

# Hate Crime and Public Order Act Info Sheet for Youth Workers



action on  
**prejudice**

This document seeks to provide information on the changes to Hate Crime legislation brought about by the Hate Crime and Public Order (Scotland) Act 2021, which was commenced on 1st April 2024.

This can be used by youth work practitioners to decide how they wish to address it with any young people they work with who may have an interest or are affected by the new legislation.

Please note this is not a full description of the Act but a summary of key points.  
The document will go through:

1. What do we mean by Hate Crime
2. A brief background to the Act
3. What changes have been made
4. Hate Crime Strategy aims

## 1. What do we mean by Hate Crime?

Hate Crime describes behaviour that is criminal and rooted in prejudice. It means the law has to have been broken and the person breaking the law needs to be acting out of hatred towards a particular group. This behaviour that is criminal could be something like assault, graffiti, or other criminal behaviour.

## 2. Background

The work to look at consolidating Hate Crime Legislation began in 2015, with recommendations from the Independent Hate Crime Advisory Group and then with a review of the existing legislation by Lord Bracadale. There was extensive consultation with the public at various stages, including by Lord Bracadale, the Scottish Government in response and then also in the development of the Hate Crime Strategy.

The Bill went through all the stages in Parliament and was heavily debated and amended in that process.

The Act was commenced on 1st April 2024 following a period of time for Police Scotland and other services to prepare their systems for commencement due to the call for disaggregated data and the need to be able to record this appropriately.

<p><b>3. What are the key changes in legislation?</b></p>	<p>Previous Legislation</p>	<p>Hate Crime &amp; Public Order (Scotland) Act 2021</p>
<p>Protected Characteristics</p>	<p>Race, Religion, Disability, Transgender Identity, Sexual Orientation</p>	<p>Race, Religion, Disability, Transgender Identity, Sexual Orientation, Age and Variations of Sex Characteristics (this was previously included in Transgender Identity)</p>
<p>Stirring Up of Hatred Offences</p>	<p>Stirring up of racial hatred offence – for this to be part of a criminal act the behaviour has to be threatening, abusive or insulting and it has to intend to stir up hatred against a group based on their race, colour or nationality.</p>	<p>The 2021 Act creates new stirring up of hatred offences for each of the following characteristics:</p> <ul style="list-style-type: none"> <li>• Disability,</li> <li>• Religion,</li> <li>• Sexual orientation,</li> <li>• Transgender identity,</li> <li>• Age,</li> <li>• Variations in sex characteristics.</li> </ul> <p>For this to be an offence though the behaviour has to be threatening or abusive (not insulting) and the person doing it intends to stir up hatred against any of the groups above.</p> <p>For racial hatred, it stays the same as before.</p> <p>There is a defence to all offences of stirring up hatred where a person can show the behaviour or communication of material was reasonable.</p>
<p>Characteristic of Sex</p>		<p>Sex is not included as a protected characteristic under the new Hate Crime legislation as during the consultations Women’s Groups specifically said that this would not be sufficient to protect women from misogyny. As a result separate misogyny legislation is currently being explored and will be introduced to Parliament in 2024.</p>

	Previous Legislation	Hate Crime & Public Order (Scotland) Act 2021
Blasphemy	Common law of blasphemy which has not been prosecuted in Scotland for a very considerable length of time (the last reported prosecutions for blasphemy were in 1843).	The new legislation abolishes the Common Law of Blasphemy.
Data relating to Hate Crime in Scotland	Criticism of a lack of disaggregated data and little regular publication of hate crime data.	<p>The 2021 Act requires information about police recorded hate crime and hate crime convictions to be published each year.</p> <p>Robust data and evidence on hate crime is essential to help effectively prevent and tackle it.</p> <p>Police Scotland's new crime and case management system has been built to ensure that further information on the perceived prejudice shown by perpetrators can be recorded by police.</p>

## Freedom of speech

The right to freedom of expression is specifically built into the Act. The Act is compatible with the European Convention on Human Rights, including Article 10 which protects everyone's right to freedom of expression.

There is also a defence available that the behaviour or communication was, in the particular circumstances, reasonable.

The full Hate Crime and Public Order (Scotland) Act 2021 can be read at: <https://www.legislation.gov.uk/asp/2021/14/section/1> with a summary of changes available at <https://www.gov.scot/publications/hate-crime-public-order-scotland-act-2021-information-note/pages/1/>

## 4. Hate Crime Strategy

The Hate Crime Strategy for Scotland was developed with the voices of people with lived experience of Hate Crime at its core as well as work from the Hate Crime Strategic Partnership Group. The consultation work showed a need to raise awareness of hate crime and prevent it from happening, including more to educate children and young people.

Everyone should be able to live free from hatred and prejudice. The strategy sets out how Scottish Government plans to work together to build on work to date, to both prevent and tackle hatred and prejudice in Scotland.

The Strategy sets out key principles that include:

1. Human Rights as central to the approach it takes
2. Equality and Inclusion
3. Tackling Prejudice
4. Hate Crime, prejudice and misogyny

The vision set out in the strategy is “for a Scotland where everyone lives free from hatred and prejudice.” It sets out three aims to achieve this:

**Aim 1:** Victims of hate crime are treated with fairness, compassion and in a trauma-informed manner in which their safety and recovery is a priority.

**Aim 2:** The nature, characteristics, and extent of hate crime in Scotland are more fully understood and effectively inform appropriate interventions and policy development.

**Aim 3:** Communities are empowered, inclusive and safe and the underlying causes of hate crime are challenged.

Read more about the Hate Crime Strategy at: <https://shorturl.at/bwCI1>

For more information on tackling hate crime and prejudice, resources you can use with your youth groups or about other organisations doing this work you can visit Action on Prejudice. This includes reports from every stage of the process towards the Act being commenced as well as the reports from the consultations that took place with young people specifically.

You can visit the website at [www.actiononprejudice.info](http://www.actiononprejudice.info)

