

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM YOUTHLINK SCOTLAND

**Introduction**

YouthLink Scotland is the national agency for youth work. We are a membership organisation, representing over 100 regional and national youth organisations from both the voluntary and statutory sectors. We champion the role and value of youth work and represent the interests and aspirations of the voluntary and statutory sector. Our vision is of a nation which values its young people and their contribution to society, where young people are supported to achieve their potential.

Scotland's youth work sector reaches in excess of 380,000 young people in youth work opportunities each week. Youth work has three essential and definitive features, young people choose to participate, youth work must build from where young people are, and youth work recognises the young person and the youth worker as partners in a learning process.

While the activities, venues, and approaches utilised to deliver youth work are varied, including youth clubs, youth projects, specialist or targeted provision, social activism, outdoor learning, awards programmes, uniformed organisations, and democratic participation – youth work in all its forms provides fundamental support to young people across the length and breadth of Scotland.

YouthLink Scotland is responding to the Justice Committee call for Evidence on the Hate Crime and Public Order (Scotland) Bill. However, we support the submissions made by individual members of the organisation.

**1. Do you think there is a need for this Bill and, if so, why?**

Hate crimes are pernicious because they attack a person's core identity, while also negatively impacting on the wider community and weakening social ties. This issue is a priority concern for society, and as such, there is an absolute need for this Bill. YouthLink Scotland believes this Bill can provide for the modernising of hate crime legislation in Scotland.

The youth work sector contributes positively to formal education. However, our non-formal approach helps young people work through issues to achieve their full potential. Youth workers (whether they are based in a school, or in the community) in the Local Authority and Voluntary sectors play a crucial role in understanding and addressing hate crime in all its forms. This includes providing broad education to all young people on the topic, focused work with perpetrators of hate crime (so they comprehend the damage done to individual, friends, family, and community) and care and support provided to victims of hate crime.

The youth work sector already takes account people who might fall through the cracks because they do not possess one of the protected characteristics covered and

proposed by the Hate Crime and Public Order (Scotland) Bill. Youth workers are uniquely positioned to tackle hate crime and prejudice, considering wider connected issues, such as, online hate crime<sup>1</sup>, sectarianism, under-reporting by victims, and the concept of intersectionality<sup>2</sup>. The youth work sector can provide a local setting to enable useful facilitation and referral options to tackle hate crime.

**Are there alternatives to this legislation that would be effective, such as non-legislative measures, wider reforms to police or criminal justice procedures?**

We would be interested in discussing how the youth work sector could assist Scottish Government developing their work around restorative justice, delivered in a coherent, consistent manner, in line with this current Bill. It is crucial however that more research is done on the widespread use of restorative justice to ameliorate concerns that it could lead to further victimisation.

**Nature of Hate Crime**

Since official hate crime figures are affected by reporting issues (including underreporting and inconsistency with reporting practices), it would be advantageous to conduct further qualitative research on the nature and victims experiences of hate crime, providing a better understanding of the lived experiences of hate crime as an additional perspective to the official statistics. It is essential that youth workers have an in-depth understanding of hate crime and its impact on communities, in order to respond effectively to any changes as a result of this legislation.

**Community**

The ripple effect of hate crime creates tension within our communities. We have seen this lead to symptoms of vicarious victimisation similar to those experienced by the original victim (psychological and emotional impacts, isolation etc.). This can cause entire communities to retreat into themselves and limit their interactions to only their 'own' communities, resulting in segregation between communities through the creation of invisible 'boundaries' across which members of minority groups are afraid to cross. Youth workers in our community feel the pain of hate crime up close. They understand the need to retain services as mechanisms to minimise further segregation between communities. If we are to take a locally led, preventative, and rehabilitative approach then there must be investment in the key infrastructure within our communities - commensurate with the ambition contained in the Bill.

**Young Victims: Accessing Support and the Effectiveness of Support Provision**

It is concerning that support is not always offered to young victims who report to police, while the majority of victims state they are unlikely to seek out support themselves (Stonewall, 2013a). Further, SARAC's (2017: 29) research consulted a wide range of

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<sup>1</sup> Online hate crime is a rapidly growing problem, with online offences now far outnumbering offences in the physical world. Whilst it is difficult to monitor online hate crime, it can have harmful effects on victims. We are aware the Scottish Government has identified the internet as one of three key areas requiring change to tackle hate crime, along with public transport and the workplace.

<sup>2</sup> This concept refers to the interplay of different aspects of a person's identity. A victim of hate crime may be targeted as a result of more than one aspect of their identity and a perpetrator may hold numerous prejudices.

hate crime victims – only a small minority of respondents felt the support they had received from organisations was helpful. It was noted that a significant number of respondents chose not to answer questions relating to the quality of support received. The fact many participants chose not to answer may reflect a lack of awareness as to what services are available for victims, thus many respondents likely did not access support from relevant organisations and did not have direct experience to inform an opinion on this matter. A number of respondents suggested people need more awareness of what support exists and suggested the provision of information about the support services available should be the responsibility of public authorities. Consideration ought also to be given to victims living in rural communities, who may find it more difficult to access appropriate support, including from third party reporting centres, and where they may have less support from the ‘own’ communities, due to minority groups being much smaller in these areas. If victims do not receive support, they may become resigned to experiencing prejudice. As such, youth workers, particularly those involved in detached youth work, are ideally positioned to take a proactive approach to publicise any support available. Dedicated support organisations should consider their outreach role and connections with youth work services so direct action in communities to provide support is realised.

The provision of effective support from Police and COPFS<sup>3</sup> is also crucial. There can be negative consequences if support does not adequately meet victims’ needs, as “a lack of adequate support can be a source of distress, disappointment and frustration for those who experience it. Victims can feel isolated, which can worsen the distress caused by the crime itself. In some cases it can lead to victims dropping out of a case while it is being prosecuted. Clearly, the way in which victims are treated has an impact on the likelihood of crimes being reported in the future” (Zempi, 2014:126).

## **Research**

There remains a need for qualitative research to be carried out with victims of hate crime in Scotland, looking at the access to support which is available, the effectiveness of support currently provided and what, in their opinion would improve the support provided. Research from the perspective of victims would be extremely informative and helpful at facilitating best practice in this area.

## **Third Party Reporting**

Police Scotland maintain a network of Third Party Reporting centres. These are situated within Third Sector organisations and are designed to help victims and witnesses report hate crimes and incidents, as well as accessing support. However, these centres often struggle to deal properly with reports due to resourcing issues and they are unevenly distributed across the country. There is also a lack of awareness within the youth work sector of the existence and purpose of third party reporting. This is a potential area for collaboration and joint improvement, alongside the youth work sector (particularly youth work in a community based setting) and could be considered as part of the wrap around discussions on support to victims during the advancement of the Bill.

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<sup>3</sup> We are aware the Victim Information and Advice (VIA) service run by COPFS does provide some referrals to victim organisations. However, the availability and knowledge of this service could be improved.

## **Anonymity orders, reporting restrictions and special measures for hate crime complainers**

YouthLink Scotland is member of the Scottish Alliance against Prejudice and Hate Crime (SAAPaHC)<sup>4</sup>. This has enabled discussions on specific aspect of the proposed Bill. We share the view of WSREC<sup>5</sup> that anonymity orders, reporting restrictions and special measures for hate crime complainers should happen as standard practice. During the independent review on the law on hate crime in Scotland, Lord Bracadale acknowledges the greater impact of hate crime on a victim<sup>6</sup>. Therefore, a duty to consider the special support required is needed from the outset. We urge the committee to consider the necessity for these measures to be taken.

## **Hate Crime Data Collection and Disaggregation**

YouthLink Scotland supports the BEMIS Scotland<sup>7</sup> call for a legal requirement to be integrated into the Bill that places a duty on Scottish Government, Police Scotland, and any other relevant duty bearers to develop a bespoke system of Racist and Religiously aggravated hate crime data collation and disaggregation. An integration of data collation and disaggregation as a legal requirement would ensure that Scotland's institutions were operating in compliance with the International Convention on the Elimination of All forms of Racial Discrimination and provide society with a much clearer picture of the nature and prevalence of the different types of racism that manifest in Scotland on a daily basis on the grounds of religious hatred or colour, nationality, ethnic or national origin.

## **Investment in youth work**

It is crucial to draw attention to the value of youth work and evidence that investing in our young people provides considerable long-term benefits. In 2019, YouthLink Scotland launched the #InvestInYouthWork campaign<sup>8</sup> to show the value of youth work lies not only in the difference it makes directly to the lives of the young people who engage with services, but extends further to the many benefits it provides to wider society by tackling inequalities and promoting positive outcomes for individuals. If the positive additions contained within the Bill are to be a success then it must happen alongside a community based effort and sustained investment at local and national level in the youth work sector.

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The Scottish Alliance Against Prejudice and Hate Crime ('SAAPaHC') consists of key stakeholders working to address and eradicate prejudice, hate crime and discrimination. A key aspect of SAAPaHC's work is to inform policy and practice using qualitative data from case studies involving prejudice, hate crime and/or discrimination.

<sup>5</sup> <https://www.wsrec.co.uk/>

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(2018) *Independent Review of Hate Crime Legislation in Scotland – Final Report*, para.2.16. Accessible in full here: <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/>

<sup>7</sup> <https://bemis.org.uk/>

<sup>8</sup> <https://www.youthlinkscotland.org/news/blogs/may-2019/get-involved-in-the-investinyouthwork-campaign/>

## **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?**

Since the independent review of the suite of laws covering hate crime in Scotland was announced by Annabelle Ewing, Minister for Community Safety and Legal Affairs in 2017<sup>9</sup>, YouthLink Scotland has argued that for hate crime legislation to be effective it needs to be understood. This remains our position.

### **Education and Training**

YouthLink Scotland has set up a public website, designed to challenge sectarianism in Scotland. The website is accessible on computers, tablets, and mobile phones and acts as a central gateway to information and resources to tackle sectarianism by providing tailored user access to four distinct target groups, including children and young people, adults, parents, carers, community groups/activists, teachers, and youth workers<sup>10</sup>. We recommend interested people and groups to take advantage YouthLink Scotland's Our Action on Prejudice<sup>11</sup> programme, which provides a virtual one-stop shop for young people and those who work with young people to find facts, research, videos, learning tools and other resources focused on challenging discrimination, as well as promoting inclusion. We also commend Youth Scotland's "*Stand Up*" programme, offering youth worker training, peer education for workers and young people, a small grants scheme, accessible resources and networking opportunities to help combat hate crime and sectarianism in local communities<sup>12</sup>.

### **Support**

Research suggests support is not always offered to those reporting to police, while the majority of victims are unlikely to seek support themselves. Victims may not know where to go for support or may feel suitable support is not available to them. Therefore if the Bill on strengthening the suite of laws on hate crime in Scotland is to be effective, we need a renewed discussion on identifying and addressing barriers to reporting and accessing support.

As one example of a fantastic youth work model of support at the point of disclosure, which could be looked at by the committee is the "*6VT Young Victims of Crime Service*", based in the heart of Edinburgh. The service works alongside people aged 10-21 from Edinburgh who have been a victim of crime. The team provides broad support to build resilience and boost confidence. Crucially, the youth work team provides one to one relationship support, group work including well-being activities, confidential online support and practical support – including court preparation, help in attending legal and police interview and/or support with criminal injury claims. This works and enables reporting as the youth workers meet the young people where they are and tailor the response required and for as long as it takes<sup>13</sup>. This is in keeping with Kees et al guidelines in 2016 promoting a 'victims perspective' for best practice, including a

<sup>9</sup> <https://www.gov.scot/publications/review-of-hate-crime-legislation-ministerial-statement-january-2017/>

<sup>10</sup> <https://www.actiononsectarianism.info/about-us/partners/youthlink-scotland-7>

<sup>11</sup> <https://actiononprejudice.info/>

<sup>12</sup> <https://www.youthscotland.org.uk/programmes/stand-up/>

<sup>13</sup> <https://edspace.org.uk/service/6vt/>

non-judgemental approach, advocacy and empowerment, emotional support, and signposting.

**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. However, this must be done to strengthen law in line with existing legislation.

**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?**

Yes.

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

Yes.

Young people routinely inform us they believe they have been targeted and stigmatised due to their age. This is coupled with certain vulnerabilities highlighted in our focus groups that have the effect of disempowering young people. Such as, financial dependence on adults and potential for being victim of abusive or controlling behaviour. During the independent review on hate crime, Mosquito devices were used as one example of hostility towards young people as these devices are used to young age groups who can hear the high pitched noise.

YouthLink Scotland are particularly interested in young people's wellbeing. We know that young people face discrimination and prejudice because of their age. This often goes without challenge or protection. Many young people tell youth workers that they feel discriminated against because of their age and that some adults belittle young people and they experience this in services that they access. Cultural changes are required. However, the strengthening of hate crime legislation to include age will add value to Scots Law and protection to young people. It is for these reasons, YouthLink Scotland supports a new statutory aggravation on age hostility.

**5. Do you think that sectarianism should have been specifically addressed in this Bill and defined in hate crime legislation?**

No.

At present there is no legal definition of 'sectarianism' in Scots Law. Although, the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 criminalised threatening, hateful, or otherwise offensive behaviour at regulated football matches. The law never dealt with the definition of sectarianism. Definitions can be problematic as 'sectarianism', as it stands, is not necessarily how some victims themselves would define their experience. As such, some academics and stakeholders are critical of generic terms which can be misleading.

The law has since been repealed due to controversy surrounding its effectiveness and criticism from the legal profession. We are aware the Scottish Government did not support repeal of the Act without a viable alternative. However, given the issues of clarity on sectarianism, we believe other routes to tackle sectarianism should be considered. We accept that the Bill creates another opportunity to discuss this issue and we are acutely aware from our work alongside young people that sectarianism remains a serious concern in Scotland.

Our organisation delivers the Action on Sectarianism (AOS) initiative<sup>14</sup>. Through this engagement work with young people, we recognise the need for a clear definition of sectarianism in Scotland. Although, the education and training sessions and support provided by the youth work sector are not predicated on a definition of sectarianism - a definition of hate crime would make our work tackling the issue more effective.

**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 believe there is merit to including a new offence of stirring up hatred. However, we also recognise there is a tendency to frame hate crime as a consequence of poor values of certain individuals, neglecting to consider the social and structural causes, such as socio economic status. The youth work approach will help explore the causes of hate crime in a setting that focuses on inter-group relations. Hate crime is a social problem that requires social change. This can be driven in and by communities enabled by the vast network of youth workers and youth clubs.

Some young people have expressed a concern that the offence of stirring up will impede them from sharing how they feel or if they post disagreeable comments on social media they will be accused of an offence. Freedom of expression must be protected. As such, there needs to be a clear line in the Bill about when something becomes threatening or abusive. The Bill must be enshrined by The United Nations Convention on the Rights of the Child (UNCRC) and the Human Rights Act (HRA) to avoid unnecessarily criminalising of young people.

Further, youth work provides an opportunity to work through incidents with young people at a pace that suits their emotional development and avoids labelling them at a young age and improves their understanding of the issues.

**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?**

YouthLink Scotland shares the Scottish Government's view that the threshold should be retained as 'threatening, abusive, or insulting'. We understand Lord Bracadale's argument on the removal of 'insulting' and around streamlining the legislation. However, the feedback we have received from BAME groups within our networks is that removal of 'insulting' in relation to stirring up, would weaken the proposed legislation. We would however welcome further discussion and consultation with

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<sup>14</sup> <https://www.actiononsectarianism.info/about-us/about-us>

stakeholders, including, and most importantly, from the BAME community on this aspect of the Bill.

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

We are content that the right to freedom of expression exists under Article 10 of the European Convention on Human Rights (‘the Convention’) and that it applies to all current hate crime legislation. We are satisfied the law will be interpreted in a way that is compatible with the Convention. On concerns around young people being criminalised – please see answer to question 6.

**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.

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

Agree.

**YouthLink Scotland – Recommendations**

- We support hate crime being approached from a public health perspective, emphasising prevention and promoting a more holistic approach, rather than simply a criminal justice response
- Development of guidelines for best practice in the provision of effective support for victims is required
- Prioritise and develop an intersectional approach to hate crime
- Continue to give a voice to those not covered in the Bill
- Make visible and give a voice to the experiences of marginalised victims of hate crime, such as the homeless, asylum seekers, refugees, and Gypsies/Travellers
- Address the role of the mainstream media in fuelling hostility and prejudice towards minority groups
- Develop knowledge of the full spectrum of harms caused by hate crimes and use this information to inform the provision of effective support
- A restorative approach should be taken carefully to avoid secondary victimisation
- Fundamental that youth workers have an in-depth understanding of the nature of hate crime
- Policy responses should give greater consideration to the structural dynamics which share the perpetrating of hate crime – particularly the role of poverty and socio economic status
- More meaningful consideration should be given to the rural context and the role of essential youth groups to ensure education around the laws and access to support for victims



- Longer term, hate crime should be approached from a public health perspective involving collaborative working between different organisations to support whole communities
- A multi-agency support system, with youth work as an integral part of its function, should involve a collaborative approach between, for example, social work, education, health, law, police and housing associations
- We believe the holistic one-stop-shop response and existing infrastructure (including community buildings and facilities) provided by the youth work sector to those who have been victims and witnesses of hate crime and other forms of violence provides efficient models of practice to assist Scottish Government and partners in the development of Barnahus in Scotland
- Support any future public education campaign to increase public awareness of the nature and extent of hate crime
- Areas requiring further analysis include, the internet, the workplace, public transport
- Recognition required of the positive role of youth work in and around schools at tackling hate crime
- Enhanced partnership working between victim/survivor organisations and the youth work sector – particularly those involved in community outreach
- A renewed discussion with statutory services on the automatic right to support at the point of disclosure for victims of hate crime
- Use of anonymity orders, reporting restrictions and special measures as standard for hate crime complainers
- Legal requirement to be integrated into the Bill that places a duty on Scottish Government, Police Scotland, and any other relevant duty bearers to develop a bespoke system of Racist and Religiously aggravated hate crime data collation.

Youthlink Scotland  
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