

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM MERVYN CURRIE Attached are my comments on this Bill.

Thanks for the difficult work the committee is doing on behalf of the people of Scotland.

Commenting as an individual.

Numbers relate to the questions in the Call for Views.

of stirring up hatred.

6. Views on the merits of Part 2 of the Bill and the plans to introduce a new offence Earnest expression of view without any intent to stir up hatred should not be an offence. Sadly we often see people taking offence and feeling hatred after expression of contrary views. This is a sad reflection on our society.

The threshold in the Bill for the new offence of stirring up hatred is too low. 'Abusive behaviour likely to stir up hatred' could be committed unintentionally. That is too weak and subjective. Similarly the fact that someone has taken offence at a view expressed by another should not of itself mean the other has committed the crime of stirring up hatred. Intention to stir up hatred by abusive behaviour and that the behaviour is threatening rather than just abusive should be added.

The current rather subjective threshold will make the task of policing unreasonably difficult.

I understand this is a 'strict liability' offence so all the more reason to require proof of intent to stir up hatred.

8. Comments on what should be covered by the 'protection of freedom of expression' provision in the Bill.

In recent times it has become common to cry hate after the (forceful or not) expression of a different view. We have seen 'no platforming' and similar shutting down and excluding expression of views that are contrary to the prevailing or 'politically correct' view.

Freedom of expression without any intent of hatred needs to allow for others to feel shocked or offended at times.

The provision in the Bill protecting free speech concerning religion is weakened from the previous provision. It is now not strong enough and is too subjective. This will result in a climate of fear. The boundary with where such expression becomes stirring up hatred should be made more explicit.

All of the protected characteristics should have well-defined free speech protection provision. Only some are covered in the Bill.

For example, expression of the view that biological sex is the correct identifier of gender should be allowed without it being potentially deemed to be stirring up hatred. Currently that can result in the person being called 'transphobic' even though they have no hatred whatever for a transgender person.

Similarly expressing the view that marriage between same sex people is wrong should be protected by a freedom of expression provision in the Bill.

Mervyn Currie
16 July 2020