

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:



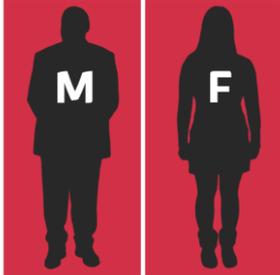
1. Race (the country they or their family come from)



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?

Question 2



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

Yes

No



Please tell us why?

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.

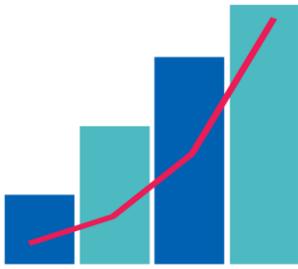


At the moment these “**statutory aggravations**” cover prejudice because of a person’s

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?

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?

Stirring up hatred and online hate crime



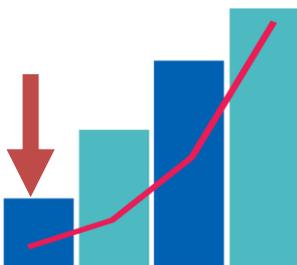
There are stirring up offences which make it a crime to do things to stir up hate against a group of people because of who they are.

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?

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?

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).

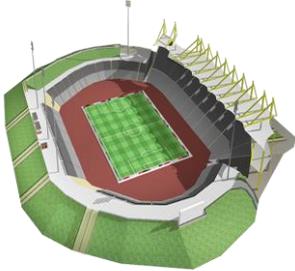


There had been a lot of bad behaviour connected to football.

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?

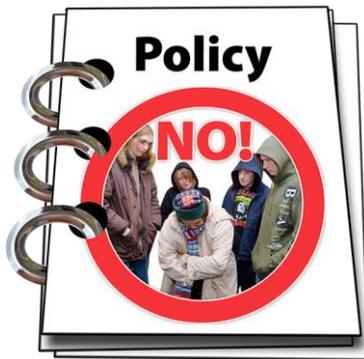
Yes

No



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



Please tell us why?

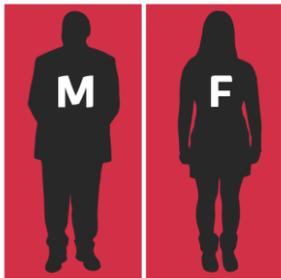
Should the law be extended to other groups?

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 No

Please tell which ones:



Please tell us why?

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?

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?

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?

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

Post



Send your responses to:

Independent Review of Hate Crime
Legislation
Project Coordinator
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