

## JUSTICE COMMITTEE

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

#### SUBMISSION FROM CHIC BRODIE

Comments re the Hate Crime and Public Order (Scotland) Bill

These first set of comments apply to the Policy Memorandum

Before moving to my specific comments which address the clauses referred to in the Policy Memorandum of the stated Bill, it is worth recording initially that clause 44 confirms the view that “the majority of individuals consulted were not supportive of hate crime laws suggesting that they restrict freedom of expression and create a hierarchy of victims”.

I subscribe to that view. I do so on the basis that the ultimate flaw of any democratic Government is to subscribe to that which denies free speech or suppresses freedom of thought.

I strongly suggest that each clause of the Bill follow the Voltaire maxim and be tested against the paradigms of free speech and thought.

I also consider the proposed Bill contains a lack of evidence and substance and in some areas in my opinion poor drafting (see clause 11 on the definition of a common vision in a cohesive society which in itself is composed of communities of diverse backgrounds, beliefs and circumstances with different visions and aspirations for their communities”), and because of that suffers in the face of the consultation. Clause 45 indicates that” the views offered are valuable in helping inform decisions to be made”, yet the Bill promotes the Government’s approach that “the views of equalities organisations were particularly valuable in informing the detail of the Bill provisions, given that these organisations reflect and are representative of the needs of those who have experienced the crime.”

Not solely.

While being supportive of such organisations, based on my later comments re evidence, I would suggest that the above is not a sufficiently strong basis for the total popular acceptance of the Bill. Crime, hate or other actions, do affect all in the community either directly or indirectly.

Clause 27 refers, “For each of the statutory aggravations referred to, evidence from a SINGLE source is sufficient to prove that an offence is aggravated by prejudice... relating to the characteristics in question” Is that sufficient single source the victim? (see drafting)

If that is so and there is no corroboration needed then I would suggest that an already overstretched police force and criminal justice system and therefore the community at large will reap the consequences that the Bill sows. That aspect undermines a just system and will, I would argue create even more angst and anger in our communities.

Perhaps this might be clarified?

One of the questions you sought an answer to was question 5 re sectarianism being specifically addressed in the Bill. Without specifically commenting on the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill, I would suggest that, given my stated position on this proposal, that it should not be. While the Committee on that Bill heard that evidence which suggested that the lack of a legal definition of the sectarianism was a hindrance, it might be argued that the definition of sect and sectarianism per the Oxford Dictionary is already covered by one of the characteristics? And so no need for its inclusion.

Lastly, in this submission, I wish to refer to the Contextual Evidence –clauses 47 to 54.

Clause 47 refers to the fact that the Scottish Government and criminal justice partners (police, COPFS etc) have been collecting evidence to inform policy development on hate crime for a number of years.

Clause 48 indicates that the Government published the report, 'Developing Information on Hate Crime recorded by the Police' and highlights the information on hate crime recorded by the police in relation to race, religion, sexual orientation, disability and transgender identity. Yet in the notes at the bottom of the page, page 13, it is recorded that "Scottish Government statisticians are continuing to engage with Police Scotland as they develop the information they hold on hate crime and it is anticipated that a report on the findings of this exercise will be published in 2020!!

So what are the correct and realistically interpretative numbers?

Notwithstanding that question, and taking the numbers that have been produced in the Memorandum, it is worthy of note that:-

- the number of charges on racial crime has dropped by 37% in 2018 /19 from a peak in 2011/12;
- the number of religious aggravated charges reported in 2018/2019 at 529 is the lowest since 2004/05;
- the number of disability aggravated charges remained almost unchanged (+1%) in 2018/19;
- the number of sexual orientation aggravated crime charges at 1176 has increased (% increase not reported?) year on year with the exception of 2014/15;
- the number of aggravated charges on transgender identity was 40 in 2018/19 compared to 52 in 2017/18

It is hoped to prepare and present further comment for parts 1-5 of the proposed Bill but, on the basis of the above numbers and trends and the majority of individuals in the consultation not being supportive of hate crime laws (clause 44) as per the Policy Memorandum, I can see no evidence or analysis provided as to why the numbers are what they are or that this Bill has any substantive evidence to proceed.

Our law enforcement has obviously played its part but there is no emphasis or evidence I can see thus far produced on the impact of more intensive education, local community involvement, awareness, etc

While we wish to see hate crime being drastically reduced if not eliminated, one would have wished to see what evidence and exploration has been fully and thoroughly carried out so that a very wide assessment of the valuable views of the whole community is sought and that no one person, section or organisation is given a weighted, even biased, opinion on such an important matter.

This legislation confronts several issues not least in its physical demands and cost but importantly in those of freedom of expression and thought. It also creates unnecessary challenges by a shutting down of the meaningful debate and awareness needed to underpin the changes a collective open society and collective communities can achieve.

Chic Brodie  
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