

**JUSTICE COMMITTEE**

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

**SUBMISSION FROM ANGUS COUNCIL**

**Question 1: Do you think the statutory aggravation model should continue to be the core method of prosecuting hate crimes in Scotland?**

Yes, it is a simple method, it collects stats on areas of hate crime and can be taken into account if reoffending.

Hate crime stems from prejudice, which can be life long, so taking re-offending into account is vital.

**Question 2: Do you think that the language of the thresholds for the statutory aggravations would be easier to understand if it was changed from 'evincing malice and ill will' to 'demonstrating hostility'?**

Yes – simpler language would encourage those to report crimes. Demonstrating hostility does sound a lower threshold than evincing malice. Those applying would have to be very clear about the threshold remaining unchanged.

**Question 3: Do you think changing the language of the thresholds for the statutory aggravations from 'evincing malice and ill will' to 'demonstrating hostility' would change how the thresholds are applied?**

No, it has been made clear that this does not change, it only makes it simpler to understand for laypeople.

**Question 4: Do you think that variations of sex characteristics (intersex) should be a separate category from transgender identity in Scottish hate crime legislation?**

Yes, it is a distinct group.

**Question 5: Do you think that the terms used in Scottish hate crime legislation in relation to transgender identity and intersex should be updated?**

Yes should come in with current terminology and understanding

**Question 6: If you think that the terms used in Scottish hate crime legislation in relation to transgender identity and intersex should be updated, what language would you propose?**

Need to defer to specialist organisations.

**Question 10: Do you agree with Option D of taking forward all of the identified options? (This would include development of a statutory aggravation based on**

**gender hostility (Option A); development of a standalone offence relating to misogynistic harassment (Option B); and work to build on Equally Safe (Option C)? (If you agree, please tell us why.)**

Yes, it is important that the legislation sends a clear message immediately that hostility towards women in whatever form is unacceptable, by implementing this immediately it would allow for a body of evidence and stats to be built up while at the same time work can be ongoing into a complex area. Also think this needs to be done in light of any change to the gender neutral type legislation as I think that unintentionally there can be a possible harm to women on respecting every form of gender or non-binary ID.

**Question 11: Do you think that a new statutory aggravation on age hostility should be added to Scottish hate crime legislation?**

Yes, sends a clear message that this behaviour will not be tolerated and research seems to demonstrate that this is an area of concern especially in relation to the elderly.

**Question 12: Do you think there is a need for sectarianism to be specifically addressed and criminalised in hate crime legislation. (Please give your reasons for your response.)**

Yes, it is deep rooted and been ignored or glossed over for far too long in Scotland

**Question 13: If your response to question 12 was yes, do you think a statutory aggravation relating to sectarianism should be created and added to Scottish hate crime legislation? (Please give your reasons for your response.)**

Yes, it is a hate crime and should be recognised as such, a clear message has to go out

**Question 14: If your response to question 12 was yes, do you think a standalone offence relating to sectarianism should be created and added to Scottish hate crime legislation? (Please give your reason for this.)**

No, I would take account of the report from the working group

**Question 15: If your response to question 12 was yes, do you agree with the Working Group that sectarianism should be defined in Scots Law in terms of hostility based on perceived Roman Catholic or Protestant denominational affiliation of the victim and/or perceived British or Irish citizenship, nationality or national origins of the victim? (Please give your reason for this.)**

Yes, because that is what it is and has been glossed over by the media and others for long enough

**Question 16: If you disagree with the Working Group's proposed definition of sectarianism, what do you believe should be included in a legal definition of sectarianism? (Please give your reason for this.)**

As per the working group

**Question 17: The Scottish Government recognises that legislation on its own will not end sectarianism. What else do you feel could be done to address sectarianism?**

It needs to be called out more often – seen as the complete scourge on society that it is. An initiative similar to show racism the red card could be introduced, but for sectarianism. Start with schools and build on that.

**Question 18: Do you think that a new statutory aggravation on hostility towards a political entity should be added to Scottish hate crime legislation? (Please provide details in the comments box.)**

No – too difficult to differentiate and cause uncertainty in the law and would restrict freedom of speech

**Question 19: Do you think that a new statutory aggravation should be added to Scottish hate crime legislation to cover hostility towards any other new groups or characteristics (with the exception of gender and age)?**

No, for the reasons outlined by Lord Bracadale – mainly that they are already adequately covered by other legislation or common law.

**Question 20: Do you think that the religious statutory aggravation in Scottish hate crime legislation should be extended to include religious or other beliefs held by an individual?**

No – as above

**Question 21: Do you think that the statutory aggravations in Scottish hate crime legislation should apply where people are presumed to have one or more protected characteristic(s)? (Examples of protected characteristics are religion, sexual orientation, age, gender, race, disability, transgender identity and intersex). (Please provide details in the comments box.)**

Yes

**Question 22: Do you think that the statutory aggravations in Scottish hate crime legislation should apply where people have an association with that particular identity (relating to religion, sexual orientation, age, gender, race, disability, transgender identity and intersex)?**

Yes, brings consistency to the law.

**Question 23 Do you agree 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?’ (Please provide details in the comments box.)**

Yes, there is a gap in the law

**Question 24: Do you agree with Lord Bracadale's recommendation that any new stirring up hatred offences should require that the conduct is 'threatening or abusive'? (If not, what do you think the threshold should be for the offence to be committed?)**

Yes

**Question 25: Do you think that the existing provisions concerning the stirring up of racial hatred should be revised so they are formulated in the same way as the other proposed stirring up hatred offences? (This would mean that the offence would apply where the behaviour is 'threatening or abusive', but not where it is only 'insulting'.) (Please provide details in the comments box.)**

Yes, consistent approach

**Question 26: Do you agree with Lord Bracadale's recommendation that there should be a protection of freedom of expression provision for offences concerning the stirring up of hatred? (If you answered yes to this question, do you have any comments on what should be covered by any such 'protection of freedom of expression' provision?) (Please provide details in the comments box.)**

Yes.

**Question 27: Do you agree with Lord Bracadale's recommendation that no specific legislative change is necessary with respect to online conduct? (Please provide details in the comments box.)**

Yes, updating should include prospect of prosecuting online offenses and online behaviour needs separate investigation.

**Question 28: Do you think a statutory aggravation (outwith hate crime legislation) should be introduced that could be applied when a perpetrator exploits the vulnerability of the victim? (Please provide details in the comments box.)**

Yes

**Question 29: If you think a statutory aggravation (outwith hate crime legislation) should be introduced that could be applied when a perpetrator exploits the vulnerability of the victim, please provide details of the circumstances that you think such an aggravation should cover?**

As wide as possible

**Question 30: Do you think that Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 about racially aggravated harassment should be repealed? (Please provide details in the comments box.)**

Yes, s38 will sufficiently replace it and don't like hierarchical levels of hate crime.

**Question 31: What do you think the impact of repealing section 50A of the Criminal Law (Consolidations) (Scotland) Act 1995 about racially aggravated harassment could be?**

Simplification

**Question 32: Do you think that courts should continue to be required to state in open court the extent to which the statutory aggravation altered the length of sentence? (This would mean that Lord Bracadale's recommendation on sentencing would not be taken forward.) (Please provide details in the comments box.)**

Yes – still sends important message, more use can be made of these comments and this highlights lack of consistency in judges.

**Question 33: Do you agree that no legislative change is needed in relation to the support given to victims of hate crime offences?**

Yes

**Question 34: Do you agree that no legislative change is needed in relation to the provision of restorative justice and diversion from prosecution within hate crime legislation in Scotland?**

Yes, work ongoing elsewhere.

Angus Council  
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