

Young people's response to the consultation on amending hate crime legislation Facilitated by YouthLink Scotland February 2019



action on
prejudice



Background on the response to the consultation

YouthLink Scotland as part of the Action on Prejudice programme have been supported by the Scottish Government to conduct focus groups with young people to garner their response to the consultation on amending the hate crime legislation. Some of the questions asked in the Scottish Government consultation were adapted to be accessible and young person friendly. This response presents the views expressed by young people from four focus groups and not the partnership organisations who facilitated the sessions or YouthLink Scotland.

About Action on Prejudice

Action on Prejudice is a programme run by YouthLink Scotland and funded through the Promoting Equality and Community Cohesion Fund at Scottish Government. The programme provides information and resources for young people and practitioners around discrimination, prejudice and hate crime concerning all protected characteristics. Young people are able to tell their stories, find support they may need and/or information on different activities taking place in their areas. Organisations and practitioners can share or access information and resources on how to discuss these topics with the young people they work with and connect with other professionals doing similar in their own areas.

For more information about Action on Prejudice visit the website at www.actiononprejudice.info.

About YouthLink Scotland

YouthLink Scotland is the national agency for youth work. We are a membership organisation, representing over 100 regional and national youth organisations from both the voluntary and statutory sectors. We champion the role and value of youth work and represent the interests and aspirations of our sector. We are an organisation that believes in young people and are focussed on their needs; we are ethical, equitable and non-discriminatory. In April 2016 we were awarded Investors in Diversity accreditation, and we coordinate the youth work sector Equality and Diversity Network. We are an organisation that promotes learning, innovation and forward thinking. We are an organisation that is committed to the highest standards of protection and safety for young people.

For more information about YouthLink Scotland visit the website at <https://www.youthlinkscotland.org/>

Methodology

In February 2019 YouthLink Scotland as part of the Action on Prejudice programme, organised and facilitated four focus groups with youth groups across Scotland. These included:

LGBT Youth Scotland

Hope for Autism

Youth Community Support Agency

Edinburgh Interfaith Association

These youth groups were chosen specifically as they included young people with protected characteristics and as such would be able to contribute on a personal level about the impact of amending the current hate crime legislation in Scotland.

Across the four focus groups 29 young people took part aged between 13-26 years. All of the focus groups were completed face-to-face and were facilitated by one or two experienced senior development officers from YouthLink Scotland, who are PVG scheme members.

Access to the young people was arranged through the youth workers based at the youth groups. The youth workers helped to organise where and when the focus group would take place. The youth workers were also supplied with information about the questions which would be covered in the focus group which they could share and discuss with the young people beforehand. Young people were also provided with consent forms to be completed (by parents for under 16 and completed themselves for 16 and over). With the consent of the participants the focus groups were digitally recorded and summary notes taken. To thank the participants for their contribution each young person was provided with a £10 gift voucher and a donation of £250 was provided to each youth group.

As the topics covered in the focus group were sensitive in nature, a youth worker was on hand to provide support to the young people participating. Each group were asked to share their views on the questions relating to gender, age, online hate and stirring up hatred. The groups then had a choice about whether they would like to share their views on transgender identity and intersex, racially aggravated harassment or religion, some groups chose to discuss more than one.

The following response to the consultation on amending hate crime legislation is structured in relation to some of the questions posed in the consultation paper.

Question:

Gender

Do you agree with option A to develop a statutory aggravation for gender hostility?

Do you agree with option B to develop a standalone offence for misogynistic harassment?

Do you agree with option C of building on Equally Safe to tackle misogyny?

Do you agree with option D of taking forward all of the identified options?

Option A and C

Across the four focus groups the majority view was that there should be option A and option C.

There was a strong feeling that any new legislation should be inclusive and equal for men and women and consequently there should not be a standalone offence for misogyny. A view was expressed that there is already a stigma regarding men accessing domestic abuse services and so there is a need to have legislation which includes the potential victimisation of men. One suggestion was that having a standalone offence for misogynistic harassment would 'perpetuate the view that men are abusers and women are victims' (Young person).

It was agreed across the focus groups that there is a need to develop a statutory aggravation for gender hostility but that this on its own is not enough and there needs to be a prevention programme also in place. This should include education about any new legislation to ensure there is a societal understanding of gender hostility.

Question:

Age

Do you think a new statutory aggravation on age hostility should be added to Scottish hate crime legislation?

Yes

The view expressed by young people across the four focus groups was that a new statutory aggravation on age hostility should be added to Scottish hate crime legislation. There was a strong view amongst the young people that both older and younger people could potentially be victimised because of their age, as they may be perceived as vulnerable groups. Examples of young people

being victimised because of their age included domestic violence (particularly where one of the spouse is significantly older than the other), parental abuse or grooming.

There was a general sense amongst the young people that though not criminal young people are often treated differently by older community members, because they are young. Examples included their views being dismissed, being belittled in an educational setting and not being given a voice. These examples were used to demonstrate the general societal view held about young people which could lead to young people being treated differently because of their age or becoming victims of hate crime. There was also a view expressed that though the focus of age hostility appears to be older people that young people can also become victims because of their age and that this should be taken seriously.

'Young people are in fact attacked and belittled because they are young people...so much of age stuff is focused on old people, and yes old people get attacked because they're old but young people get attacked because they're young too and young people also need some level of support' (Young person)

Question:

Stirring up of hatred

Do you agree with Lord Bracadale's recommendation that there should be a protection of freedom of expression provision for offences concerning the stirring up of hatred?

Yes

Across the four focus groups, the majority view was that there should be a protection of freedom of expression for offences concerning the stirring up of hatred. However, they felt the line between freedom of expression and hate speech is unclear.

The young people were in agreement that we should have freedom of speech but it becomes hate speech if inciting violence, intending to cause offence, directed hate speech against particular groups (especially those with protected characteristics), causing harm or making threats. There was also agreement that there should be legislation in place to protect freedom of expression developing into hate speech.

There was an identified need to take responsibility for actions and words but an understanding that hate speech can also be down to interpretation and as such the context is important when deciding if something is stirring up hatred.

There was also a suggestion that politicians and the media should also be held to account for stirring up of hatred. An example was provided by a young person who described the impact of rhetoric relating to Brexit in the media and by politicians having a direct impact on stirring up hatred in the community:

'The people I hold responsible for me, my family and my friends going through hate crime is politicians and the media more than the random people that commit the crimes...we live in a country and a society where there are certain values that are perpetuated by really powerful people...the rhetoric used by a lot of the politicians and media during Brexit had a direct impact on the street, so we had days that were kill a Muslim day...and people were too scared to leave the house' (Young person)

Question:

Online hate

Do you agree with Lord Bracadale's recommendation that no specific legislative change is necessary with respect to online conduct?

Yes

The strong view expressed amongst the vast majority of young people is that online hate crime is a significant issue and takes place on social media outlets, some examples included Facebook, Instagram, Snapchat, Twitter and WhatsApp. Young people felt that online hate crime is not currently treated the same as in-person hate crime by the criminal justice system or in society.

'People actually get away with it online, and I think that's why people feel more comfortable to be hateful to other people online' (Young person)

'People belittle cyber-attacks and cyber-bullying far more than they treat face to face...socially I would say it's not taken as seriously' (Young person)

There was an identified need to stop the cycle of online abuse as it's effect was viewed as serious, had a wide reach and is 'permanent'. The permanence refers to online abuse being written, audio or video recorded leading to the reach being wider as the abuse can be widely shared with an opportunity for it to be read and re-read. Many of the young people discussed how they felt online abuse was worse than in-person abuse but it is currently not treated as seriously even though it has either the same or a greater impact on the victims and can reach a larger audience.

'It has the same effect...as if someone was saying it to you...so you'll still feel the same...you'll still feel hurt by what they've said...it's just not been said out loud, it's been written' (Young person)

'I think it's worse because they are protected by the screen...they are more likely to say something worse and on the internet you can contact many more people than you can when you are just out in the public' (Young person)

Part of why some of the young people felt online abuse was worse is because it can feel like there is no escape from it:

'Twenty-odd years ago the insults left the playground when you did whereas now you can get bombarded with messages 24/7, if you're online you can get people sending messages every hour of the day and every hour of the night' (Young person)

Some of the young people knew how to report online abuse to the police and a minority had experience of reporting online abuse to the police, in which they felt they had been taken seriously. However, there was a general view that there should be more education in reporting online hate crime and the potential consequences of this behaviour.

Question:

Transgender identity and intersex

Do you think that the terms used in Scottish hate crime legislation in relation to transgender identity and intersex should be updated?

What language would you propose?

Yes

Two of the focus groups chose to share their views on transgender identity and intersex. The consensus amongst the young people was that the terms should be updated.

Intersex

The majority view was that intersex should be a separate characteristic from transgender identity. This was because intersex is viewed as being different than transgender identity.

'[Intersex] it's a different thing because it's actively about your biological sex and gender identity is kind of not' (Young person)

There was also a view that those who identify as intersex may not necessarily identify with the transgender community.

'Most intersex people to my knowledge wouldn't want to identify as trans' (Young person)

Transgender

There was a strong view amongst the young people that the term 'transvestite' should no longer be used in the legislation. This term was seen as being outdated and only referring to someone who identifies as a man who wears clothing traditionally viewed as belonging to women.

'Only ever seen someone who identifies as male who wears dresses classified as transvestite' (Young person)

It was felt that transgender identity should be used as an umbrella to term to include transsexual, non-binary identities and these alternative terms were also suggested:

- Gender expression/performance
- Drag performance artists and cross dressing

- Gender non-conforming expression

There was an acknowledgment amongst the young people that the terminology is challenging and difficult to future proof.

Question:

Sectarianism

Do you agree with the Working Group that sectarianism should be defined in Scots Law in terms of hostility based on perceived Roman Catholic or Protestant denominational affiliation of the victim and/or perceived British or Irish citizenship, nationality or national origins of the victim?

What do you believe should be included in a legal definition of sectarianism?

No

Young people in two of the focus groups chose to express their opinions on sectarianism. The commonly held view by these young people was that the Working Group definition should include hostility within different religions as well as Christianity. Personal examples were shared about hostility which has been shown towards them because their family belonged to a particular Muslim sect.

‘When I joined a wider community of Muslims I found it really difficult to express what sect I was from because I was worried about things I’ve heard and my family’s experiences’ (Young person)

It was accepted amongst young people that intra-Christian sectarianism is an issue in Scotland but that other faiths also experience sectarianism which should be covered by the legislation.

Question:

Racially aggravated harassment

Do you think that Section 50A of the Criminal Law (Consolidations) (Scotland) Act 1995 about racially aggravated harassment should be repealed?

Yes

One of the focus groups discussed racially aggravated harassment. The general consensus was that Section 50A should be repealed because all hate crime aggravators should be treated equally. There was however, a strong view that Section 50A should only be repealed if there is a change to the

recommended language in Section 38 to include fear, alarm and distress. It was felt that all three terms are important and should be included.

Any other issues

Young people also raised some issues in addition to the key questions discussed in the focus groups.

Firstly, intersectionality. Some of the young people discussed how there is crossover between the hate crime aggravators and it is not always clear where the root cause of the hate is directed. For example, in relation to race and religion, one young person argued that the root cause of Islamophobia is racism and as such it is difficult to know under which legislation someone should be charged.

Secondly, hidden disability. Though not part of the current consultation, some of the young people held strong views about the need for hate crime against people with hidden disabilities to be taken seriously. It was viewed that hate crime against people with hidden disabilities is often treated as banter and often there is a lack of reporting by the victim.

Thirdly, education and prevention. A consistent message from across the focus groups was the need for education and prevention as well as legislation, to ensure there is a societal change. As one young person stated:

'Crime isn't just the act; crime isn't just a thing. Crime is society saying it's okay, justifying it, making excuses over years and years. Crime isn't just when someone hits you in the street, even though that is the specific crime, it doesn't start there. It starts in your mind, in the way that you think about things, it starts with how you're treated from a young age' (Young person)

For more information about the report please contact Sarah Robinson Galloway from YouthLink Scotland at srobinson@youthlinkscotland.org