

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM SACRO

Sacro is a community justice organisation which works to create safer and more cohesive communities across Scotland. Sacro provides a wide range of services spanning all aspects of the community justice continuum. These range from conflict resolution to prevent disputes escalating, to supporting prisoners on release. All our services are designed to create safe and cohesive communities by reducing conflict and offending. The organisation works with a broad range of people, including those harmed by crime and those responsible for that harm.

As a Scotland-wide voluntary organisation, we are committed to providing services that contribute to positive transformational changes in the lives of our service users. We work independently and collaboratively within Scotland's communities to provide support, prevent conflict and challenge offending behaviour wherever the need arises. Our services are based on research evidence, service user feedback, international standards of good practice, robust risk management and a commitment to development and innovation.

Since its inception, Sacro has grown and developed services all across Scotland for individuals who need our support, guidance or monitoring to reduce the risk of further conflict or offending. With the figures for recorded crime in Scotland at a 46-year low, Sacro's contribution continues to have a tangible and far-reaching benefit for the people of Scotland, its communities and society. Although the organisation has changed and evolved since its inception almost 50 years ago, we know that supporting and guiding our service users through positive transformational life changes contributes greatly to a reduction in their conflict and offending.

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?

Sacro is in favour of this Bill as it aims to modernise and consolidate all previous legislation that responds to the needs of 21st century Scottish society. Both with respect to crimes aggravated or motivated by malice or ill-will towards a victim's (perceived) membership in a particular group, as well as sectarianism, Sacro

supports this Bill as a step forward in promoting community and social cohesion, as well as in sending a strong message that any hate-motivated behaviour is not acceptable.

As an organisation committed to equality, Sacro supports both those harmed by crime and the reform of those responsible for that crime. As such, Sacro would be in favour of more provision within this legislation that would promote deep attitudinal change. As has been the experience of Sacro's STOP service which deals exclusively with sectarianism and hate crime in the West of Scotland, discriminatory and hostile attitudes are learned. As a result, they can also be unlearned through Cognitive-Behavioural Therapy (CBT) and educational interventions. A punitive approach is effective in sending a strong message, but it, alone, is unlikely change the underlying beliefs that lead to hate-motivated offending.

Sacro is in favour of participation in evidence-based programmes developed to target discriminatory and prejudicial ideas as an effective means of challenging and eventually eradicating discriminatory and prejudicial ideas in the long term. It is the organisation's hope that any legislation on hate crime will recognise that long-term change requires long-term work on attitudinal change that prevents future hate crimes.

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?

Sacro supports the consolidation of previous legislation into one distinct Hate Crime Bill. It is the organisation's view that this legislation will send a strong message that any unlawful actions motivated by prejudice, bias or discrimination constitute an act of hate, and will be treated as such. 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?

As per Sacro's initial response to Lord Bracadale's review, it is the organisation's position that no views or behaviours based on biased or prejudicial attitudes are never acceptable. However, the organisation also recognises that the statutory aggravation model might be the most realistic way of prosecuting 'low-level'

discriminatory or prejudicial behaviours (such as ‘banter’ and ‘jokes’), as a more ‘heavy-handed’ approach is likely to fuel further division and hostility between social groups.

This view comes primarily from a concern for the safety and further alienation of groups already affected by multiple layers of disadvantage, who might be affected by intersecting protected characteristics. Although Sacro is a firm believer in free speech, any approach more severe than a statutory aggravation might provoke extreme reactions in any group that feels that their rights to freedom of speech are being violated, leading to further harm against communities of people who identify as having any of the protected characteristics.

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 (outwith hate crime legislation) for the exploitation of the vulnerability of the victim?

Sacro holds that no level of hostility is ever acceptable towards any social group. However, with regards to this question, Sacro would defer to the expert views of organisations specialising in this issue.

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?

Through operational experience, Sacro recognises that there are considerable issues around sectarianism in Scotland, particularly in the west of the country. In the organisation’s experience, people committing sectarian offences are influenced by misconceived beliefs handed down through generations or shared via peer groups; these then tend to form ‘narratives of belongingness’, leading individuals to engage in offending behaviour without questioning or challenging the origin or truthfulness of those beliefs.

However, one concern of the organisation is that often, sectarianism is not essentially linked to religion in the minds of those committing sectarian hate crimes. As such, there is a question as to whether those who offend in this manner are in fact aware of the origin of those beliefs, why they constitute prejudice, and any behaviour resulting from such beliefs constitutes hate crime. Sacro recognises the potential for people to change their attitudes and behaviours through evidence-based programmes and support interventions. However, the organisation also recognises that sectarianism forms a very specific form of hate

crime which, although based on religious and historical beliefs, might not be viewed as such by those who commit sectarian offences.

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?

Sacro supports the rights of any individual or group to express their views freely. However, the organisation also believes that it is entirely possible for this to happen in ways that are not offensive, threatening or hostile towards individuals belonging (or perceived as belonging) to any group with any number of protected characteristics.

Although Sacro holds that any discourse that stirs up hatred is unacceptable and extremely damaging to social order and cohesion, the organisation would also like to express a concern over how this would apply to nationalist press whose headlines often could be considered as stirring up hatred. Although there are rarely any 'calls to action' against particular groups in news headlines, some of the content could be considered as inciting hostility and hate against groups with certain characteristics (for example: '1 in 5 Brit Muslims have sympathy for jihadis' [The Sun, 23/11/2015], or 'The Skirt on the Drag Queen goes Swish Swish Swish' [The Sun, 13/11/2017]). Although Sacro would like to see a cessation in such prejudicial rhetoric, the organisation would also be interested in the ways in which that would be achieved in mainstream media.

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?

Sacro supports that 'insulting' should form part of the threshold in relation to the stirring up of racial hatred, as the organisation holds that even 'low-level' prejudicial behaviours (such as joking or banter) have the potential to cause considerable harm and they need to be challenged.

Other issues

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

Sacro would firmly defend every individual's right to freedom of expression, so long as this is done responsibly and without inciting hostility and hatred towards any particular group. The organisation believes that this is entirely possible when any discourse takes place respectfully, and with consideration to the social,

economic and power imbalances faced by specific groups who identify with any protected characteristic.

Therefore, Sacro would support any discussion or expression of protected characteristics in the context of seeking to understand and to 'build bridges' between different social groups. However, any statements about protected characteristics should not veer into statements that can become accusatory, hateful, or call to action against any particular social group.

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?

Sacro agrees that Section 50(A) of the Criminal Law Act 1995 should not be repealed. Recent events that sparked the current Black Lives Matter movement have served to highlight the underlying inequalities and history that has allowed for racial aggravation to contribute to the severity of crime. As such, Sacro believes that there should be legal provisions for the consideration of racial aggravation in the commission of any crime.

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

On this matter, Sacro would defer to the knowledge and expertise of specialist organisations.

Sacro
6 July 2020