

Independent Review of Hate Crime Legislation in Scotland

Talk of “hate crimes” can be emotive. At one level all crime is hate crime. You don’t steal from someone or attack them in love. Instead of treating all victims equally, hate crime laws elevate privileged classes with ‘protected characteristics’.

1) TYPES OF ‘HATE CRIME’:

- ▶ **‘Aggravated’** crimes – existing crimes where there is a tougher penalty when they are deemed to be motivated by hatred on the grounds of religion, race, sexual orientation, trans status, or disability. It creates a lower category of people with less protection. For example hatred of people on the grounds of their sex or advanced age are not covered.
- ▶ **‘Incitement’** laws – where words alone can be criminal if they are deemed to ‘stir up hatred’. These laws were first brought in against racial incitement, for understandable reasons. But just because an approach has been used for race does not mean it should be extended to other protected characteristics. For example, a person’s religion can be debated in a way their race never can.

2) TARGETING CHRISTIANS?

Lord Bracadale has been asked to advise the Scottish Government whether there should be more categories of hate crime. Christians and Christian truth could be targeted if these laws are extended.

Communicating truth in love is at the heart of what God has called Christians to do. But in today’s secularised society, disagreement can be misrepresented as hatred.

- ▶ In 2003 **Ake Green**, a Pentecostal pastor in Sweden, was sentenced to one month in prison. He was found guilty of “hate speech against homosexuals” in a sermon. Only after an appeal to the Swedish Supreme Court was his conviction overturned.
- ▶ A **Scottish street preacher** was arrested for citing the Bible in response to a question on homosexuality. He was held overnight and charged with abusive behaviour ‘aggravated by prejudice relating to sexual orientation’. At trial the charge was dismissed in an hour.
- ▶ In 2006 a Canadian magazine quoted **Mark Steyn** criticising Islam. Both the magazine and Steyn were accused of exposing Muslims to “hatred or contempt” due to their religion. They were taken before a human rights tribunal and were only cleared after two years.
- ▶ **Joe and Helen Roberts** wrote to protest at the use of council tax money to promote gay rights. Two officers came to their home to falsely assert that they were within an inch of committing a hate crime with a seven-year jail penalty.
- ▶ Street preacher **Dale McAlpine** was arrested after a Police Community Support Officer (PCSO) told him he couldn’t mention homosexuality. McAlpine said the law protected his freedom to do so. Four police officers were summoned to arrest him.
- ▶ **Ben and Sharon Vogelenzang** were prosecuted for a ‘religiously aggravated’ public order offence after answering hostile questions about their Christian faith from a Muslim guest in their hotel. A judge threw out the case against them.
- ▶ In 2002 in the Australian State of Victoria, **Daniel Scot** criticised fundamentalist Islam at a church seminar for Christians. A legal complaint was made and a judge ruled that he was guilty of ‘religious vilification’. Daniel was ordered to apologise and banned from making any similar comments in the future. It took him five years to clear his name.
- ▶ **Joseph Abraham**, a former Muslim, was told by a PCSO in Birmingham that sharing the Gospel with Muslims was a hate crime.

3) HOW TO RESPOND TO THE CONSULTATION

The consultation paper is available here:
www.bit.ly/HateCrimeReview

Respond online: You can use the online portal at the above webpage to respond.

Respond by email:

Alternatively you can use this form:
www.bit.ly/HateCrimeResponse and email it to
secretariat@hatecrimelegislationreview.scot

The Review says “not all consultees will wish or feel able to answer all of the questions”. We suggest answering three. Please pick two points for each question and use your own words.

Q: “Should we have specific hate crime legislation?”

(In the section ‘What do we mean by hate crime legislation and why does it exist?’)

- ▶ All victims of crime should be equally protected. Hate crime laws create a situation where some victims are more protected than others.
- ▶ Assault is assault regardless of who the victim is.
- ▶ Those advanced in age are not covered, neither is sex and there will always be new vulnerable groups. There is no end to the groups that could be added.
- ▶ There have been unjust attempts to use hate crime laws against Christian street preachers. This must stop.
- ▶ It is dangerous to use criminal law to make political statements instead of to prevent and punish bad conduct.

Q: “Should the concept of a standalone charge be extended to other groups?”

(In the section ‘Standalone offence: racially-aggravated harassment and conduct’)

(This question is referring to a particular offence that currently applies only to race. Racially-aggravated harassment can be committed where someone acts out of “malice and ill-will” towards a racial group in a way that causes “alarm or distress” to another person.)

- ▶ Extending this offence beyond race is a very dangerous proposal. There is a serious risk that disagreement will be labelled harassment by politically-motivated complainants.
- ▶ The threshold of the charge is causing “alarm or distress”. In today’s climate of over-sensitivity, people often claim to be distressed by hearing other people’s opinions.
- ▶ Extending the concept of a standalone charge will have a chilling effect on free speech, debate and religious freedom.

Q: “Should there be offences relating to the stirring up of hatred against groups?”

(In the section ‘Stirring up hatred and online hate crime’)

(This question is about incitement to hatred laws. In Scotland, these currently cover race and religion. The Christian Institute campaigned against the religious hatred law in 2011. A strong free speech clause was eventually included in the legislation, which protects evangelism. There are likely to be strong calls for sexual orientation and transgenderism to be covered. This could restrict the freedom to call people to repent of sinful behaviour.)

- ▶ No new incitement laws should be created. The existing religious hatred law should be repealed.
- ▶ The word ‘hatred’ is too subjective to be used in criminal law, especially for issues like religion. A person’s religion can be debated in a way their race can’t.
- ▶ Hate speech laws can damage free speech. The religious hatred law had to include a free speech clause to stop it being misused. It would be safer to repeal this hate law altogether.
- ▶ All people should be protected from threats, not just privileged classes.