



**EQUALITIES AND HUMAN RIGHTS  
COMMITTEE  
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CONVENER**

**EQUALITIES AND HUMAN RIGHTS  
COMMITTEE  
ZEE TIMMINS MSYP  
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The Rt Hon The Lord Bracadale QC

Independent Review of Hate Crimes  
Legislation in Scotland

*Via email only:*

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23 November 2017

Dear Lord Bracadale,

**Review of Hate Crimes Legislation in relation to children and young people in Scotland**

We are writing to you jointly as the Conveners of the Equalities and Human Rights Committee of the Scottish Parliament (EHRiC Committee) and the Scottish Youth Parliament's Equalities and Human Rights Committee (EQU Committee) about children and young people's experience of hate crimes.

Background

As outlined in the recent report of the Presiding Officer's Commission on Parliamentary Reform, it was recommended the committees of the Scottish Parliament should develop closer links with the relevant committees of the Scottish Youth Parliament given their elected and diverse nature.

To that end, the EHRiC Committee recently held its first meeting with the newly elected EQU Committee of the Scottish Youth Parliament. One of the key issues to emerge from that meeting was the need for the views of young people to be considered as part of your Review of Hate Crimes Legislation. As a result, both Committees have agreed to make a joint submission to you.

## Work of the EHRC Committee of the Scottish Parliament

EHRC Committee was established as a Committee of the Scottish Parliament in June 2016 following the elections to the 5<sup>th</sup> Session of the Scottish Parliament. This is the first time the remit of a committee of the Scottish Parliament has brought together the responsibility for scrutinising policy in both the areas of equalities and human rights.

Throughout 2017 the EHRC Committee has utilised its inquiry work programme to focus on the issue of the human rights of children and young people in Scotland. A central part of this work has been our inquiry into prejudiced-based bullying and harassment of children and young people in schools.

On 6 July 2017 the EHRC Committee published its inquiry report: *It's Not Cool to be Cruel: Prejudiced-based bullying and harassment of children and young people in schools*.<sup>1</sup>

This aim of the inquiry is to help place the voice of children and young people at the centre of public debate on the issue of prejudice-based bullying and harassment. The Scottish Government formally responded to the report on 1 September 2017 and the Scottish Parliament debated the findings and recommendations of the report on 15 November 2017.<sup>2, 3</sup>

One of the major issues of concern to emerge from our inquiry was the unrecognised and unrecorded level of hate crimes which now seem to be occurring in the school environment in Scotland.

Our inquiry highlighted numerous incidents of racism, sexism, disability prejudice, religious and ethnic prejudice, homophobic bullying, hate speech and physical and sexual harassment in schools. These appear equally widespread in both the physical and digital school environment.

What is of grave concern to the EHRC Committee is that while several of the cases we heard of ended up being reported to police because of a recognition of the potential criminal nature of a serious incident involving physical and/or sexual assault, many cases, which may constitute a hate crime, were not being recognised as such. As a consequence, such instances are not being recorded or reported to police.

Also of serious concern to the EHRC Committee is the failure to recognise an escalation of unrecognised hate crime in the education system.

The inquiry took evidence of cases where young people had suffered multiple instances of racist or gender-based abuse, Ableism, Islamophobic or LGBTI-phobic inspired verbal or physical abuse which was viewed in the compartmentalised context of bullying or harassment, not as an identified pattern of hate crime.

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<sup>1</sup> *It's Not Cool to be Cruel: Prejudiced-based bullying and harassment of children and young people in schools* (SP Paper 185): [http://www.parliament.scot/S5\\_Equal\\_Opps/Inquiries/EHRC\\_5th\\_Report\\_2017\\_SP\\_Paper\\_185.pdf](http://www.parliament.scot/S5_Equal_Opps/Inquiries/EHRC_5th_Report_2017_SP_Paper_185.pdf)

<sup>2</sup> Scottish Parliament Official Report, *Meeting of the Parliament 15 November 2017*, Cols 30 – 81:

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11193&mode=pdf>

<sup>3</sup> Letter from the Deputy First Minister, John Swinney MSP, 1 September 2017:

[http://www.parliament.scot/S5\\_Equal\\_Opps/Inquiries/SG\\_Response\\_to\\_EHRC\\_Report\\_-\\_Its\\_not\\_cool\\_to\\_be\\_cruel\\_20170901.pdf](http://www.parliament.scot/S5_Equal_Opps/Inquiries/SG_Response_to_EHRC_Report_-_Its_not_cool_to_be_cruel_20170901.pdf)

When such instances led to young people suffering a serious physical or sexual assault, the criminal justice system may have become involved. However, we fear the system is failing to take into account the hate inspired nature of such cases and only see them through the lens of physical or sexual offences legislation.

As a result the true size, scope and impact of hate crime in our education system may be hidden, resulting in schools becoming a permissive space for hate culture to become embedded. This constitutes an escalating risk to the physical, mental and emotional health and wellbeing of children and young people in Scotland. It also poses a major challenge to the statutory responsibility of the State to protect and defend their human rights.

In total the EHRC Committee made 29 recommendations on how to address the problems highlighted by our inquiry. This includes our call for the prevailing cultural to be addressed by the full incorporation of the UN Convention on the Rights of the Child into Scots law so as to protect the human right of children and young people.

**The EHRC Committee formally refers the [findings and recommendations](#) of our report *Its Not Cool to be Cruel: Prejudiced-based bullying and harassment of children and young people in schools* (SP Paper 185) to you for your consideration as part of your Review of Hate Crimes Legislation.**

**The EHRC Committee also formally endorse the submission of the Scottish Youth Parliament to your Review, which is attached in the annex to the letter.**

**Following the completion of your work, the EHRC Committee would like to invite you to take part in an oral evidence session on the outcomes of your Review.**

#### Work of the EQU Committee of the Scottish Youth Parliament

In June 2017, after consulting over 5,000 young people from across the country, the Members of the Scottish Youth Parliament (MSYPs) voted to selected young people's rights as their next national campaign topic. [Right Here, Right Now](#) aims to ensure the rights of young people living in Scotland are upheld, respected, and taken into account by Scotland's decision-makers. The four main objectives of the campaign are—

- To influence law, policy, and practice in order to strengthen the protection of young people's rights;
- To improve links between SYP, public bodies, and national institutions, such as the Scottish Parliament, to respect, protect, and promote young people's rights;
- To promote young people's rights, and empower individuals to defend their own rights and those of others;
- To strengthen and enhance the status of MSYPs as the voice of Scotland's young people at a local level, and to strengthen the role of voluntary organisation MSYPs nationally.

As a result we have worked closely with the EHRC Committee of the Scottish Parliament on their work on prejudice-based bullying and harassment of children and young people in schools.

The SYP helped facilitate confidential evidence taking by Members of the EHRC Committee from young people who had directly experienced prejudiced-based bullying and harassment. This led to the EHRC Committee receiving powerful first hand testimony of the kinds of abuse children and young people are now regularly facing in the school environment.

The EQU Committee of the SYP has consulted MSYPs on the consultation questionnaire document issued as part of your Review of Hate Crimes Legislation.

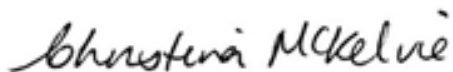
**In response, the EQU Committee of the Scottish Youth Parliament is submitting the attached response to your consultation.**

**The EQU Committee also formally endorses the referral of the findings and recommendations of the EHRC Committee's report *It's Not Cool to be Cruel* to your review.**

Should you have any further questions please contact the clerk of our respective committees whose contact details are enclosed below.

We look forward to considering the outcomes of your Review in due course.

Yours sincerely,



Christina McKelvie MSP  
Convener  
EHRC Committee  
Scottish Parliament



Zee Timmins MSYP  
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cc: John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills, Scottish Government  
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# Independent Review of Hate Crime Legislation in Scotland

Submission from the Scottish Youth Parliament's  
Equalities and Human Rights Committee  
November 2017



## Introduction

The Scottish Youth Parliament (SYP) represents Scotland's young people. Our vision for Scotland is of a nation that actively listens to and values the meaningful participation of its children and young people. Our goal is to make this vision a reality, in order to ensure Scotland is the best place in the world to grow up.

Our democratically elected members listen to and recognise the issues that are most important to young people, ensuring that their voices are heard by decision-makers. We exist to provide a national platform for young people to discuss the issues that are important to them, and campaign to effect the change they wish to see.

SYP's Values are:

- **Democracy** - We are youth-led and accountable to young people aged 12 to 25. Our democratic structure, and the scale of our engagement across Scotland gives us a mandate that sets us apart from other organisations.
- **Rights** - We are a fundamentally rights-based organisation. We are passionate about making young people aware of their rights, and ensuring that local and national government deliver policies that allow those rights to be upheld.
- **Inclusion** - We are committed to being truly inclusive and work tirelessly to ensure the voices of every young person from every community and background in Scotland are heard.
- **Political Impartiality** - We are independent from all political parties. By working with all stakeholders, groups, and individuals who share our values, we can deliver the policies that are most important to young people.

## Our approach

The Equalities and Human Rights Committee (hereinafter referred to as 'the Committee') welcomes the opportunity to provide evidence to this review on hate crime law conducted by Lord Bracadale. This submission is based on the views of the Committee's members; relevant SYP Policy (<http://policy.syp.org.uk/>) on human rights, hate crime, discrimination and bullying; and some research on the issue referenced with hyperlinks throughout.

## Contact

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# **Hate Crime Law in Scotland**

## **Tell us what you think**

Easy Read

# Some of the words we use in this paper



## **Aggravated**

When something is made worse.



## **Crime**

When someone breaks a law.



## **Criminalise**

Turn an activity into a criminal offence by making it illegal.



## **Hate**

A very strong feeling of dislike towards a person or group of people.



## **Hate crime**

When you become the victim because of who you are.



### **Offence**

The law a person has broken. Different offences are punished in different ways.



### **Prejudice**

This is when someone thinks something about a person or group which is not based on facts.



### **Protected characteristics**

When we talk about hate crime law these groups are known as the protected characteristics:

1. Race
2. Religion
3. Disability
4. Sexual orientation
5. Transgender identity



### **Sentence**

The punishment for a crime. For example, how long a person goes to prison for.





### **Statutory aggravations**

When a person has committed another offence (such as assault or breach of the peace), but has done it in a way which is aggravated by hate or prejudice against particular individuals or groups.



### **Transgender identity**

When someone is born a man and lives as a woman or born a woman and lives as a man.



### **Victim**

The person who the crime is against.

# About this paper



This is an independent review by Lord Bracadale.

Lord Bracadale is a retired judge who has been asked to look at hate crime law and see if it needs to change.



The law on hate crime is to protect people who become the victim because of their:



1. Race (the country they or their family come from)

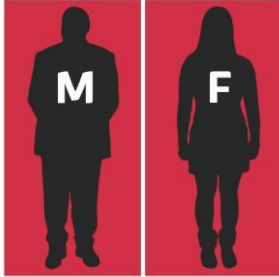


2. Religion

### 3. Disability



### 4. Sexual orientation (a person's sexual preference or identity as bisexual, heterosexual, or homosexual)



### 5. Transgender identity (being born a man and living as a woman or born a woman and living as a man)



The next part of this paper is about what we want to find out.

# What we want to know



We want to know what you think about the current law on hate crime.

We want to know if you think it works.

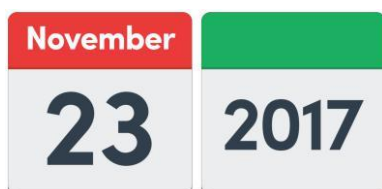
We also want to know if you think it should change so everyone knows that hate crime is wrong and that it will be punished.



We will look at what people say and write a report in Spring 2018. This will say what we found out and how we think the law could change.



At the end of this paper we tell you how to tell us what you think.



You need to send us your answers by 23 November 2017.

# What is hate crime



Hate crimes can cause harm and upset to the victim and to the community they are part of.



Hate crime is not when you just hate someone.



Hate crime is when a person commits a crime because they hate or are **prejudiced** against the victim because the victim is part of a group.



The group can be one or more of the following:

Race

Religion

Disability

Sexual orientation

Transgender identity

These groups are called **protected characteristics**.



The police and the courts treat it as a hate crime if it happens because the victim is from one of these groups.

## Question 1



Do you think the meaning of hate crime needs to be better explained?

**Yes**

☒

**No**

☐

Please tell us why?



SYP's Committee believe there is a significant lack of education around hate crimes and what they are/what they mean. From conversations with our constituents, it is clear that many young people would not feel confident in reporting a hate crime as, for example, they are unsure where to go, or even if what happened to them constituted as a hate crime in the first place. We believe that it is crucial for a clear definition, and subsequent education, of hate crime to be given to everyone, especially young people. This will ensure that people are aware of their rights and what a hate crime actually is, which will hopefully ensure people feel confident in reporting hate crimes that have happened to them or that they have witnessed, as well as hopefully reducing the amount of hate crimes perpetrated.

Furthermore, we believe that the protected characteristics listed in the current legal definition of hate crime in Scotland do not go far enough, and we outline why in our response to Question 9. Legal protection from hate crime is patchy, and reform is therefore necessary to ensure all groups in vulnerable situations are equally protected.

## Question 2



Do you think we should have hate crime law in Scotland?

Yes ☒

No ☐



Please tell us why?

Prejudice-based discrimination and violence towards individuals from protected characteristics groups is still a huge and detrimental problem within our society. 2015-16 statistics show that certain groups still experience hate crime (<http://bit.ly/2eDUnUv>). Public awareness about these identities / characteristics is also rising, for example, transgender identities are now much more frequently discussed within our society and media, due to greater representation over the last ten years and significant legal and policy decisions (such as President Donald Trump's attempts to ban transgender military personnel or the recent launch of the Scottish Government's consultation on gender recognition reform). This has coincided with a rise in transgender hate crime (<https://ind.pn/2agotdu>). This is just one example which shows that there is still a pressing need for hate crime legislation. Furthermore, SYP also believes that action should be taken to tackle all forms of 1) racial and 2) religious discrimination. (*Lead the Way* manifesto commitments with 90% and 83% agreement respectively, 2016).

Prejudice-based discrimination is especially crucial for young people as many young people have identities that fall under these protected characteristics. For example, 4.1% of young people identified as lesbian, gay or bisexual in 2016 according to the Office for National Statistics. In SYP, 29% of our membership identify as non-heterosexual, 14.5% consider themselves to have a disability and 14% are BAME (<http://bit.ly/2xYYiV6>). SYP is very representative of these protected characteristics, and has a unique democratic mandate to advocate on this issue.

Hate Crime Law is required to ensure that the members of our society who are in a more vulnerable situation remain safe and protected.

Indeed, both the UN Human Right Committee and the Committee on the Elimination of all Forms of Racial Discrimination call for strengthened efforts to tackle hate crime. For example, through effective implementation and enforcement of law, awareness-raising campaigns, better reporting, better investigations and remedies for victims (CRC/C/GBR/CO/5, paragraph 10). Systematic disaggregated data collection on hate crimes and ensuring the meaningful participation of groups affected when developing measures to combat hate crimes were also suggested (CERD/C/GBR/CO/21-23, paragraphs 16-17). The UK's record on hate crime was condemned across the globe during this year's UN Universal Periodic Review process, with 21 recommendations calling on the UK to step up its efforts to tackle hate crime (A/HRC/36/9). We need to lead the way on this issue and not get left behind other countries.



# Hate crime law in Scotland at the moment



If a person has committed an offence (such as assault or breach of the peace), but has done it in a way which shows hate or prejudice towards a person or groups then the courts can give tougher punishments.



This might be a longer sentence or higher fine.



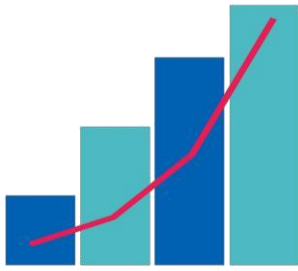
At the moment these “**statutory aggravations**” cover prejudice because of a person’s

1. Race
2. Religion
3. Disability
4. Sexual orientation
5. Transgender identity



The offender’s criminal record will show that they have been convicted of a hate crime.





The conviction is included in hate crime statistics, so that that we can see how many hate crimes have been committed against which group.



For a **statutory aggravation** to apply, one of two tests must happen.

The first test is if the offender shows hate or prejudice towards a victim because of the group the victim is a member of.

For example, the offender might use bad language about the group.



The second test is to find out if the crime was committed because of hate targeted at the person's protected group.

1. Race
2. Religion
3. Disability
4. Sexual orientation
5. Transgender identity

## Question 3



Are you clear about what the test of a hate crime is?

**Yes**

☒

**No**

☐


How can this be improved?

Details about the process of reporting a hate crime and how this is dealt with by the police or in court need to be made more transparent and accessible (like how it is typed above) and publically available. This should be done through education and training, so people are more aware of the process and feel a greater trust in the system. This will help more people know their rights and feel comfortable and safe to come forward with allegations to seek the redress they are legally entitled to. Please see our response to Question 10 for more detail.

# Racially aggravated harassment and behaviour



There is also a specific offence for racially aggravated harassment and behaviour.



If someone commits a crime because they strongly dislike the victim's race, they can get a tougher punishment.



This offence was created because of concerns that the problems of racial harassment and racially motivated violence were not treated seriously enough by the courts.



It could be that the type of behaviour covered by the racially aggravated harassment offence would already be covered by the existing **statutory aggravations**.



At the moment, there is only a specific harassment offence for race, and no separate offence for harassment aggravated by religion, disability, sexual orientation or transgender identity.

## Question 4



Should there be a specific harassment offence for groups other than race?

Yes

☒

No

☐

Please tell us why?



Criminalising the harassment of other groups (than race) through a specific, new offence(s), rather than an accessory statutory aggravation, would send out the clear message that this kind of behaviour is unacceptable in the eyes of the law and will not be tolerated in a democratic society.

For example, SYP opposes any form of discrimination against people as a result of their disability, and supports initiatives that tackle disability hate crime (Policy statement - March 2016 - 94% agreement).

Furthermore, the harassment of other groups is protected by police, where we have LGBTI liaison officers in Police Scotland to improve hate crime reporting following recommendations from the *Scottish Government report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion* (2016) (<http://bit.ly/2mHn7E3>). The law needs to reflect practice in this area - it is outdated, and needs to be harmonised.

It could also reflect the reality of multiple discrimination / intersectionality, where more than one protected characteristic is attacked in the act of hatred.

# Stirring up hatred and online hate crime



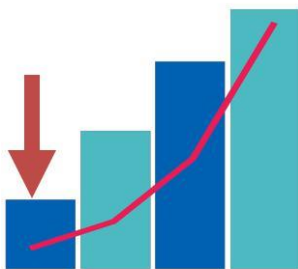
There are stirring up offences which make it a crime to do things to stir up hate against a group of people because of who they are.

Stirring up offences are sometimes called “hate speech”.



They include things like writing or saying threatening things about a whole group of people (for example someone of a different race).

At the moment stirring up offences apply to race and religion.



There are not many prosecutions for stirring up offences in Scotland.



The low number could mean that hate speech is not a problem or that the law has worked so that people know that hate speech is wrong.



It could be that the type of behaviour which stirs up hatred in society would already be covered by the existing **statutory aggravations**.



If we **criminalise** the stirring up of hatred it could stifle debate and mean that people feel that they should not express their opinions.

For example, about religious practices or certain sexual behaviour.

## Question 5



Should there be offences that cover stirring up of hatred against groups other than for race and religion?

Yes

☒

No

☐



## Please tell us why and what groups?

Hate speech and verbal abuse towards marginalised groups is still a huge problem in our society, particularly for young people on the internet and in schools - LGBTI+-phobic, racist, ableist and sexist language is rife.

The *State of Children's Rights in Scotland* [report](#) (p. 74) by Together brings together research showing that children who are of a racial or ethnic minority, disabled, have additional support needs (ASN), looked after, young carers, from a gypsy/traveller background or LGBTI+ in Scotland are more at risk of being bullied. Indeed, having more than one of these characteristics brings multiple discrimination. Face-to-face prejudicial bullying (60%) is an ongoing problem.

Indeed, the UK has been criticised internationally on this issue. The UN Committee on the Rights of the Child (CRC) reviewed the UK last year. Bullying was conclusively recognised as a form of violence against children and as a violation of their human rights. The CRC was concerned that: 'Bullying, including cyberbullying, remains a serious and widespread problem, particularly against lesbian, gay, bisexual, transgender and intersex children, children with disabilities and children belonging to minority groups, including Roma, gypsy and traveller children.' (CRC/C/GBR/CO/5, paragraph 48(a)). The CRC recommended the UK: 1) Intensify its efforts to tackle bullying and violence in schools, including by teaching human rights, training staff and students on respecting diversity, improving students' conflict-resolution skills, monitoring bullying and ensuring children's participation in these initiatives to eliminate bullying (paragraph 49).

The CERD also recommended the UK take 'into account the Committee's general recommendation No. 35 (2013) on combating racist hate speech, and ensure that such cases are thoroughly investigated, and where appropriate, that sanctions are imposed. It also recommended public officials should 'not only refrain from such speech but also formally reject hate speech and condemn the hateful ideas expressed, so as to promote a culture of tolerance and respect', and that the UK should 'take effective measures to combat racist media coverage' (CERD/C/GBR/CO/21-23, paragraphs 16-17).

Having this derogatory language either directed towards you or said in general can be incredibly detrimental for your mental health and sense of self-esteem, especially for young people in our formative years when we are often still unsure about our identities. SYP's Discussion Day on mental health in 2016 found that bullying had a significant impact on mental health and they should be tackled together (<http://bit.ly/2j7zEvM>). In Together's report, 69% of LGBTI young people have experienced homophobic or biphobic bullying in school ... impacting on mental health.

The Committee therefore believes all protected characteristic groups must be legally protected from hateful and abusive language, and people trying to stir up hate towards these groups. The law needs to be less piecemeal and more harmonised in this area.

For example, SYP believes that there should be increased LGBTI+ education and information in all schools to reduce stigma and homophobic bullying (*Change the Picture* manifesto commitment 2010 - 75.5% agree).

SYP also believes the freedom of speech should be protected (*Lead the Way* manifesto commitment 2016 - 82% agree). Nevertheless, as per the Human Rights Act (Article 10 of and the European Convention on Human Rights) and Article 13 of the UNCRC, this right can be restricted if it breaks the rights of others. Duty-bearers will have to look at each case of alleged hate crime on an individual basis to work out whether the speech constituted hate speech, and therefore, whether it would be proportionate and necessary in a democratic society to restrict this right.

# Online hate crime



Laws that apply to hate crimes committed in person also apply to online hate crime.

Online hate crime can include:



- online abuse, including verbal and emotional abuse
- offensive literature and websites
- abusive private messages and hate mail; and
- online bullying





On-line hate crime can spread very quickly and can cause a lot of harm and upset.



It can be aimed at people or groups of people and it is very difficult to find out who did the crime.



Some people think that online hate crime is not taken seriously.



Online hate crime can be carried out by a large number of people making it difficult to find out who was responsible.

## Question 6



Does the current law deal effectively with online hate?

Yes

☐

No

☒


Please tell us why?

Online bullying amounting to hate speech is rife and must not be tolerated. Young people are at particular risk. Many people use the internet to give them anonymity when partaking in hate speech online. The *State of Children's Rights in Scotland [report](#)* (p. 74) by Together shows that cyberbullying (19%) is an ongoing problem. The CRC, in its UK report in 2016, recommended the UK: '2) Train children, teachers and families on the safe use of information and communication technologies, raise awareness among children on the severe impact online bullying can have on peers and increase the efforts of social media outlets to combat cyberbullying.' (CRC/C/GBR/CO/5, paragraph 49).

The UN's CERD recommended the UK take 'into account the Committee's general recommendation No. 35 (2013) on combating racist hate speech, adopt comprehensive measures to combat racist hate speech and xenophobic political discourse, including on the Internet, particularly with regard to the application of appropriate sanctions'. (CERD/C/GBR/CO/21-23, paragraphs 16-17).

The law therefore needs to catch up with technology in this area, to ensure hate speech online is dealt with as seriously as face-to-face hate speech.

# Offensive behaviour at football



In 2012 the government brought in a law which made a new offence to cover offensive behaviour at football matches.



The government wanted to send a clear message to football fans and the public that some kinds of behaviour at football matches is unacceptable.



For example, singing songs and waving banners against Catholics or Protestants or in support of the Irish Republican Army (IRA) or the Ulster Volunteer Force (UVF).

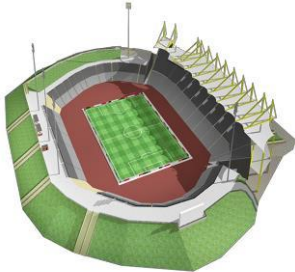


There had been a lot of bad behaviour connected to football.

The government thought that having a new offence would stop this type of behaviour.



Some people say the law is not clear and unfairly targets football supporters.



Some people say that the football clubs should be able to deal with this behaviour themselves, and that really bad behaviour is already covered by other laws.



At the moment Parliament is thinking about whether the Act should be scrapped.



## Question 7



Do you think that singing songs like that or waving offensive banners or making gestures should be a criminal offence?

Yes ☐

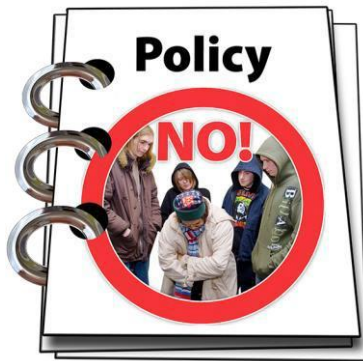
No ☐

The Committee does not feel there is enough SYP Policy to draw on to formulate a full enough response to this question.



If so, what kind of behaviour should be criminalised?

Football clubs have to agree to control their fans.



Some clubs think that it would be helpful if they could ask the court to ban fans who have behaved badly from attending matches.

This is called a football banning order.

## Question 8



Do you think a football club should be able to apply to the court for a football banning order?

Yes ☐

No ☐

The Committee does not feel there is enough SYP Policy to draw on to formulate a full enough response to this question.



Please tell us why?

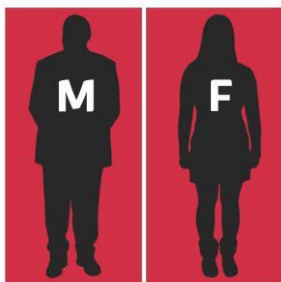
## Should the law be extended to other groups?

We want to know if the law on hate crime should apply to other groups of people.



These groups might include:

Age: both young and older people



Gender: women and men



Refugees: a person who has been forced to leave their country to escape war, punishment, or natural disaster.



Travellers: certain groups with a travelling lifestyle.



People who are homeless, on benefits or use food banks



Other groups who are often targeted for abuse include paedophiles (whether known or suspected) and drug users.

## Question 9



Should there be hate crime laws to cover:

**Age**

Yes ☒

No ☐

**Gender**

Yes ☒

No ☐

**Immigration status**Yes ☒ No ☐**Welfare status**Yes ☒ No ☐**Membership of  
gypsy/traveller community**Yes ☒ No ☐**Other groups**Yes X No ☐     

Please tell which ones:

-People with a non-binary gender identity. Any definition of transgender identities in any reformed law must clearly cover all identities under the umbrella term of transgender, including non-binary gender identities, for example (<http://bit.ly/2xtk9qe>).

-People with poor mental health and invisible disabilities (this may fall under ableism).





## Please tell us why?

Relevant SYP Policy aimed at protecting these groups is as follows:

- **Action should be taken to tackle gender-based violence, violence against women and girls, sexism, and gender-based discrimination** (*Lead the Way* manifesto commitment 2016 - 90% agree, only 3% disagree).
  - SYP is currently working with key organisations such as Rape Crisis Scotland, Scottish Women's Aid and Barnardo's on the *Equally Safe* project, the Scottish Government's strategy for preventing and eradicating violence against women and girls. SYP developed a Scotland-wide survey related to gender equality and societal attitudes. This survey was created by and for young people and facilitated across Local Authority areas by MSYP.
  - *Equally Safe* will feed into working towards a culture change which will ultimately alter behaviours rooted in prejudice and discrimination and promote positive attitudes. This culture change should also be reflected in law.
  - SYP supports the *Mentors in Violence Prevention* programme (Policy statement - October 2016 - 94 % agreement).
  - Policy recommendation that 'young people should be closely consulted in order to effectively tackle gender-based violence (GBV) in Scotland'.
- **SYP opposes any form of discrimination against people as a result of their disability, and supports initiatives that tackle disability hate crime** (Policy statement - March 2016 - 94% agreement). **The Scottish Youth Parliament believes that there should be a greater awareness of 'invisible disabilities' (debilitating illnesses and conditions with no visible symptoms), and that more support should be provided in schools for those who have them.** (Policy statement - October 2017 - 97% agreement).
- **SYP believes '...more efforts should be made to ensure that the rights of refugees and asylum seekers from all countries... are upheld and protected.'** (Policy statement - March 2016 - 93% agreement). Furthermore, in 2016 the UN Committee on the Elimination of Racial Discrimination raised deep concerns that the EU referendum campaign was marked by 'divisive, anti-immigrant and xenophobic rhetoric' (CERD/C/GBR/CO/21-23, paragraph 15).
- **SYP believes 'any reforms to the welfare system should be proportionate and fair. People should be treated with compassion and respect.'** *Lead the Way* manifesto commitment - 2016 - 77% agreement.
- **With regards to mental health, SYP believes 'there should be movement to tackle negative stigmas and barriers'** (*Lead the Way* manifesto commitment - 2016 - 84% agreement).

Furthermore, where a young (or old) person falls victim to a crime of bias or prejudice because of their age, as a protected characteristic under the Equality Act, the Committee believes age should also be a group protected from this hate crime. In this year's Universal Periodic Review of the UK, the Maldives recommended the UK 'take appropriate measures against the sharp increase in all hate related violent crimes especially involving young people' (A/HRC/36/9, 134.103). The USA recommended in the previous UPR process that the UK 'strengthen data collection and maintain disaggregated data to better understand the scale and severity of hate crimes towards women, immigrants, religious minorities, persons with disabilities, and children' (UPR/A/HRC/21/9, paragraph 110.91). We are increasingly under international scrutiny about the gaps in our Hate Crime Law, and need to be a world leader in eradicating hate crime.

# Other issues

## Under-reporting



There is a serious issue of under reporting of incidents of hate crime.

This may be for the following reasons:



lack of awareness of what hate crime is



people accepted that certain types of conduct just happened to 'people like them'

a feeling by victims that they do not have a strong enough case to take to the police



a general lack of confidence in the police

victims fear more attacks if they report it



# Question 10

How can we encourage people to report hate crime?

Please see the answer to Question 2 above. We fully support the Scottish Parliament's Equalities and Human Rights Committee's recommendations in this regard from the report: ***IT IS NOT COOL TO BE CRUEL: PREJUDICE-BASED BULLYING AND HARASSMENT OF CHILDREN AND YOUNG PEOPLE IN SCHOOLS*** (<http://bit.ly/2zS8mny>).

Also, Scotland should ensure a robust national reporting procedure of hate crime, including social media reporting, and participate in campaigns such as the Council of Europe's *No Hate Speech Movement* (<http://bit.ly/2tcQ4cd>). Better reporting is also called for by the UN's CRC and CERD concluding observations of the UK, for example, the CERD stated that the UK must ensure 'the reporting mechanism is transparent, accessible and victims have trust in the police and the justice system.' ((CERD/C/GBR/CO/21-23, paragraphs 16-17).

Furthermore, as part of SYP's *Right Here, Right Now* national campaign on young people's rights, we want young people to be aware of and understand their own rights, and be empowered to take action to defend their own rights and those of others. There needs to be more awareness around the freedoms of discrimination and expression, and how to report hate crime/a violation of these rights. This can be done in schools through PSHE (and the ongoing Government's review); rights education on genocides, such as the Holocaust (e.g. see RightsInfo's #FightHateWithRights campaign) and their contemporary relevance; and awareness-raising in colleges, universities and workplaces. It can also be done more publically for those not in work or education, so all young people, in whichever circumstance, are encouraged to report hate crime wherever they see it. The Committee suggests using media campaigns and social media infographics with broken down/easy read explanations of hate crime - what constitutes a hate crime and how to report it.

Some other examples of good practice include:

- The *Mentors and Violence Prevention Programme*, offered at Local Authority level which tackles gender-based and homophobic discrimination through engaging young mentors to change attitudes and challenge the wider culture of prejudice and abuse. (see SYP policy on this on p.6).
- *Rights Respecting Schools Award* has reduced bullying in some primary schools.
- The whole school approach carried out by the Education Institute Scotland (EIS) and others to end gender-based bullying in schools including 'sexting' and online abuse (see Together report, p. 75).

However, any approach to raise awareness about rights has to be empowering. For example, it is not enough to know what hate crime is, people must also be empowered to tackle it, report it and not simply stand by. This accords with the UN Declaration of Human Rights Education and Training and the World Programme for Human Rights Education and Training (<http://bit.ly/2z4spLL>).

# Third party reporting



If people don't feel comfortable about reporting a crime to the police they can use a third party reporting centre.



These are places in the community where staff take down the details of what's happened and pass this on to the police.

## Question 11



Are third party reporting centres a useful way to encourage people to report hate crimes?

Yes

☒

No

☐

Please tell us why?

As reporting hate crime is a daunting process, any way to encourage people to report it in a slightly less formal, but still official, way should be seriously considered.

Turkey recommended in the previous Universal Periodic Review of the UK that it implements, 'ECRI's recommendation to continue to monitor hate crimes and to work with the community to increase understanding of the impact of such offences, and to pursue efforts to improve the police gathering of evidence of racist motivations' (UPR/A/HRC/21/9, paragraph 110.60).

Community-based approaches and proactive policing is therefore recommended by SYP's Committee.

# Other approaches to deal with hate crime



To give a fine or prison sentence to someone who has committed a hate crime might not be the best way to deal with this problem.



It may be better to put the guilty person in a programme that can help him/her.

This can help them to understand the impact of the hate crime on the victim.

## Question 12



Do you think these programmes could be useful in dealing with hate crime?

Yes

☒

No

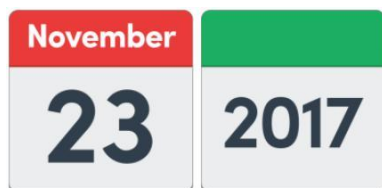
☐


Please tell us why?

These programmes seem to echo SYP's justice-related policy:

- 'Authorities should tackle crime by working with young people to address the root causes of crime.' *Lead the Way* manifesto commitment - 2016 - 73% agreement.
- 'There should be compulsory education and training to help young offenders reintegrate into society.' *Lead the Way* manifesto commitment - 2016 - 71% agreement.

# How to tell us what you think



The closing date for this survey is 23 November 2017

## Email



Send us an email to:

[secretariat@hatecrimelegislationreview.scot](mailto:secretariat@hatecrimelegislationreview.scot)

## Post



Send your responses to:

Independent Review of Hate Crime  
Legislation  
Project Coordinator  
Room 1W.01  
St Andrew's House  
Edinburgh  
EH1 3DG



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