options and taking the time to consider fully the option of a standalone offense, we are disappointed that action will not be taken during this legislative exercise.

We feel that there is an increased stereotyping of people of particular age groups such as young people and older people. We should have a mechanism that protects those who experience hate as a result of being part of a particular age or group.

The damage caused by stirring up of hatred does not impact exclusively those belonging to an ethnic minority; therefore we feel the changes here are necessary to protect the other vulnerable groups protected under the legislation.

We feel there is a great deal of non-legislative measures and reforms necessary to prevent hate crime happening, support victims and tackle the endemic under reporting of hate crime. These measures should be additional to the legislative changes proposed, we do not believe they could be a suitable alternative.

1) There must be a coordinated effort on part of the government, local government, police, other statutory partners and the third sector to raise awareness of hate crime, the methods available to report it and to encourage victims and witnesses to report it. In 2017 and 2018 Hate Crime Awareness week was observed with the support of the Scottish Government and Police Scotland. While we welcome and support this, we need to consider the timing of this as the Hate Crime Awareness Week occurs at a time when schools in a lot of local authorities in Scotland are closed for October break. A Scottish Hate Crime Awareness week should be considered during a period when schools are open across Scotland. The observance of Scottish Hate Crime Awareness Week should be made mandatory for all local authorities with a programme like what is done for 16 Days of Activism Against Gender-Based Violence.

2) There should be sustained awareness activity throughout the year besides just the Scottish Hate Crime Awareness Week. A Scottish Hate Crime Awareness Week and the sustained activity should be supported by financial resources for it to be effective.

3) There must be a sustained and coordinated effort by the Government, Local Authorities, Health Boards, Public Bodies, Police and the Third sector to have local partnerships that specifically address issues about hate crime. These partnerships should be modelled like Violence against Women/Gender Based Violence Partnerships that exist in local authorities in Scotland.

4) There should be a resourced national toll-free helpline to

- I. provide immediate support to third party report,
- II. a listening service,
- III. provide practical information, and
- IV. Signpost to local support services that are appropriate to the needs of victims and witnesses of the particular hate crime.

5) At present there is no national helpline and we know that hate crimes occur more often after office hours and at weekends when third sector support organisations and most Third Party Reporting Centres do not operate. A well-publicised toll-free national helpline must be set up, so victims and witnesses can seek support and report. The provision of a dedicated 24 hour support service must be backed with a comprehensive communications strategy and budget. It must also be noted that calls to 101 are charged and often wait times are long and similar to cases of domestic abuse and sexual abuse victims and witness may not want to speak directly to the police to start with.

6) It should be made mandatory for all schools to report hate and bullying incidents that take place and the actions that have been taken by the school following the 17 report. The recording of hate and bullying in schools must be done at the point at which reports are received rather than following investigation, although it would be also important to know what the outcomes of investigations were. Not recording incidents at the point when an incident was first reported will perpetuate the under recording of hate and prejudice and poor outcomes for those reporting in our schools.

7) There is a need for better and further education in schools about what is acceptable language and behaviour, hate crime and prejudice and how it is reported.

8) Campaigns to create awareness of hate crime must also publicise alternative ways that hate crime can be reported through, like Third Party Reporting

9) Confidence in the criminal justice system must be built so that there are positive outcomes for victims and there is confidence that incidents will stop occurring. We hope that legislative changes will improve the experience of victims. Currently people do not report as they do not believe that they will be taken seriously and when matters have gone to court very rarely have we had any positive outcomes for our victims with cases often being dropped during prosecution.

- 10) There needs to be more awareness and education on hate crime, so people know what has happened to them is not normal and should not be acceptable.
- 11) Accessibility for reporting hate crime must be improved. There are deficiencies in the online reporting form on the Police Scotland website. The website and reporting form is not accessible in alternative languages and Browse Aloud. Moreover, the online reporting form is not friendly for handheld devices such as mobiles and tablets. The reporting link is not easy to find on mobiles and tablets this is pertinent when we know that desktop usage of the internet has been declining consistently.
- 12) A hate crime reporting App may make it easier for reporting hate crime and more fit for purpose. The current police reporting form does not have a facility to upload images. A hate crime reporting app will be able to provide richer information linking to photos, take location from the phone and provide information on support that a victim or witness may need.
- 13) Police Scotland must be contactable by text and Whatsapp for all people.
- 14) A no bystander approach to witnesses of hate crime must be encouraged as witnesses are likely to be in a better position to report a hate crime.
- 15) There needs to be training of frontline staff including police, public services and third sector staff on being sensitive to the victims based on trauma response as what may be perceived like a 'low level' incident has high impact on the victim. 18
- 16) Our focus group also suggested that there is also a need to improve awareness among certain communities that reporting hate crime is something which it is okay to do without there being fear of recriminations. Some communities can often feel when they are the victim of a hate crime that it is 'just something they need to put up with'. This perception needs to be altered, with a focus on ensuring that victims feel confident in coming forward to report hate crime, and that they will be supported when they do so.
- 17) Victims also need to be made to feel confident that when they come forward to report a hate crime, their reports will be treated with the seriousness with which they are due, that their reports will be investigated fully, and that action will be taken swiftly to bring the perpetrator to justice.
- 18) A large portion of hate crimes reported are hate crimes experienced by the Police, staff of health boards and public services. This further highlights the underreporting of hate crime. This shows the need for increasing awareness and eliminating the perceived barriers to reporting by victims. Our research and work has shown the following barriers to reporting hate crime based on the perception of victims and they need to be considered:
 - I. Fear of reprisals.
 - II. It's too trivial.
 - III. Fear of not being believed by Police
 - IV. Fear of the Police.

- V. Previous negative experience.
- VI. It's too embarrassing.
- VII. Mistrust of the police.
- VIII. Police won't do anything.
- IX. Worried what happens next e.g. Court.
- X. Cultural barriers – females not allowed to report on their own.
- XI. Family member is a suspect.
- XII. Could affect business (pub/shop/taxis etc.).
- XIII. Labelled a 'grass'.
- XIV. Victims feel it's their fault.
- XV. No witness.
- XVI. Will affect immigration status.
- XVII. Not allowed legal aid
- XVIII. Have no time to report
- XIX. Might not be taken seriously because of mental health issues.
- XX. Communication issues – First language, speech, BSL.
- XXI. Accessibility issues.
- XXII. Did not know a crime had been committed.
- XXIII. Do not want family members / friends to know.
- XXIV. Fear of sexual orientation being divulged.
- XXV. Fear of being identified as Transgender.
- XXVI. Media coverage if the case goes to court.
- XXVII. Ability to come to Police (means, transport, confidence etc.).
- XXVIII. Power to contact the Police, may be inhibited by the abuser.
- XXIX. De-sensitised.
- XXX. Lack of knowledge of alternative reporting options
- XXXI. Clinical Depression can leave individuals at such low ebb emotionally that all their energy is channelled into keeping going.
- XXXII. Contacting the police feels difficult.

19) CSREC would also refer you to the recommendations made in the report, SAREC Report – Why Me? Research into the experiences of those who have experienced hate crime in order to understand the kind of support services that they actually need. CSREC produced this report in partnership with other Regional Equality Councils in Scotland, ELREC, GREC and WSREC under the umbrella of Scottish Alliance of Regional Equality Councils (SAREC). The report that was released in March 2017 and can be found at:

https://www.csrec.org.uk/wpcontent/uploads/2015/12/Why_Me_Hate_Crime_Research_Final_Report_March_2017.pdf

20) There is very low awareness of Third Party Reporting amongst the general population as well as likely victims. This extends to staff at Third Party Reporting Centres and frontline police staff. There must be a significant awareness campaign to increase awareness of Third Party Reporting Centres and logos of Third Party Reporting to be used in all hate crime campaigns.

21) There are no resources provided to Third Party Reporting Centres. It is unreasonable to expect the almost 400 Third Party Reporting Centres in Scotland to

operate a service without financial resources when the processing of each complaint and the support and admin task takes at least 4 hours of work.

22) Third Party Reporting Centres must have access to a national pool of accessible services (interpreting, translation, BSL etc.) to support those using their services.

23) The experience of Third Party Reporting Centres in dealing with the police must be improved. We have had several cases where frontline officers attending to reports have not been aware of Third Party Reporting and therefore not understood why reports were being made anonymously.

2. The Bill brings together the majority of existing hate crime laws into one piece of legislation. Do you believe there is merit in the consolidation of existing hate crime laws and should all such laws be covered?

We understand the process that laws, such as for hate crime or discrimination, grow organically and often in a piecemeal fashion. In a similar way then that the Equality Act brought together many pieces of legislation to put all discrimination on an equal footing, this new law will ensure that all hate crime is dealt with on an equal footing.

Hate crime is very serious and distressing for the victim, no matter what the aggravating factor, so we would support consolidation of the legislation to treat the factors equally without diluting any one of them.

3. Do you think that the statutory aggravation model should be the main means for prosecuting hate crimes in Scotland? Should it be used in all circumstances or are there protected characteristics that should be approached differently and why? For example, the merits of a statutory aggravation for sex hostility rather than a standalone offence for misogynistic harassment?

We believe that the statutory model should be the main means for prosecuting hate crimes in Scotland. Whether it takes the form of an aggravating factor or a standalone offence, we believe that more needs to be done to protect women and girls from hate crime. We also believe the law should seek to protect anyone from gender related hostility.

4. Do you think that a new statutory aggravation on age hostility should be added to Scottish hate crime legislation? Would any alternative means be measured effective? For example, would there have been merit in introducing a statutory aggravation (out with hate crime legislation) for the exploitation of the vulnerability of the victim?

There is an increased stereotyping of people of particular age groups such as young people and older people. We should have a mechanism that protects those who experience hate as a result of being part of a particular age or group. We believe adding a new statutory aggravation would be an effective way to achieve this.

5. Do you think that sectarianism should have been specifically addressed in this Bill and defined in hate crime legislation? For example, should a statutory

aggravation relating to sectarianism or a standalone offence have been created and added?

Following the repeal of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 there is insufficient legislation to address issues around sectarianism. We believe that definition of sectarianism should go beyond Catholic and Protestant. It should be widened to include other religions and include caste. This would reflect the current demographic of Scottish society.

There is no current definition of sectarianism in Scots law and we believe it would be beneficial to deal with it explicitly rather than under faith and religious aggravations.

6. Do you have views on the merits of Part 2 of the Bill and the plans to introduce a new offence of stirring up of hatred?

Stirring up of hatred does not occur solely in cases of racial or religious intolerance, therefore we agree with the proposed legislative changes to offer other vulnerable groups that same protection under law.

We would also recommend that the protection against harassment that is provided under section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 should be extended across the protected characteristics.

7. Do you have any views on the Scottish Government's plans to retain the threshold of 'threatening, abusive or insulting' behaviour in relation to the stirring up of racial hatred, contrary to Lord Bracadale's views that 'insulting' should be removed?

We are against the dilution of existing provisions of existing provisions concerning racial hatred. We would prefer to see equality and fairness honoured by extending that protection to the other vulnerable groups.

8. Do you have any comments on what should be covered by the 'protection of freedom of expression' provision in the Bill?

We agree with the principle that thought, criticism and discussion around the sensitive subjects covered under the proposed legislation should be protected. It is important that people have the ability to discuss these topics, but not the right to speak in such a way as to cause harm or incite harm to individuals or groups.

Our criticism would be why the protection for freedom of expression would only extend to religion and sexual orientation and none of the other categories.

9. Do you agree with the Scottish Government that Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 about racially aggravated harassment should not be repealed?

While we support that these protections should be applied to all characteristics, we strongly oppose the repeal of racially aggravated harassment. This legislation remains a strong mechanism of prosecuting race hate. It has provided confidence to

BME communities to report hate crime. The repeal of this weakens the important, essential and particular message it conveys to Ethnic Minority groups.

10. What is your view on the plans for the abolition of the offence of blasphemy?

We support the repeal of this outdated piece of legislation. No one has been convicted for over 150 years and with the modern demographics of the country it would seem strange to single out the Christian definition of blasphemy for special protection under law. As Scotland is a secular country it would seem to make much more sense to remove this law from the statute books

Central Scotland Regional Equality Council
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