

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM GRAMPIAN 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 do believe there is a need for the bill. A holistic approach to tackling inequality, discrimination and prejudice within society is required. Within that approach there is a part to play for the legal system in deterring prejudice and hate crime, in creating and perpetuating norms around prejudice and hate crime within society, and have consequences for those that commit such acts.

We feel it is important that support for victims is significantly enhanced at the same time as the bill is launched. There needs to be on-going investment in relationship and trust building with communities if we are going to understand and address under-reporting of hate crime and prejudice incidents. Our experience is that individuals are much more likely to report hate crime when they have an organisation they can go to who they can trust, who has expertise, and who has capacity to support them and help them take their case forward.

We have some concerns around the extent and uniformity of training for police officers on hate crime and, more generally, equality and diversity. If the new legislation is going to be successful (in terms of building confidence with communities) then it requires those who will be enacting it, including others such as the judiciary, to receive proper training. It's also important that a proper system for recording demographic data, particularly for ethnic groups, is developed for the use of Police Scotland, so that data can be meaningfully disaggregated.

There is a need to continue and further enhance the holistic approach that places hate crime within the wider context of institutional racism & discrimination, prejudice and unconscious bias, community tension and community cohesion. There is a risk that high-profile, national hate crime campaign work communicates the issue of equality as being about solving overt racism, homophobia etc. It's important that high profile campaigns around positive narratives on migration continue. Other initiatives, which aim to recognise the problems of institutional or systemic discrimination, should also be explored.

Consolidation

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?

In general, the draft bill strikes a good balance between making hate crime legislation clearer and more joined up, whilst keeping some of the additional legal protections around racism. While in general it is welcomed that the rights of more

groups are being protected from prejudice, we feel it's important that distinctions are made about the particular problems of racism, which are being seen in America right now. We are happy with the proposal that the legislation relating to racial harassment (section 50A) will remain in place.

How to prosecute hate crime?

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?

The proposed statutory aggravation model appears to make sense, is fairly clear, and can be communicated fairly easily with individuals who access our services and to communities more broadly.

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?

Broadly, we are supportive of the extension of the protection in relation to age.

Other forms of crime not included in the Bill

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?

We defer to the expertise of organisations with more experience on this matter.

Stirring up offences

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?

We welcome the extension of "stirring up" offences, in line with the current offences relating to the stirring up of racial hatred.

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 agree with Lord Bracadale that "insulting" should be removed as the subjective nature of this term makes it hard to take forward cases. The term "abusive" allows for a more objective approach to be taken.

Other issues

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

No comments on this question.

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?

Yes, we agree that this should not be repealed, for the reasons stated above in question 2.

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

There doesn't appear to be anything contentious in removing the legislation as it hadn't been enforced for a long time, and we don't believe that blasphemy should be illegal.

Grampian Regional Equality Council
24 July 2020