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SCOTLAND'S PROSECUTION SERVICE

Hate Crime in Scotland, 2021-22

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Main points

The total number of charges reported containing at least one element of hate crime was 5,640 in 2021-22, marginally less (-0.2%) than the 5,654 charges reported in 2020-21.

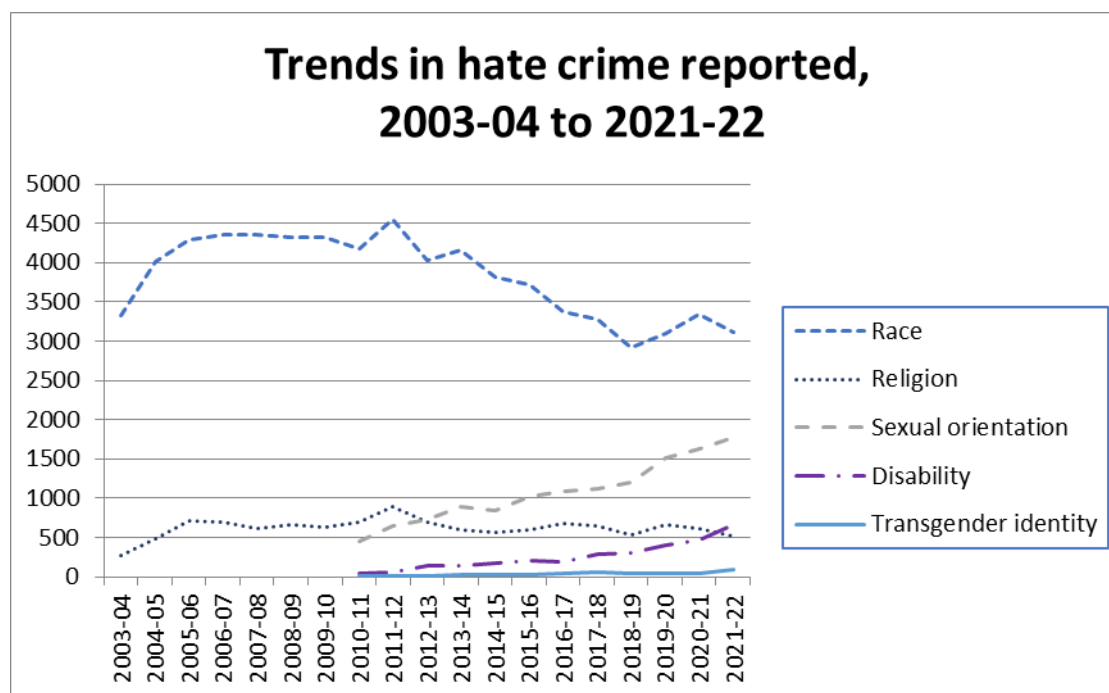
Racial crime remains the most commonly reported hate crime. In total 3,107 charges relating to race crime were reported in 2021-22, a decrease of 7% compared to 2020-21. The numbers of charges have fluctuated in recent years but are currently 32% lower than the peak in such charges in 2011-12, when 4,547 were reported.

Sexual orientation aggravated crime is the second most commonly reported type of hate crime. The number of charges reported increased by 10% in 2021-22 to 1,781. With the exception of 2014-15, there have been year on year increases in charges reported since the legislation introducing this aggravation came into force in 2010.

There were 512 charges with a religious aggravation reported in 2021-22, 16% fewer than in 2020-21. Although direct comparisons are not possible with all earlier years, the number of charges with a religious aggravation in 2021-22 is the lowest number containing a religious element since 2004-05, when 479 charges were reported.

The number of disability aggravated charges increased by 44% to 666 in 2021-22. With the exception of 2016-17, there have been year on year increases in charges reported since the legislation introducing this aggravation came into force in 2010.

There were 84 charges reported in 2021-22 with an aggravation of transgender identity, an increase of 87% compared to 2020-21. This is the highest number of such charges reported since the legislation introducing this aggravation came into force in 2010.



Introduction

This publication provides details of hate crime reported to the Procurator Fiscal in Scotland in 2021-22, and earlier years. The relevant legislative provisions are provided in the Annex.

As well as figures on each separate category of hate crime, figures on the total number of charges reported containing at least one element of hate crime are included in this publication. Additional information on the sex and age of accused is also provided.

The figures in this bulletin are based on current legislation relating to hate crime. New hate crime legislation, the [Hate Crime and Public Order \(Scotland\) Act 2021](#) was passed by the Scottish Parliament on 11 March 2021 and received Royal Assent on 23 April 2021. No commencement date has yet been confirmed for the provisions within the new Act.

Background

The information in this publication is obtained from the Crown Office and Procurator Fiscal Service (COPFS) operational database. The database manages and processes reports submitted to Procurators Fiscal by the police and other reporting agencies throughout Scotland. Since this is a live database, the figures in this publication may differ slightly from those published in earlier years due to changes made during the investigation and prosecution of a case.

The information in this publication covers 2012-13 to 2021-22. There is also some information on longer term trends. The earliest year for which consistent figures are available for racial and religious crimes is 2003-04. Figures are available for disability, sexual orientation and transgender identity hate crime following legislation that came into force on 24 March 2010.

The figures quoted in this publication relate to the number of charges reported rather than the number of individuals charged or the number of incidents that gave rise to such charges. Where a charge has more than one hate crime aggravation, it is included in the overall figures for each type of hate crime into which it falls.

Detailed tables containing the figures referred to in this publication are available separately as an Excel spreadsheet – [Hate Crime in Scotland data tables](#). The tables include information on the initial decision taken by Procurators Fiscal on how a charge will proceed. This includes the decision to take court proceedings or to use alternatives to prosecution including fiscal fines and other direct measures. Further information on what is included in each decision category, including a breakdown of the reasons for taking no action, is provided in the Annex.

Race crime (Tables 1a, b, c and d)

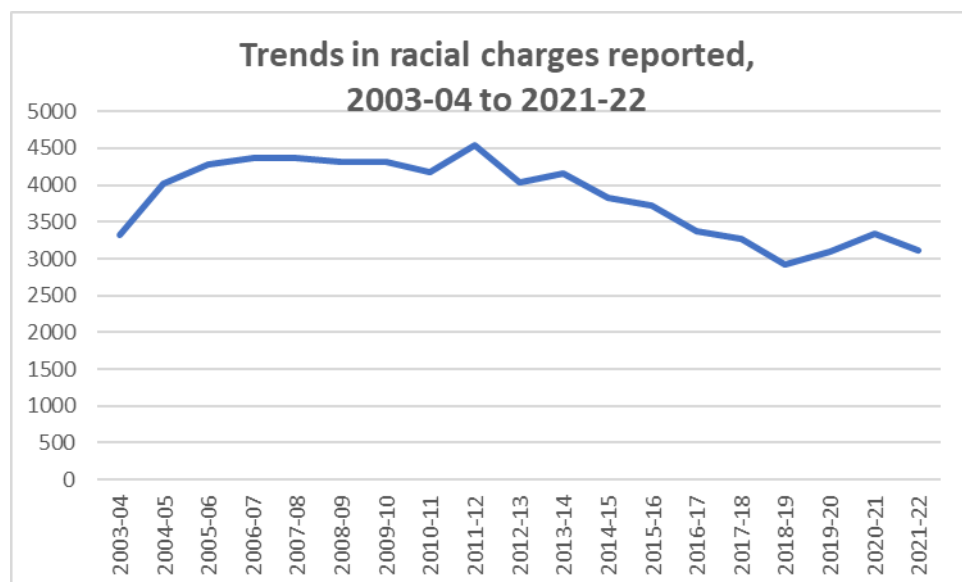
In total 3,107 charges relating to race crime were reported in 2021-22, a decrease of 7% compared to 2020-21. The numbers of charges have fluctuated in recent years but have remained lower than the annual numbers of charges reported between 2003-04 and 2016-17. The 2021-22 total is 32% lower than the peak in such charges in 2011-12, when 4,547 charges were reported.

The proportion of charges that specifically relate to the charge of racially aggravated harassment and behaviour has fallen steadily over recent years, from 59% in 2012-13 to 35% in 2021-22. There has been a corresponding increase in the proportion of charges relating to other offences (for instance, threatening or abusive behaviour, or assault) with a racial aggravation.

In order to prove any substantive charge, two sources of evidence are required. In contrast, evidence from a single source is sufficient to prove a racial aggravation which is attached to another substantive charge labelled.

Court proceedings were commenced in respect of 82% of charges in 2021-22. In total, 91% of charges reported in 2021-22 led to court proceedings (including those not separately prosecuted, but which may have been incorporated into other charges for the same accused which were prosecuted). The Annex includes a definition of charges not separately prosecuted.

No action was taken in respect of 2% of charges.



Religious crime (Tables 2a, b, c and d)

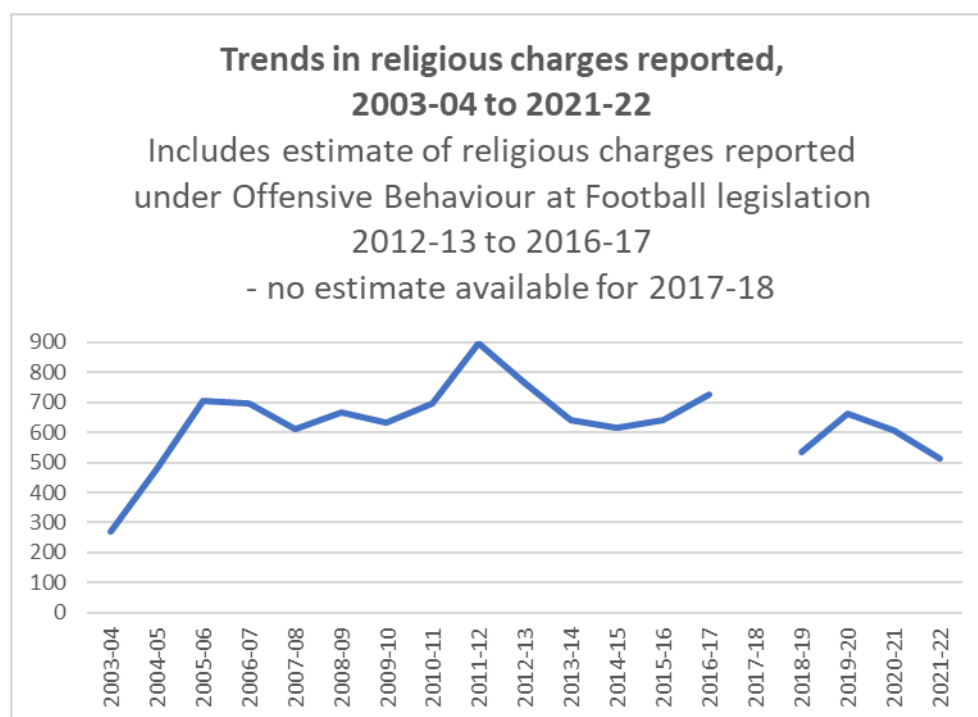
There were 512 charges with a religious aggravation reported in 2021-22, which is 16% fewer than in 2020-21.

In the period 2012-13 to 2017-18 some charges that would otherwise have been reported with a religious aggravation will have been reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. Research by the Scottish Government provided an estimate of how many additional religious charges there were under this Act in each year between 2012-13 and 2016-17. No estimate is available for 2017-18 due to the repeal of the Act.

Comparisons of the number of charges reported with a religious aggravation between 2012-13 and 2017-18 inclusive, and other years are therefore estimates only. However, it is possible to say that the number of charges reported with an element of religious aggravation in 2021-22 is lower than in any year since 2004-05, when 479 such charges were reported.

In 2021-22, court proceedings were commenced in respect of 84% of charges with a religious aggravation. In total, 90% of charges reported in 2021-22 led to court proceedings (including those not separately prosecuted, but which may have been incorporated into other charges for the same accused).

No action was taken in respect of 1% of charges.



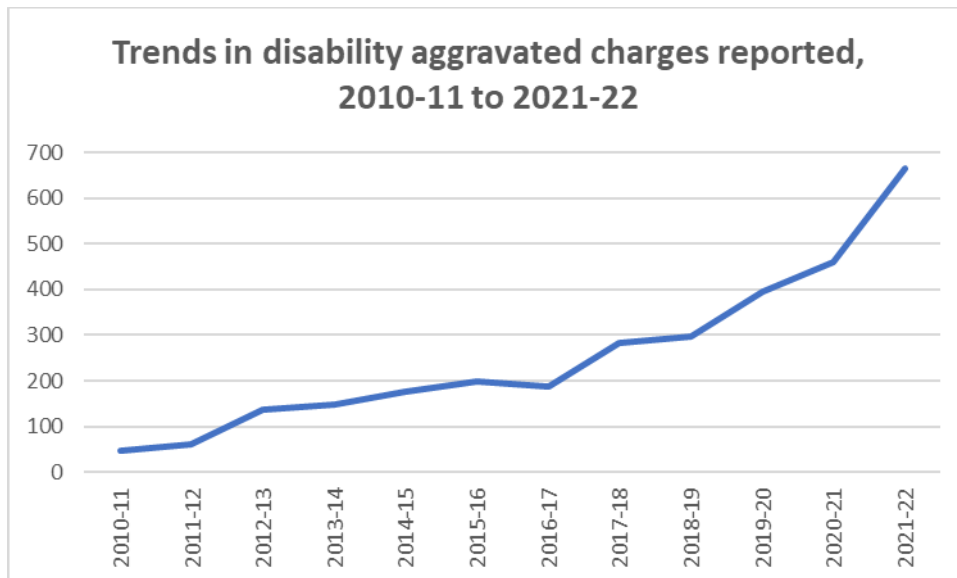
Disability (Table 3a, b and c)

In 2021-22, 666 charges were reported with an aggravation of prejudice relating to disability, 44% more than in 2020-21. This is the highest number of charges reported since the legislation creating this aggravation came into force in 2010. The number of charges reported has increased year on year since the legislation was introduced, except for a small fall in 2016-17.

Court proceedings were commenced in respect of 82% of charges reported in 2021-22. In total 88% of charges led to court proceedings, including those not separately

prosecuted, but which may have been incorporated into other charges for the same accused.

No action was taken in respect of 2% of charges reported in 2021-22.

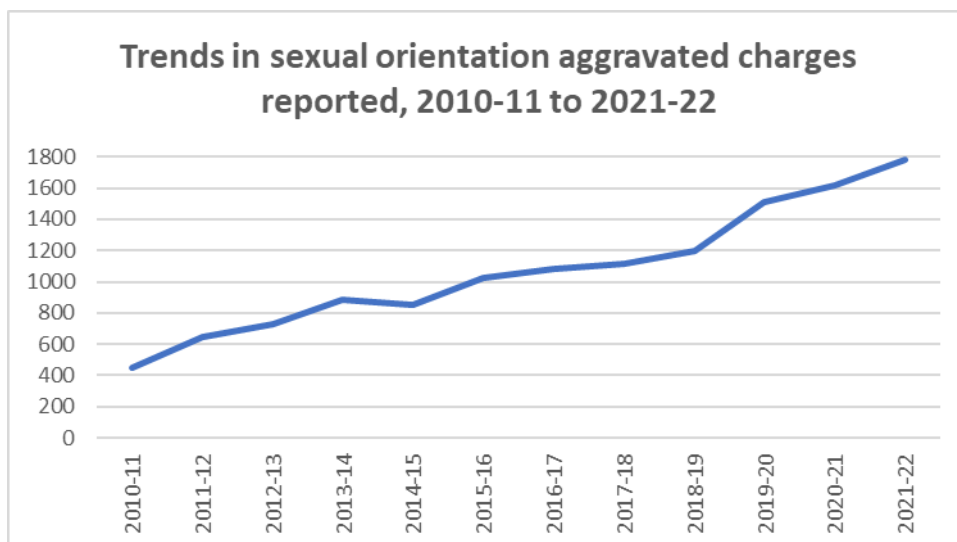


Sexual orientation (Table 4a, b and c)

In 2021-22, 1,781 charges were reported with an aggravation of prejudice relating to sexual orientation, 10% more than in 2020-21. The number of charges reported has increased consistently year on year since the legislation was introduced, except for a fall in 2014-15.

Court proceedings were commenced in respect of 84% of charges reported in 2021-22 (or 92% including those not separately prosecuted, but which may have been incorporated into other charges for the same accused).

No action was taken in respect of 1% of charges.

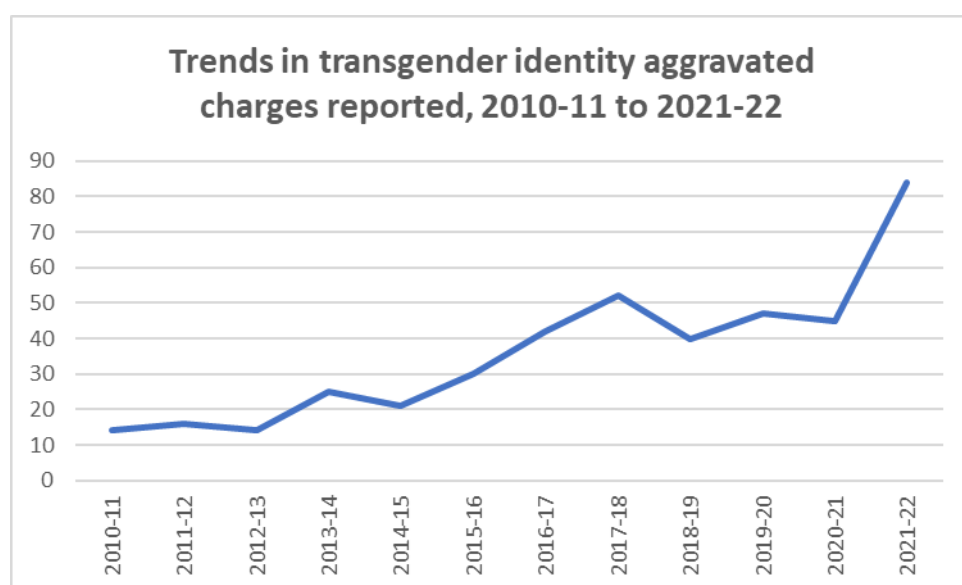


Transgender identity (Table 5a, b and c)

In 2021-22, 84 charges were reported with an aggravation of prejudice relating to transgender identity, 87% more than the 45 charges reported in 2020-21. This is the largest annual increase since this aggravation was introduced in 2010. Previously the annual number of charges reported had been fairly constant at between 42 and 52 over the period from 2016-17 to 2020-21.

Court proceedings were commenced in respect of 81% of charges reported in 2021-22. In total 90% of charges led to court proceedings, including those not separately prosecuted, but which may have been incorporated into other charges for the same accused.

No action was taken in respect of 1% of charges reported in 2021-22.



Total hate crime (Tables 6a and b)

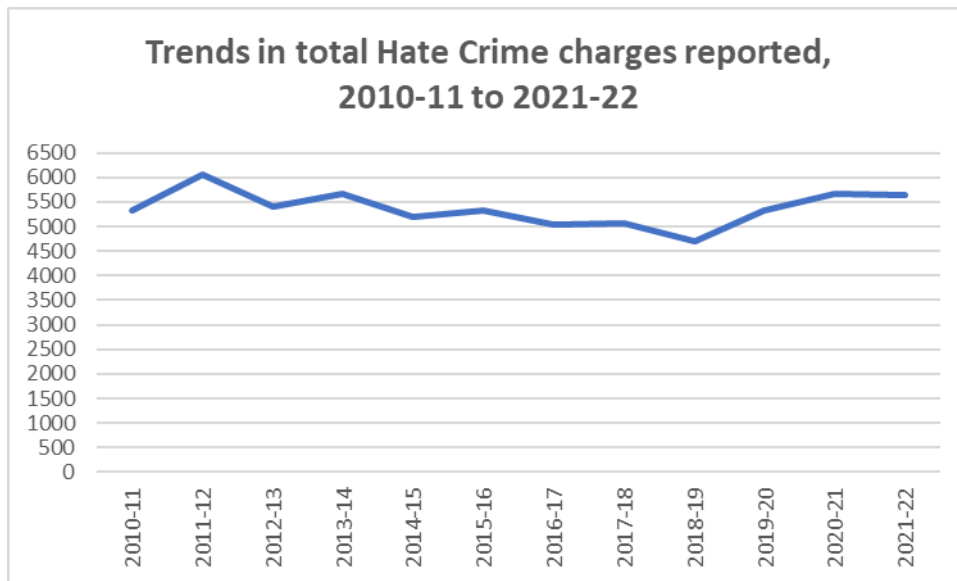
If a charge has more than one hate crime aggravation, it is included in this publication in each type of hate crime into which it falls. It is therefore not possible to add up the charges for each category of hate crime to obtain the total number of hate crime charges reported. Table 6a provides this information, with charges which relate to more than one category of hate crime counted only once.

In 2021-22, 5,640 charges with at least one hate crime element were reported, marginally fewer (-0.2%) than the total of 5,654 in 2020-21. The last two years have seen the highest numbers reported since 2013-14.

Around 64% of charges with at least one hate crime element were charges under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (Threatening or abusive behaviour).

The majority of hate crime charges contain a racial element. However, the proportion that contain a racial element has generally decreased over the last ten years, from

75% in 2012-13 to 55% in 2021-22. The proportion of hate crime charges that relate to sexual orientation has increased from 13% to 32% over the same period. In 2021-22 for the first time the proportion of disability related charges (12%) was greater than the proportion of religious related charges (9%).



Sex and age of accused (Tables 7a and b, 8a and b)

In 2021-22, of the 5,640 accused in charges which contained at least one hate crime element, 4,318 or 77% were male. The highest proportions of male accused were for religious (87%) and sexual orientation (83%) aggravated charges.

In 2021-22, 6% of accused in charges which contained at least one hate crime element were aged under 18, with a further 7% aged 18 to 20. Accused aged over 40 made up 31% of the total.

Compared to hate crime overall, the accused in transgender charges were more likely to be young (29% aged up to 20, compared to 13%) and less likely to be older (18% aged over 40, compared to 31%).

The information on sex is as recorded by the police. Further details of the basis of the recording are included in the Annex. The figures by age and sex exclude any charges where this information was unknown or not recorded.

Annex

Legislation

Race crime is defined as any charge of racially aggravated harassment and behaviour in terms of Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 or Section 18, 19 or 23(1)a of the Public Order Act 1986 or any substantive charge that is racially aggravated in terms of Section 96 of the Crime and Disorder Act 1998. To prove a charge of racially aggravated harassment and behaviour two separate sources of evidence establishing the racial element are required. Evidence from a single source is sufficient to prove a racial aggravation which is attached to another substantive charge, in terms of Section 96 of the Crime and Disorder Act 1998.

Religiously aggravated offences are defined as substantive charges that include an aggravation of religiously motivated behaviour in terms of Section 74 of the Criminal Justice (Scotland) Act 2003.

Disability aggravated offences are defined as substantive charges that include an aggravation of prejudice relating to disability in terms of Section 1 of the Offences (Aggravation by Prejudice) (Scotland) Act 2009.

Sexual orientation aggravated offences are defined as substantive charges that include an aggravation of prejudice relating to sexual orientation in terms of Section 2 of the Offences (Aggravation by Prejudice) (Scotland) Act 2009.

Transgender identity aggravated offences are defined as substantive charges that include an aggravation of prejudice relating to transgender identity in terms of Section 2 of the Offences (Aggravation by Prejudice) (Scotland) Act 2009.

Definitions

Not separately prosecuted include charges which were not prosecuted, but where other charges for the same accused within the same case were prosecuted. In some cases, the charges which were prosecuted may have included details from the charges which were not prosecuted.

Direct measures include fiscal fines, fiscal compensation orders, fiscal work orders, warning letters and referral to diversion from prosecution schemes. The direct measures figures include a small number of charges which were not actioned, but where the accused was given a direct measure in respect of other charges within the same case. In some cases, the charges which were given a direct measure may have included details from the charges which were not actioned.

No action includes charges where a decision has been taken not to proceed. This will include charges where there is insufficient evidence to proceed or where further action would be disproportionate. Table A below gives a breakdown of the reasons for no action in 2021-22.

Cases awaiting decision include those where no decision has yet been taken, and also those which have been reviewed and have been marked for “further enquiries” i.e. where more information is required before a final decision can be taken on whether to proceed.

Table A: Total number of charges where no action was taken, by reason, 2021-22

	Racial	Religious	Disability	Sexual orientation	Transgender
Total number of charges – no action	52	5	14	15	1
Not a crime	2	1	0	1	0
Insufficient admissible evidence	29	2	6	8	1
Further action disproportionate	3	1	0	1	0
Mitigating circumstances	3	0	0	1	0
Other	15	1	8	4	0

Use of terms Sex and Gender

'Sex' can be considered to refer to whether someone is male or female based on their physiology, with 'gender' representing a social construct or sense of self that takes a wider range of forms.

Sex, as referred to in this bulletin, is generally identified by a police officer based on their assessment of whether a person presents as male or female. In most cases this is based on the physiology of a person rather than self-identified gender. It is recorded for operational purposes, such as requirements for searching. It is also included in the information reported to COPFS. However, in order to prosecute crime, information regarding the sex or gender of accused persons is not essential. It should be noted that COPFS will respect and use the chosen pronouns of an accused person in all communications with them.

In this report we refer to 'sex' rather than 'gender' because this better reflects recording practices in relation to this information. In reality it is likely that recording includes a mixture of physiological and personal identity. The sex of a small number of accused is recorded as 'unknown' where the police have not provided this information to COPFS.

Convictions

The figures in this publication relate to initial decisions taken by the Procurator Fiscal. Many of the charges reported in the most recent year, 2021-22, will not yet

have reached a conclusion, so information on the final number convicted is not yet available.

Figures on convictions are published by the Scottish Government at [Criminal Proceedings in Scotland statistics](#). Please note that there are significant differences in the way the Criminal Proceedings statistics measure activity in comparison to the figures in this report. In particular, this publication is based on charges reported, while the Criminal Proceedings figures are based on persons prosecuted or convicted, by main charge only. One person can be reported with one or more charges against them. Additionally, this publication is based on the year the charge was reported to COPFS. The Criminal Proceedings figures are based on the year of disposal. These differences are described in more detail in Annex C of the Criminal Proceedings publication.

Conviction information on aggravations is available in Tables 12 and 13 of the latest Criminal Proceedings publication. Please note that figures for race crime cover convictions with racial aggravations only and do not include conviction information for racial charges, which accounted for 35% of racial crime in 2021-22.

The date of publication for convictions for 2021-22 will be made known when finalised on the Forthcoming Publications page of the Scottish Government website <https://www2.gov.scot/Topics/Statistics/ForthcomingPubs>

The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 came into force on 1 March 2012 and was repealed on 20 April 2018. Previous editions of this publication prior to the repeal provided figures on the number of charges reported under the Act. There are no charges recorded on the COPFS database reported under the Act after 2017-18. If a charge reported in an earlier year under the Act contained a hate crime aggravation it will still be included in the overall figures for each type of hate crime into which it falls.

At the time of the repeal, COPFS conducted a review of all ongoing charges under the Act. This resulted in a number of such charges being amended to an alternative charge.

In many cases, charges under the Act did not include an aggravation, because the charge itself covered the relevant behaviour. However, in certain subsections of the Act, the charge did not include the behaviour against specific individuals or groups covered by the hate crime categories and in these instances the charge may have been reported with an aggravation. Where a charge that would previously have been reported and prosecuted under the Act has been amended to an alternative charge, that alternative charge may now include a statutory aggravation.

The repeal of the Act means that there is a discontinuity in the time series of figures given in this publication between 2016-17 and 2017-18. Figures for all categories of hate crime may be higher in 2017-18 and subsequent years than they otherwise

would have been due to charges that would have been reported between 2013-14 to 2016-17 under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 being reported as an alternative charge with an aggravation.

Conviction information on the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 is available in Annex E of the Criminal Proceedings in Scotland 2018-19 publication. [Criminal Proceedings in Scotland, 2018-19, Annex E](#)

Related Scottish Government publications

The Scottish Government published a report in 2021 [Characteristics of police recorded hate crime in Scotland](#). This provides an update on work by Scottish Government statisticians and Police Scotland to review the availability of information on hate crime recorded by the police in Scotland. It includes information on hate crimes recorded by the police in 2019-20 by crime, by associated hate aggravation(s), and by local authority area. It also includes information on the victim, perpetrator and circumstances of crimes in 2018-19. A second study into the characteristics of police recorded hate crime in Scotland is due to be published in 2022.

The Scottish Government previously published research based on COPFS data which provides details of the circumstances of charges with religious aggravations. This includes information on the religion targeted, the location where the offence was committed, and the age and gender of the accused. Research has been published relating to charges reported in each year from 2010-11 to 2017-18.

The Scottish Government also previously published research which provides details of the circumstances of charges reported in each year from 2012-13 to 2016-17 under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. This includes information on the location where the offence was committed including the football stadium if appropriate, the nature of the offensive behaviour, the age and gender of the accused and their football team affiliation. Due to the repeal of the Act, no similar research was published relating to charges reported in 2017-18.

In December 2021 the Scottish Government published a [report on implementation](#) of the actions set out in the [Tackling Prejudice and Building Connected Communities Action Plan](#). Building on progress in this area the Scottish Government has committed to developing a new hate crime strategy, for publication later this year. The strategy will support implementation of the [Hate Crime and Public Order \(Scotland\) Act 2021](#).

Related reviews and new legislation

The [Hate Crime and Public Order \(Scotland\) Act 2021](#) was passed by the Scottish Parliament on 11 March 2021 and it received Royal Assent on 23 April 2021. No

commencement date has been confirmed for the provisions within the Act and therefore all existing hate crime legislation remains in force.

The Act seeks to modernise, consolidate and extend hate crime legislation in Scotland. The Act will add two new groups to the list of protected characteristics currently covered by hate crime legislation: Age and Variations in Sex Characteristics. All of the aggravations will operate in the same way as those currently in existence.

The Act also creates a new offence relating to stirring up of hatred that will apply in relation to all characteristics covered by the Act. Previous stirring up legislation only applied to the characteristic of race.

The Act will also abolish the common law offence of blasphemy.

Data sources and data quality

The information in this publication is taken from the COPFS operational database used to manage the processing of reports submitted to Procurators Fiscal by the police and other reporting agencies throughout Scotland. Since this is a live database, the figures given here may not exactly match those previously published. For instance, if the Procurator Fiscal amends a charge, the database only holds details of the amended charge.

The data included in this publication has undergone a series of validation checks. Where internal inconsistencies in the data, or missing information, have been identified, data on individual charges has been checked manually and corrected if necessary. This includes cross checking with information contained in case related documents where appropriate. Where necessary, data has also been cross checked with external sources, in particular data held by the Scottish Courts and Tribunal Service (SCTS) on cases that have come to court.

Checks have also been carried out on a sample of charges to ensure that the aggravation recorded has been added appropriately, with any errors which are identified corrected as necessary. This checking has primarily focussed on disability aggravated charges because historically this is the category of hate crime where most mistakes have been discovered.

The total number of charges relating to the hate crime category of transgender identity is small. The percentages derived from these figures should therefore be treated with caution, because they are based on small numbers.

Percentages may not add up to 100% due to rounding.

An official statistics publication for Scotland

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Correspondence and enquiries

For enquiries about this publication please contact:

Fiona Roberts
Management Information Unit
Crown Office and Procurator Fiscal Service
Email: fiona.roberts@copfs.gov.uk