

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM EAST RENFREWSHIRE COUNCIL

General

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?

Our view is that there is a need for this Bill as it gives every protected characteristic equal protection from any form of hate crime. We feel that any guidance or policy which is non-legislative would be general and not prescriptive thus being open to interpretation. Police Scotland are there to enforce the law and they require necessary powers to do so which will be met through the bill.

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?

It is our view that one single bill to consolidate the various hate crime laws would be very helpful as it would ensure consistency across the board and allow authorities to access all relevant legislation in one 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?

Yes – there is merit for considering statutory aggravation for sex hostility, but it would clearly need to encompass and distinguish between different types of hostility such as misogynistic harassment.

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?

We agree that it should be included. It is our view that age should be included however there needs to be further clarification around how age contributes to the vulnerability and exploitation of the victim. Age needs to be considered alongside vulnerability and capacity of the victim. The purpose of this Bill is to consolidate all hate crime legislation so it is unclear why there is consideration of excluding this. If it is introduced out with the hate crime legislation, we would need to be clear under what legislation this would fall.

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?

Yes – it would ensure consistent/equal protection for victims as well as equivalency of consequences for perpetrator.

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?

Yes – we agree that this should be included in respect of all 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?

Yes – we agree that the full threshold should be retained.

Other issues

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

The Bill protects people's freedom of expression to discuss and hold a view on religion and sexual orientation, however, if they abuse someone for their religion or sexual orientation that would constitute a hate crime.

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?

We agree that it should not be repealed unless it is fully covered and incorporated into the current hate crime bill.

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

Agree.

East Renfrewshire Council

20 July 2020