

## JUSTICE COMMITTEE

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

#### SUBMISSION FROM POLICE SCOTLAND

I write further to the invitation from the Justice Committee in connection with the above.

I have incorporated the questions asked, and Police Scotland's response, in this letter and can summarise this as follows:

- 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?**

In reviewing Scottish Hate Crime legislation, the stated aim of the Scottish Government (SG) and Lord Bracadale was 'to consolidate all Scottish hate crime legislation into a single statute to provide clarity, transparency and consistency' (SG consultation document p7).

Regarding Lord Bracadale's clear remit to simplify and consolidate Scottish Hate Crime Legislation into a single, consistent, standardised approach, Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Police Scotland agrees with and supports Lord Bracadale's arguments and rationale for this recommendation. Police Scotland supports the simplification and consolidation of the various pieces of Hate Crime legislation. The simplification of hate crime legislation would assist the understanding of victims, society as a whole, and indeed police officers.'*

*The current status quo, with its different pieces of legislation and sentencing provisions, risks being perceived by the public as a hierarchy of discrimination. Such a perception carries risks, as explained by David Isaac, Chair of the Equality & Human Rights Commission, in which he argues that a hierarchy of hate crime is undermining the confidence of victims in the law: <https://www.equalityhumanrights.com/en/our-work/news/hierarchy-hate-crime-undermining-confidence-law> (October 2016).'*

Regarding the Committee's supplementary question pertaining to the use of effective non-legislative measures, Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Police Scotland fully appreciates that legislation alone cannot generate societal change. Police Scotland therefore supports non-legislative initiatives which can promote cultural transformation, and fully agrees with Scottish Government (SG) that*

*'legislation in and of itself is not enough to build the inclusive and equal society that we aspire to' (SG consultation document p1).*

*Police Scotland believes that the findings of the Christie Commission on the Future Delivery of Public Services are highly relevant to preventing hate crime and building community cohesion.*

*Bringing the Christie Commission principles fully to bear on hate crime, prejudice and community cohesion will require that all Scotland's public service providers (statutory and voluntary) continue to pursue the Christie Commission's principles of*

- prioritising public services which prevent negative outcomes;*
- prioritising preventative spend; and*
- working more closely in partnership to improve outcomes.*

*(See: <https://www.gov.scot/publications/commission-future-delivery-public-services/pages/2/> ).*

*Police Scotland believes that it is vital to keep in mind the findings of the report of the Scottish Government's Independent Advisory Group on Hate Crime, Prejudice & Community Cohesion (Sept 2016), which found that:*

*'Tackling prejudice and hate crime is not only a justice issue, but requires the active involvement of a range of agencies, including local government and public services. Key to an effective response is the creation of genuine multi-agency partnership working at a national and local level, strong leadership, clear and consistent policies, capacity within the system in terms of resources and ability, and practical implementation of interventions designed to achieve policy goals.*

*We therefore recommend that the Scottish Government should encourage a greater multi- agency strategic and operational approach towards tackling hate crime, eradicating prejudice and building community cohesion that is clearly linked to community planning structures and underpinned by guidance for partners'.*

*([https://www.gov.scot/publications/report-independent-advisory-group-hate-crime-prejudice-community-cohesion/](https://www.gov.scot/publications/report-independent-advisory-group-hate-crime-prejudice-community-cohesion/page%20) page 20).*

*Police Scotland strongly supports this approach.'*

***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?***

*Yes. Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.*

*'Police Scotland agrees with and supports Lord Bracadale's arguments and rationale for this recommendation. Police Scotland supports the simplification and consolidation of the various pieces of Hate Crime legislation. The simplification of hate crime*

*legislation would assist the understanding of victims, society as a whole, and indeed police officers.*

*The current status quo, with its different pieces of legislation and sentencing provisions, risks being perceived by the public as a hierarchy of discrimination. Such a perception carries risks, as explained by David Isaac, Chair of the Equality & Human Rights Commission, in which he argues that a hierarchy of hate crime is undermining the confidence of victims in the law: <https://www.equalityhumanrights.com/en/our-work/news/hierarchy-hate-crime-undermining-confidence-law> (October 2016).*

*The statutory aggravation model is a method which is capable of providing consistency across all crime types and applicable protected characteristics, and also affords a consistent method of producing statistical returns. It is well understood by operational officers and retaining this model would simplify the introduction of amendments compared to wholesale change. For example, the introduction of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, where aggravations were in effect built into the actual charge, required extensive training to operational officers to explain the nature of the charges, selection of the correct charge and the information required for reporting cases.'*

**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?**

In reviewing Scottish Hate Crime legislation, the stated aim of the Scottish Government (SG) and Lord Bracadale was 'to consolidate all Scottish hate crime legislation into a single statute to provide clarity, transparency and consistency' (SG consultation document p7).

Regarding Lord Bracadale's clear remit for making recommendations to simplify and consolidate Scottish Hate Crime Legislation into a single, consistent, standardised approach, Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Police Scotland supports the simplification and consolidation of the various pieces of Hate Crime legislation. The simplification of hate crime legislation would assist the understanding of victims, society as a whole, and indeed police officers.*

*[Having] different pieces of legislation and sentencing provisions risks being perceived by the public as a hierarchy of discrimination. Such a perception carries risks, as explained by David Isaac, Chair of the Equality & Human Rights Commission, in which he argues that a hierarchy of hate crime is undermining the confidence of victims in the law: <https://www.equalityhumanrights.com/en/our-work/news/hierarchy-hate-crime-undermining-confidence-law> (October 2016).'*

Regarding the Committee's supplementary question about the merits of a statutory aggravation for sex hostility rather than a standalone offence for misogynistic

harassment, Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Police Scotland agrees with Lord Bracadale's argument and reasons for his recommendation to develop a statutory aggravation for gender hostility. [However], what is proposed is a new aggravation, the application of which will take Criminal Justice organisations and their partner agencies into new territory. Therefore, Scottish Government may wish to scope the potential numbers of people likely to be reported for acts aggravated by gender hostility, to assess the likelihood of unforeseen or unintended consequences, or of disproportionate impact on specific demographics. For example, Police Scotland's Children & Young People Strategy Unit has highlighted a number of considerations which are set out in Police Scotland's response to Question 35 of the Scottish Government public consultation questionnaire. The considerations highlighted by Police Scotland's Children & Young People Strategy Unit echo those raised in the final report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion chaired by Dr Duncan Morrow ('the IAG Report' published September 2016). The IAG Report finds that children and young people feature disproportionately among the perpetrators of reported hate crime (a finding supported by Police Scotland analytical profiles of Hate Crime).*

*If Parliament decides to create this new aggravation, it may be beneficial for Scottish Government to consider whether comparable disproportionality is likely to arise with gender hostility and, if so, what the implications for public policy will be. The IAG Report contains a number of suggestions regarding implications for public policy.*

*The IAG Report argues for interventions and disposals that are sensitive to the rights, responsibilities and future potential of children and young people, who are citizens at a formative age. With reference to young people who perpetrate identity-based bullying and 'hate' behaviour, the IAG report argues strongly that education-based interventions and disposals will be more effective than criminal justice interventions. (See <https://www.gov.scot/publications/report-independent-advisory-group-hate-crime-prejudice-community-cohesion/> - sections 15-19 & 23-24, and recommendation 9 on pages 20-21).*

*Police Scotland supports Lord Bracadale's argument and reasoning for **not** proposing a standalone offence relating to misogynistic harassment.*

*Police Scotland supports Lord Bracadale's caution against proposals that 'have a considerable crossover with other existing offences, which risks causing confusion and undermining the aim of collecting reliable data' (Scottish Government's public consultation document p17).*

*Police Scotland notes the Scottish Government consultation document's reference to pilot work in this area undertaken by Police Forces in England & Wales.*

*The Office of the Nottinghamshire Police & Crime Commissioner and the Nottingham Women's Centre commissioned a 'Misogyny as a Hate Crime Evaluation Report' (July 2018) which assessed the impact of the 'Misogyny Hate Crime' policy introduced by Nottinghamshire Police in April 2016. The report found*

*that ‘there is a high level of complexity in tackling misogyny, and that a significant part of the challenge is due to the ‘normalisation’ of these incidents’.*

*There has been subsequent debate about this within English policing, which may be of interest to Scottish Government: see <https://www.bbc.co.uk/news/uk-46068013> (BBC website 02 Nov. 2018).*

*It would definitely be beneficial to have a strong evidence base before introducing a standalone offence, given that doing so would be inconsistent with the aggravation-based approach proposed for other types of hate crimes.’*

***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 (outwith hate crime legislation) for the exploitation of the vulnerability of the victim?***

Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government’s consultation regarding these same matters.

*‘Police Scotland submitted to Lord Bracadale’s consultation in 2017 that elderly victims are often made the targets of crime for reasons relating to age-related impairments (such as dementia), in much the same way that people with disabilities are often made the targets of crime for reasons relating to their disabilities or conditions (such as learning disability or autism).*

*Many crimes are motivated (partly if not wholly) because the victim is elderly and/or has a disability, and is therefore targeted as a victim (often a repeat victim) for crimes of fraud, deception or abuse.*

*Police Scotland notes and agrees with Lord Bracadale’s analysis (in section 4.54 of his Review report) that: ‘While in some cases older people may experience malice or ill-will on the basis of their age, the vast majority of crimes against older people were driven by the perpetrator’s perception of the victim’s vulnerability due to their age’.*

*Police Scotland therefore agrees with Lord Bracadale’s conclusion regarding the potential efficacy of an aggravation of age hostility, that ‘this approach is likely to capture a relatively small proportion of the offences committed against elderly persons’ (section 4.70 of Lord Bracadale’s Review report).*

*Police Scotland notes Lord Bracadale’s statement within his Review report that ‘I am conscious of the strength of feeling supporting the introduction of a statutory aggravation which would capture the bulk of the offences committed against the elderly on the basis of perceived vulnerability’, and would suggest that the proposed Exploitation of Vulnerability aggravation might be a more efficacious tool for sending a message that offences against elderly people will not be tolerated.’*

Regarding the potential for the proposed new statutory aggravation of age hostility to generate unintended negative consequences for children, Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Police Scotland have developed a four year plan with a set of commitments to the children and young people of Scotland - [Children and Young People 2016/20 - Our Approach](#). This adopts a rights-based approach to the policing service that we wish to provide to the approx. 1 million under 18's in Scotland. As such, we welcome changes which both recognise and celebrate our young people and their rights within society. Equally, however, we recognise that many offences committed by children are committed against other children, and Lord Bracadale commented on this in relation to instances of bullying when he stated (in section 4.67 of his Review report) that: "The main issue that emerged in relation to youth is bullying. That is a matter for very real concern. Having considered the report prepared by the Equalities & Human Rights Committee of the Scottish Parliament and the responses to the consultation paper on this issue, I agree with the proposition that bullying covers a range of behaviour and can amount to hate crime. I do not, however, consider that any change in the law is required. It seems to me that the problem of bullying raises issues of policy and implementation of policy which are outwith the remit of my review. I have no doubt that it is an issue which the Scottish Government takes extremely seriously."*

*Police Scotland would welcome further detailed consideration of how a new statutory aggravation on age hostility might be introduced without generating unintended negative consequences for children. This requires careful consideration, particularly in relation to legislative duties, to ensure we support and educate our young people and ensure that the rights and needs of victims are supported and addressed. Crucial components of this work are the local resources available to meet those needs and effectively respond when hate crimes and incidents occur which are driven by hostility associated with a person's age.'*

Regarding the Committee's supplementary question pertaining to whether there would be merit in introducing a statutory aggravation (outwith hate crime legislation) for the exploitation of the vulnerability of the victim, Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Many crimes are committed (partly if not wholly) because the victim is elderly and/or has a disability, and is therefore targeted as a victim (often a repeat victim) for crimes of fraud, deception or abuse.'*

*Police Scotland would suggest that the proposed Exploitation of Vulnerability aggravation might be potentially more efficacious than the proposed age hostility aggravation as a tool for sending a message that offences against elderly people*

*will not be tolerated.*

*Similarly, Police Scotland would suggest that the proposed Exploitation of Vulnerability aggravation might also be efficacious in situations where the victim has a disability but the Crown is unable to prove that the perpetrator had ‘malice or ill-will’ towards disabled people.’*

**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?**

No.

Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government’s consultation regarding these same matters.

*‘Police Scotland agrees with Lord Bracadale’s reasoning and conclusion that ‘there is no gap in the law’ [with regards to legal sanctions against so-called ‘sectarian’ behaviour]. ‘Sectarianism’ manifests itself as either racial or religious prejudice or both.*

*Police Scotland therefore supports Lord Bracadale’s recommendation that ‘it is not necessary to create any new offence or statutory aggravation to tackle hostility towards a sectarian identity’.*

*In considering this matter, it is essential to have an awareness that there are many individuals and groups who have their own interpretations and agendas in relation to ‘sectarianism’. As such, the introduction of specific measures within legislation to address ‘sectarianism’ risks drawing Police Scotland into a political minefield. The inclusion of ‘sectarianism’ within hate crime legislation would result in an anomaly, as this would be the only category that does not directly relate to recognised protected characteristics under the Equality Act 2010. A ‘sectarianism’ aggravation would create the potential for unintended consequences to accrue, with the potential for this inconsistency to be exploited by individuals/groups for their own political ends.*

*An aggravation for ‘sectarianism’ would be problematic for a number of reasons.*

*(i) Police Scotland agrees with and supports Lord Bracadale’s caution against proposals that ‘have a considerable crossover with other existing offences, which risks causing confusion and undermining the aim of collecting reliable data’ (SG consultation document p17).*

*(ii) Bundling together the different types of prejudice associated with ‘sectarianism’ would undermine (and work against) the stated aim of the Scottish Government and Lord Bracadale ‘to consolidate all Scottish hate crime legislation into a single statute to provide clarity, transparency and*

*consistency’ (consultation document p7). In our view, the suggested aggravation for sectarianism is likely to reduce clarity, transparency and consistency.*

*(iii) At present there is no consistent understanding of what is encompassed by the term ‘sectarianism’, and this can unintentionally mask what is meant, as similar language is used by different people to mean different things, as noted by Scottish Government’s own Advisory Group on Tackling Sectarianism, which stated that: ‘It became clear that sectarianism was not one single thing but the name given to a variety of different experiences’ (p.16 of the Advisory Group’s report ‘Independent Advice to Scottish Ministers’, December 2013\_ <http://www.scotland.gov.uk/Publications/2013/12/6197>).*

*By way of specific evidence to support the above observations, it may be helpful to draw attention to recent examples of the lack of clarity and consistency in the current understanding of what is encompassed by the term ‘sectarianism’. In 2018, separate training courses in ‘anti- sectarianism’ were run on multiple occasions by separate Scottish voluntary organisations. In their content or delivery, these courses treated the existence of Catholic schools as ipso facto sectarian, despite the clear guidance provided by Scottish Government’s Advisory Group on Tackling Sectarianism in Scotland, that: ‘We do not believe that sectarianism stems from, or is the responsibility of, denominational schooling, or, specifically, Catholic schools, nor that sectarianism would be eradicated by closing such institutions’ (see pp.10 and 37 of the Advisory Group’s report ‘Independent Advice to Scottish Ministers’, published December 2013 <http://www.scotland.gov.uk/Publications/2013/12/6197> )*

*The foregoing sets out the various considerations that have led Police Scotland to the view that it would be both unnecessary and unwise to adopt the term ‘sectarianism’ into Scots Law.*

*In addition to the considerations set out above, Police Scotland’s National Independent Strategic Advisory Group has questioned the appropriateness or legitimacy of using exclusionary definitions of ‘sectarianism’ that are restricted to Christianity. For example, intra- Muslim sectarianism has received extensive media coverage and international recognition in recent years, and has quite clearly had a negative impact on intra-Muslim community relations, not just in Muslim-majority countries but also in the UK and in Scotland. One need look no further than the notorious religiously-motivated murder of the Ahmadiyya Muslim shopkeeper Asad Shah in Glasgow by the Sunni Muslim Tanveer Ahmed on 24 March 2016, which received international attention.*

*The diversity of Scotland’s population means that there is likely to be sectarianism within other faith/cultural backgrounds and to exclude this from a legal definition could be interpreted by some as treating these types of sectarianism as less important than that based upon Christian- related sectarianism.*

*Also, having learned from the Offensive Behaviour at Football legislation, there are individuals and groups with entrenched views on sectarianism and it is therefore imperative that the practical application of any proposed new definition is fully worked through by / with Police Scotland and other criminal justice partners before implementation. Failure to do so would create a risk of operational officers being left without the support and training required to make properly reasoned decisions.'*

**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?**

Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Police Scotland agrees with Lord Bracadale's recommendation that stirring up of hatred offences should be introduced in respect of each of the protected characteristics including any new protected characteristics.*

*The now-repealed Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 (OBFTC) Section 1 offence included provisions on stirring up hatred relating to the following:*

*\* membership (or presumed membership) of:*

- (i) a religious group,*
- (ii) a social or cultural group with a perceived religious affiliation,*
- (iii) a group defined by reference to a thing mentioned in*

*subsection (4) The groups within subsection 4 are:*

- (a) colour,*
- (b) race,*
- (c) nationality (including citizenship),*
- (d) ethnic or national origins,*
- (e) sexual orientation,*
- (f) transgender identity,*
- (g) disability.*

*In addition, the OBFTC Section 6 offence also included provisions relating to stirring up religious hatred.*

*As such, the introduction of additional stirring up of hatred offences in line with Lord Bracadale's recommendations would to a large extent simply be returning football*

*policing to a previous legislative position. The inclusion of any new protected characteristics would be logical alongside their addition as new aggravations in relation to baseline offences.'*

**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?**

There is a risk of unforeseen and unintended negative consequences arising from creating differential disparities between protected characteristics regarding the thresholds of criminalisation for 'stirring up' offences.

Those unintended consequences have the potential to bring the law and the justice system into disrepute, through creating a hierarchy of discrimination, contrary to the original aim and purpose of Lord Bracadale's Independent Review of Scottish Hate Crime legislation, which was '*to consolidate all Scottish hate crime legislation into a single statute to provide clarity, transparency and consistency*' (Scottish Government consultation document p7).

The Hate Crime Bill sets a lower threshold for criminalising those who stir up racist hatred than it does for those who stir up hatred against other protected characteristics (ie. religious hatred, disability hatred, homophobic hatred, transphobic hatred). This disparity is being proposed by the Hate Crime Bill at the same time as both Scotland and the UK are solemnly marking the 25<sup>th</sup> anniversary of the Srebrenica massacre: that was a tragic product of the rise of hatred in the former Yugoslavia. If one were to apply the Hate Crime Bill's proposals to the community tensions of the former Yugoslavia, the Hate Crime Bill would give less protection against stirring up of hatred against Muslims than it would against stirring up of hatred against Serbs. If one were to apply the Hate Crime Bill to the community tensions of contemporary Scotland, the Hate Crime Bill would give less protection against stirring up of hatred against Muslims or Roman Catholics than it would against stirring up of hatred against people who self-identify as British.

The inclusion of the word 'insulting' in the definition of stirring up racial hatred, and its exclusion from the definition of stirring up hatred against other protected characteristics will have the potential negative consequence of causing confusion and creating a two-tier hierarchy of protected characteristics. That would risk creating resentment, community tension and social division, thereby bringing the Law into disrepute. The UK Equality Law regulator, the Equality & Human Rights Commission (EHRC), has warned against the damaging effects of introducing a hierarchy of protected characteristics. David Isaac, Chair of the EHRC, argues strongly that a hierarchy of hate crime undermines the confidence of victims in the law: <https://www.equalityhumanrights.com/en/our-work/news/hierarchy-hate-crime-undermining-confidence-law> (October 2016).

Police Scotland has previously provided clear advice to Scottish Government on these matters. Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Police Scotland is persuaded by Lord Bracadale's explanation that the word 'insulting' was deleted from the English and Welsh harassment offence under section 5 of the Public Order Act 1986 in 2014 without any material impact, and that there did not appear to be any adverse effect on the ability of the Crown Prosecution Service to prosecute such conduct, as any 'stirring up hatred' conduct that had actually been prosecuted involved behaviour that could be characterised as 'abusive' as well as 'insulting'.*

*[Furthermore], from an operational policing perspective, consistency is desirable as it aids understanding and assists decision-making by allowing officers to apply the same thought processes in different contexts. This is likely to reduce the burden of training when new or revised legislation is introduced.*

*Police Scotland agrees with Lord Bracadale's reasoning and recommendations regarding 'stirring-up' offences. The term 'threatening or abusive' is, as highlighted by Lord Bracadale, consistent with other extant legislative provisions in Scotland and should therefore be readily understood by operational police officers.'*

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

Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'The inclusion of a freedom of speech provision is to be welcomed. In a football context the inclusion of such a provision in the Offensive Behaviour at Football Act 2012 provided operational officers with valuable guidance. The absence of such a clause could result in Police Scotland being burdened with vexatious reports of 'crimes' which are not in fact criminal in nature but which still require to be recorded and investigated to confirm if criminality is involved.'*

**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?**

Police Scotland offered the following advice (on 22 Feb 2019) in response to Scottish Government's consultation regarding these same matters.

*'Police Scotland agrees with Lord Bracadale's reasoning for his recommendation that Section 50A of the Criminal Law (Consolidations) (Scotland) Act 1995 about racially aggravated harassment should be repealed. Police Scotland is persuaded by the explanation provided within the Scottish Government's consultation paper-*

*including Lord Bracadale's views – that there does not appear to be any likelihood of adverse impact. We are also persuaded by the argument that its continued use is seen as having a negative impact by making hate crime legislation more complicated than it needs to be.'*

Notwithstanding the above, Police Scotland would welcome the inclusion of some provision within the act that recognises those circumstances where a course of conduct amounts to criminality when taken as a whole, but where the individual acts that comprise the course of conduct would not, in and of themselves, breach the threshold of criminality. It is recognised that in an operational context this provides an appropriate method of enforcement where there is evidence that a person has engaged in a course of conduct based on malice / ill-will towards a person based on their presumed or actual membership of a protected group. However, it would be expected that any such provision would extend to victims who are targeted in relation to any of the protected characteristics listed in the proposed bill and not solely to those targeted in relation to race.

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

Police Scotland are of the opinion that abolition of the offence of blasphemy would have no material impact as this legislation is seldom used and it is believed that this offence has not been prosecuted in Scottish courts since 1843.

I hope this is of assistance and addresses the needs of Scottish Government and the Committee. I am happy to provide further clarity on any aspect.

Police Scotland  
24 July 2020