

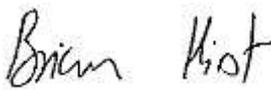
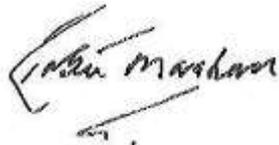
# **Hate Crime and Public Order (Scotland) Bill**

**Child Rights and Wellbeing  
Impact Assessment (CRWIA)**

**April 2020**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

<b>CRWIA Front Sheet</b>	
<b>Policy/Measure</b>	<b>Hate Crime and Public Order (Scotland) Bill</b> Consolidation, modernisation and extension of Scottish Hate Crime Legislation
<b>Initiating department</b>	The Hate Crime Bill Team in the Connected Communities Division leads on this new Bill working closely with officials in Criminal Justice and Safer Communities along with colleagues in Analytical Services, the Scottish Government Legal Directorate and the Parliamentary Counsel's Office.
<b>Policy aims</b>	Hate crime has no place in Scottish society. The Scottish Government have been taking forward work to consolidate, update and extend laws on hate crime, consulting widely with key stakeholders and with the public. The Scottish Government published the analysis of that consultation on 27 June 2019 <sup>1</sup> and will introduce the Bill to Parliament on 24 March 2020, making hate crime legislation fit for 21st-century Scotland.
<b>Timetable</b>	Introduction: 24 March 2020 Publication of Bill: 25 March 2020 Stage 1 debate: October 2020 (tbc) Stage 2: December 2021 (tbc) Stage 3: February 2021 (tbc) Royal Assent: Spring 2021 Commencement (earliest realistic date): Autumn 2021
<b>Authorisation</b>	
<b>Policy Lead</b> Mr Brian Hirst, Hate Crime Legislation Policy Support Officer, Hate Crime Bill Team, Connected Communities Division	 <b>Date 18 October 2019</b>
<b>Team Leader</b> Mr Robert Marshall, Deputy Director Connected Communities Division	 <b>Date 18 October 2019</b>

<sup>1</sup> <https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/1/>

## CRWIA Stage 1

### Screening - key questions

(Hyperlink will only work within SG)

#### 1. Name the policy, and describe its overall aims.

##### **Background**

In September 2016, a review by the *Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion*<sup>2</sup>, was published which included a number of recommendations for the Scottish Government (SG) and its partners. These were:

- the SG should consider whether the existing criminal law provides sufficient protections for those who may be at risk of hate crime;
- the SG should lead discussion on the development of clearer terminology and definitions around hate crime, prejudice and community cohesion.

This led to the appointment of Lord Bracadale to conduct an *Independent Review of Hate Crime Legislation in Scotland*<sup>3</sup>. The remit for Lord Bracadale's review was to consider whether existing hate crime law represents the most effective approach for the justice system to deal with criminal conduct motivated by hatred, malice, ill-will or prejudice. Lord Bracadale was asked by the Scottish Ministers to consider:

- the current law and consider how well it deals with hate crime behaviour;
- Whether new statutory aggravations should be created for example in relation to age and gender;
- whether the religious statutory aggravation is fit for purpose or should be expanded;
- whether we should make hate crime laws simpler by bringing them all together in one place;
- any issues or gaps in the framework for hate crime laws and to make sure that hate crime laws are compatible with laws that protect human rights and equality.

Lord Bracadale published his, *Independent Review of Hate Crime Legislation*<sup>4</sup>, on 31 May 2018.

In response, the Scottish Government accepted his recommendation to consolidate Scottish hate crime legislation into one new hate crime statute and committed to consult on the detail of what would be included in the new hate crime bill.

On 14 November 2018, the Cabinet Secretary for Justice and Cabinet Secretary for Communities, launched a public consultation on hate crime legislation in

<sup>2</sup> <https://www.gov.scot/publications/report-independent-advisory-group-hate-crime-prejudice-community-cohesion/>

<sup>3</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/>

<sup>4</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/>

Scotland in response to recommendations made by Lord Bracadale, which sought views on what should be included in a new hate crime bill.

The consultation exercise ran from 14 November 2018 to 24 February 2019, with 1,159 written responses submitted in total. A total of 1,051 responses were received from individuals (91% of responses) and 108 responses from organisations (third sector bodies, public sector and partnership bodies, faith groups and other organisations). Additionally, a series of 11 consultation roadshows were held across Scotland from December 2018 to February 2019 enabling approximately 400 individuals and organisations to engage in discussion and have their views heard about Lord Bracadale's recommendations.

### *Hate Crime and Public Order (Scotland) Bill*

This Bill provides for the modernising, consolidating and extending of hate crime legislation in Scotland. Legislation in this area has evolved over time in a fragmented manner with the result that different elements of hate crime law are located in different statutes, there is a lack of consistency, and the relevant legislation is not as user-friendly as it could be. The new Hate Crime Bill will provide greater clarity, transparency and consistency.

The Scottish Government is committed to taking this opportunity to shape hate crime legislation so that it is fit for 21st century Scotland and, most importantly, affords sufficient protection for those that need it.

The Scottish Government recognises that legislation in and of itself is not enough to build the inclusive and equal society that we aspire to, however having clear legislation about hate crime sends a strong message. In particular, it makes it clear to victims, perpetrators, and communities and to wider society that offences motivated by prejudice will be treated more seriously and will not be tolerated by society.

### ***Policy Aim***

Scotland's diversity is its strength; and all communities are valued and their contribution welcomed. Hate crime and prejudice threaten community cohesion and have a corrosive impact on Scotland's communities as well as broader society. It is never acceptable and the Scottish Government is committed to tackling it.

This Bill provides an essential element of the Scottish Government's ambitious programme of work to tackle hate crime and build community cohesion. Anyone who has experienced or witnessed a hate crime is encouraged to report it to the police or to one of the third party reporting centres that are in place across Scotland.

A cohesive society is one with a common vision and a sense of belonging for all communities; a society in which the diversity of people's backgrounds, beliefs and circumstances are appreciated and valued, and similar life opportunities are

available to all. It is through this lens that the Scottish Government has considered the recommendations from Lord Bracadale's, *Independent Review of Hate Crime Legislation in Scotland*<sup>5</sup>, in order to inform the modernisation and reform of hate crime legislation in Scotland.

To ensure a consistent overarching approach, the Scottish Government identified a set of three principles to inform and guide policy decision making and development of hate crime legislation. These principles are:

- Standardisation and consistency of approach: across the characteristics, apart from where there is good reason to justify an exception. For example, in principle the Scottish Government has sought to ensure a consistent approach across the characteristics, including any new characteristics. This would involve a standard approach to how, for example, the statutory aggravations are applied, and would also help ensure there is not a perceived (or real) hierarchy between the characteristics.
- Future proofing of legislation: to reflect society in Scotland within the 21<sup>st</sup> Century whilst ensuring as far as possible that the law remains fit for purpose for the future. It is essential that the form and structure of the legislation is correct for current policy, but it would also be useful to ensure as appropriate that the legislation is set up so that it can be amended in the future. In particular, while the focus of the legislation is on addressing hate crime in today's society, such as racial and religious hatred, provision is also included to enable the characteristic of sex to be added into the new legislative framework established by the Bill, at a later date by means of regulations. It is also crucial that the legislation is robust and deliverable, ensuring that barriers and ambiguity are not created that will impede its application in order to help ensure the legislation can stand the test of time.
- Contribution to a modern Scotland: to build a more equal and inclusive Scotland. For example, hate crime legislation plays its role as part of wider efforts to ensure people feel safe and can live free from discrimination, through ensuring hate crime is enforceable with clear consequences, and where people have a greater and clearer understanding of hate crime and its consequences.

### Hate Crime Definition

There is no single accepted definition of hate crime with different definitions produced for different purposes, however Lord Bracadale stated in his review: "*Hate crime is the term used to describe behaviour which is both criminal and rooted in prejudice*"<sup>6</sup>.

### Rationale for Hate Crime Legislation

Hate crime legislation helps recognise the particular impact and harm caused by hate crime. Harm can be caused to the victim, the group the victim belongs to and to wider society. Hate crime legislation makes it clear that such behaviour is not

<sup>5</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/>

<sup>6</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-summary-document/pages/5/>

acceptable and sends a message to victims, perpetrators and wider society that hate crime is not acceptable and will not be tolerated.

The courts take it into consideration when offences are motivated by prejudice when determining sentences. Recording of convictions for hate crimes (whether the aggravation of offences by prejudice or offences relating to stirring up hatred) ensures that levels of hate crime are recorded and trends can be identified and monitored.

### Current Hate Crime Legislation In Scotland

Current hate crime legislation in Scotland specifies when an existing offence may be aggravated by prejudice in respect of one or more of the characteristics of race, religion, disability, sexual orientation and transgender identity (which includes 'intersexuality'). This approach does not involve the creation of new offences; rather it involves an existing offence (e.g. murder, assault, breach of the peace) being 'aggravated' where the perpetrator evinces, or is motivated by, malice and ill-will towards a group of persons defined by reference to one or more of the above characteristics.

In Scotland, the existing 'hate crime' statutory aggravations are:

- race: section 96 of the Crime and Disorder Act 1998 ('the 1998 Act');
- religion: section 74 of the Criminal Justice (Scotland) Act 2003 ('the 2003 Act');
- disability: section 1 of the Offences (Aggravation by Prejudice) (Scotland) Act 2009 ("the 2009 Act");
- sexual orientation: section 2 of the 2009 Act;
- transgender identity: section 2 of the 2009 Act.

The above legislation makes provision for the aggravation of offences, requiring courts to take the aggravation into account when determining sentence.

Prejudice or hostility also lies at the heart of some other offences which are recognised as hate crimes. These are sometimes referred to as standalone hate crime offences and they criminalise behaviour specifically because it involves racial prejudice. Currently, these standalone offences include:

- racially aggravated harassment: section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995; and
- stirring up of racial hatred: sections 18 to 23 of the Public Order Act 1986.

### **National Outcomes**

These changes in particular support the following National Performance Framework objectives:

- We grow up loved, safe and respected so that we realise our full potential.
- We live in communities that are inclusive, empowered, resilient and safe.
- We are creative and our vibrant and diverse cultures are expressed and enjoyed widely.

- We respect, protect and fulfil human rights and live free from discrimination.

## **2. What aspects of the policy/measure will affect children and young people up to the age of 18?**

All aspects of the Bill will affect children and young people as they can be both the victims and/or perpetrators of hate crime.

The Bill includes a new statutory aggravation for crimes motivated by prejudice based on age. This will provide protection for children and young people who may be victims of age related hate crime by making it clear that this type of prejudice is unacceptable and will not be tolerated. It will also affect children and young people who may be perpetrators of hate crime as committing an offence motivated by malice or ill will towards a person because of their age may result in an increased sentence.

The Bill also includes a new stirring up hatred offence based on age, which will affect children and young people who may be victims of age related hate crime by making it clear that this type of prejudice is unacceptable and will not be tolerated. It will also affect children and young people who may be perpetrators of stirring up of hatred offences based on age as this criminalises a new type of behaviour.

In addition, the Bill also introduces new stirring up hatred offences based on religion, disability, sexual orientation, transgender identity and variations in sex characteristics (currently this only exists for race) and will therefore provide increased protection for children and young people who may be victims of such offences. It will also affect children and young people who may be perpetrators of stirring up of hatred offences based on these characteristics.

## **3. What likely impact – direct or indirect – will the policy/measure have on children and young people?**

Although the Bill applies across Scotland, it specifically creates criminal offences and statutory aggravations which give protection to those persons with characteristics relating to age, disability, race, religion, sexual orientation, transgender identity and variations in sex characteristics.

The Bill will provide specific protection to victims of hate crime, including children and young people, with regards the following characteristics:

- age,
- disability,
- race,
- religion,
- sexual orientation,
- transgender identity,
- variations in sex characteristics.

In regards to perpetrators of hate crime, the report of the, *Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion*<sup>7</sup>, explained that evidence on the demographics of convicted perpetrators suggests that they are likely to be young (25 years of age and under). Police Scotland's response to the consultation on hate crime legislation supports this finding<sup>8</sup>.

More detailed evidence regarding the likely impact the Bill will have on children and young people can be found in Stage 2 (section 7) of this assessment.

#### 4. Which groups of children and young people will be affected?

As above, it is expected that children and young people most affected will be those who may be more likely to be victims of hate crime because of one or more of the following characteristics:

- age,
- disability,
- race,
- religion,
- sexual orientation,
- transgender identity
- variations in sex characteristics.

There is also evidence to suggest that young people under the age of 25 are more likely to be perpetrators of hate crime than any other age group.

#### 5. Will this require a CRWIA?

Yes. Although the Bill is determined to have a broadly positive impact on children and young people, it is important to undertake this impact assessment so that any potential unintended consequences of the Bill are identified and addressed.

### CRWIA Declaration

CRWIA required

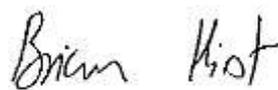
CRWIA not required

Yes

### Authorisation

#### Policy lead

Mr Brian Hirst,  
Hate Crime Legislation Policy Support  
Officer,  
Hate Crime Bill Team,  
Connected Communities Division



**Date** 18 October 2019

<sup>7</sup> <https://www.gov.scot/publications/report-independent-advisory-group-hate-crime-prejudice-community-cohesion/pages/3/>

<sup>8</sup> [https://consult.gov.scot/hate-crime/consultation-on-scottish-hate-crime-legislation/consultation/view\\_respondent?show\\_all\\_questions=0&q\\_\\_text=&sort=excerpt&order=ascending&b\\_index=240&uuld=888417645](https://consult.gov.scot/hate-crime/consultation-on-scottish-hate-crime-legislation/consultation/view_respondent?show_all_questions=0&q__text=&sort=excerpt&order=ascending&b_index=240&uuld=888417645)

**Team Leader**

Mr Robert Marshall,  
Deputy Director  
Connected Communities Division



Date 18 October 2019

**CRWIA Stage 2****The CRWIA – key questions****1. Which UNCRC Articles are relevant to the policy/measure?**

**Article 2 (Non-discrimination):** Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).

**Article 4 (Protection of rights):** Governments should undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the UNCRC.

**Article 12 (Respect for the views of the child):** Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.

**Article 14 (Freedom of thought, conscience and religion):** Every child has the right to think and believe what they like, and to practise their religion or beliefs publically, as long as they do not harm others in doing so. Governments must respect the right of parents to offer guidance to children where they are deciding what to think and believe.

**Article 19 (Protection from all forms of violence):** Children have a right to be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation. Government's must do all that they can do ensure this.

**Article 23 (Children with disabilities):** A disabled child has the right to enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. Governments must recognise the right of the disabled child to special care, and ensure the disabled child has effective access to education, training, health care, rehabilitation, preparation for employment, and recreational opportunities.

**Article 30 (Children of minorities/indigenous groups):** Every child has the right to learn and use the language, customs and religion of their family, whether or not these are shared by the majority of people in the country where they live. There are no Optional Protocols that are relevant to this legislation.

## **2. What impact will the policy/measure have on children's rights?**

**Positive:** The Bill will provide protection in law for children and young people who are victims of hate crime who have one or more of the following characteristics:

- age,
- disability,
- race,
- religion,
- sexual orientation,
- transgender identity
- variations in sex characteristics.

The Bill also includes provisions to protect children and young people where the perpetrator has mistakenly perceived them to be a member of a group or if they are associated with a particular group of persons defined by reference to one or more of the above characteristics.

## **3. Will there be different impacts on different groups of children and young people?**

The groups of children and young people most affected will be those who are victims of hate crime who have one or more of the following characteristics:

- age,
- disability,
- race,
- religion,
- sexual orientation,
- transgender identity
- variations in sex characteristics.

There is also evidence to suggest that young people under age 25 are more likely to be offenders of hate crime than any other age group.

## **4. If a negative impact is assessed for any area of rights or any group of children and young people, what options have you considered to modify the proposal, or mitigate the impact?**

There is evidence to suggest that young people under 25 are more likely to be offenders of hate crime than any other age group. Consequently this may result in some children and young people having a disproportionate level of involvement from public bodies including the police and the judiciary.

Although we are unable to limit the impact of the Bill on children and young people who commit hate crime offences we can mitigate the impact by ensuring children and young people understand the consequences of such behaviour in order to prevent it from occurring in the first place.

## 5. How will the policy/measure contribute to the wellbeing of children and young people in Scotland?

Section 96(2) of Children and Young People (Scotland) Act lists the eight wellbeing indicators, sometimes referred to by the acronym SHANARRI:

- **Safe** – protected from abuse, neglect or harm at home, at school and in the community.
- **Healthy** – having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices.
- **Achieving** – being supported and guided in learning and in the development of skills, confidence and self-esteem at home, in school, and in the community.
- **Nurtured** – having a nurturing place to live in a family setting, with additional help if needed, or, where this is not possible, in a suitable care setting.
- **Active** – Having opportunities to take part in activities such as play, recreation and sport which contribute to healthy growth and development, both at home and in the community.
- **Respected** – having the opportunity, along with carers, to be heard and involved in decisions that affect them.
- **Responsible** – having opportunities and encouragement to play active and responsible roles at home, in school and in the community, and where necessary, having appropriate guidance and supervision, being involved in decisions that affect them.
- **Included** – having help to overcome social, educational, physical and economic inequalities, and be accepted as part of the community in which they live and learn.

The Bill will impact the following children's wellbeing indicators:

**Safe** – As previously stated, children and young people are particularly vulnerable to criminality including that which is rooted in prejudice. The Bill directly contributes to keeping children safe and protected from offences motivated by prejudice based on the characteristics of age, disability, sexual orientation, race, religion, transgender identity and variations in sex characteristics.

**Healthy** – As well as the threat of physical assault, the harm caused by hate crime can result in children and young people enduring mental distress such as depression, anger, anxiety and trauma. The Bill will help send a message that this behaviour will not be tolerated.

**Included** – Hate crime can cause harm to wider society in a number of different ways. This includes undermining its moral values, reducing tolerance, increasing the likelihood of hatred not being recognised or challenged thus becoming the 'norm' and raising the potential for social unrest. As a result some children and young people who are victims or witnesses of hate crime can become socially

isolated and disconnected from their peers. The Bill will help send a message that hate crime and prejudice will not be tolerated.

## **6. How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?**

### **1) UNCRC Articles**

**Article 2 (Non-discrimination):** Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).

- Hate crime is one of the most damaging forms of intolerance and any child or young person targeted as result of their age, race, religion, disability, sexual orientation, variations in sex characteristics or transgender identity is a victim of prejudice. The Bill will contribute to furthering the implementation of UNCRC in Scotland by offering greater protection to children at risk from crime motivated by prejudice in relation to these characteristics.

**Article 4 (Protection of rights):** Governments should undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the UNCRC.

- As set out in this impact assessment, the objectives of the Bill directly contribute to implementing a number of UNCRC articles in Scotland. Therefore, the measures being taken in the development of this Bill mean that Scottish Government are contributing to Scotland's work in recognising and implementing the rights as set out in the UNCRC.

**Article 12 (Respect for the views of the child):** Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.

- The Scottish Government sought the views of children and young people to inform the development of the Hate Crime Bill through grant funding YouthLink Scotland to host consultation events with children and young people. These exercises helped inform on what should be included in the new hate crime Bill and contributed towards the delivery of Scotland's commitment to respecting the views of the child in all aspects. There were also a number of separate responses from youth organisations, which informed the findings consultations for Lord Bracadale's review<sup>9</sup>.

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<sup>9</sup> <https://www.gov.scot/publications/one-scotland-hate-home-here-consultation-hate-crime-amending-current-scottish-hate-crime-legislation/pages/2/>  
<https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/20/>

**Article 14 (Freedom of thought, conscience and religion):** Every child has the right to think and believe what they like, and to practise their religion or beliefs publically, as long as they do not harm others in doing so. Governments must respect the right of parents to offer guidance to children where they are deciding what to think and believe.

- Hate crime legislation already includes a statutory aggravation in relation to religion, and the Bill will introduce stirring up hatred offence based on religion. This means that offences motivated by prejudice in relation to religion are treated more seriously by the justice system. The Bill sends a message that hate crime is unacceptable and will not be tolerated by society, therefore reassuring people, including children and young people, of their right to practise their religion publically and without fear of doing so.
- In line with Lord Bracadale's recommendations, the Bill also includes freedom of expression provisions in relation to the stirring up of hatred offences based on religion and sexual orientation. This is intended to make it clear that these offences do not interfere unduly with people's right to, among other things, debate and discuss religion or religious beliefs and practices, to advocate or promote religious beliefs or practices or a change of religion, to urge people to cease practising their religion, or to express their views about whether it is right for people to engage in particular sexual practices.

**Article 19 (Protection from all forms of violence):** Children have a right to be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation. Government's must do all that they can do ensure this.

- Hate crime can be physical and/or psychological violence and abuse. The Bill will provide protection for children and young people at risk from criminal offences rooted in prejudice.

**Article 23 (Children with disabilities):** A disabled child has the right to enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. Governments must recognise the right of the disabled child to special care, and ensure the disabled child has effective access to education, training, health care, rehabilitation, preparation for employment, and recreational opportunities.

- Hate crime legislation already includes a statutory aggravation in relation to disability, and the Bill will also introduce a new stirring up hatred offences for disability. This means that offences motivated by prejudice in relation to disability are treated more seriously. The Bill sends a message that hate crime is unacceptable and will not be tolerated by society therefore recognising the rights of disabled children, ensuring their active participation in the community and mitigating social isolation.

**Article 30 (Children of minorities/indigenous groups):** Every child has the right to learn and use the language, customs and religion of their family, whether or not these are shared by the majority of people in the country where they live.

- Hate crime legislation already includes a statutory aggravation and stirring up hatred offences in relation to race. This means that offences motivated by prejudice in relation to race are treated more seriously. The Bill sends a message that race related hate crime is unacceptable and will not be tolerated by society therefore recognising that children have the right to use the language, customs and religion of their family without fear of prejudice.

## **2) UNCRC Concluding Observations 2016**

The 2016 Concluding Observations sets out the recommendations made by the UN Committee on the Rights of the Child to the UK Government, setting out what it needs to do to comply with, and better progress, the implementation of the UNCRC.

The Bill contributes to taking forward the following recommendations:

### **General principles**

Non-discrimination:

- Raise awareness and strengthen preventive activities to protect vulnerable groups of children from discrimination and stigmatisation.

Best interests of the child:

- Ensure that the best interests of the child is adequately integrated into all legislative, administrative and judicial proceedings and decisions as well as policies and programmes.

Respect the views of the child:

- Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services.

Hate crime is one of the most damaging forms of intolerance and any child or young person targeted as result of their age, race, religion, disability, sexual orientation, variations in sex characteristics or transgender identity are a victim of prejudice. Therefore the Bill will strengthen the protection afforded to those who need it by treating crimes motivated by prejudice more seriously, which will send a clear message to society that such prejudice is not acceptable and will not be tolerated.

Children and young people have helped to shape the development of the Bill through the consultation process. There were a number of responses from youth organisations There were a number of responses from youth organisations to the Scottish Government consultation<sup>10</sup> and grant funding was also provided to

<sup>10</sup> <https://www.gov.scot/publications/one-scotland-hate-home-here-consultation-hate-crime-amending-current-scottish-hate-crime-legislation/pages/2/>

YouthLink Scotland to host specific consultation events with children and young people<sup>11</sup>. These exercises helped inform what should be included in the new hate crime Bill and to serve as a valuable contributor in Scotland's commitment to respecting the views of the child in all aspects.

## **7. What evidence have you used to inform your assessment? What does it tell you?**

A number of evidence sources have been used to help frame this assessment. These are detailed below.

### **Statistical Evidence**

#### Hate Crime

At this time, information on the age of victims and perpetrators is not generally available for police recorded crime. Scottish Government statisticians are continuing to engage with Police Scotland as they develop and improve the information they hold on hate crime. This includes plans for Scottish Government statisticians to review a large sample of police recorded hate crimes to investigate further the characteristics and circumstances of these cases (including information on the age of those involved). It is anticipated that a report on the findings of this exercise will be published in 2020.

Additionally, no figures are currently recorded for age related hate crime as this not currently a protected characteristic in existing hate crime legislation and age is not currently a statutory aggravation in hate crime law in Scotland.

The, *Girls' Attitudes Survey 2019*<sup>12</sup>, conducted by the Girl Guiding UK asked specific questions regarding bullying in relation to the characteristics and the numbers that have been subject to these forms of harassment:

- Sexual orientation: 10% of 11-21 year olds
- Ethnicity or religion: 8% of 7-10 year olds and 10% of 11-21 year olds
- Disability: 7% of 7-10 year olds and 7% of 11-21 year olds

#### Bullying

In Scotland the, *Growing Up in Scotland Survey: Life at Age 12*<sup>13</sup>, found that bullying was a relatively common experience with a significant minority of children experiencing it in some form on a regular basis. The most common behaviour children experienced was being called names. Forty-three percent said they had ever experienced this, including 10% who said they were being called names or

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<https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/20/>

<sup>11</sup> <https://actiononprejudice.s3.amazonaws.com/uploads/2019/02/Young-peoples-response-to-the-consultation-on-amending-hate-crime-legislation-facilitated-by-YouthLink-Scotland.pdf>

<sup>12</sup> <https://www.girlguiding.org.uk/globalassets/docs-and-resources/research-and-campaigns/girls-attitudes-survey-2019.pdf>

<sup>13</sup> <https://www.gov.scot/publications/life-age-12-initial-findings-growing-up-scotland-study/pages/4/>

made fun of most days. There was no notable difference between boys' and girls' experience of being called names or made fun of.

Girls were more likely than boys to be picked on by being left out of games and chats (30% compared with 24%) whilst boys were more likely than girls to get picked on by shoving, pushing or fighting (17% compared with 24%). The vast majority of children (86%) had never been picked on via messages or online posts, though 14% had experienced this to some degree. This form of bullying was more common for girls than boys (17% compared with 12%).

### Experience of Crime

The, *Scottish Crime and Justice Survey 2017-18*<sup>14</sup>, reported that the likelihood of being experiencing crime was lowest for those aged 60 and over at 5.3%. In comparison 16% of 16-24 year olds experienced crime.

### Discrimination and Harassment

The *Scottish Household Survey 2018*<sup>15</sup> found that 8% of adults reported that they had experienced discrimination and 6% had experienced harassment in Scotland at some point over the last 12 months. The survey showed that 15% of those who reported experiencing harassment and 7% who reported experiencing discrimination said it was motivated by their age.

The same survey found that some groups were more likely than others to report having experienced discrimination or harassment in Scotland. For instance this included ethnic minorities, people who are gay/lesbian/bisexual and those who reported belonging to a religion other than Christianity.

The most common reason cited as the motivating factor for reporting discrimination was the respondent's nationality at 19 per cent. The other most common motivating factors included the respondent's age (15 per cent), health problem or disability (11 per cent), ethnicity (11 per cent), mental ill-health (10 per cent), gender (10 per cent) and accent (10 per cent).

Of those who had experienced harassment, 15 per cent cited their nationality as the perceived reason and 11 per cent cited their ethnicity, with 'other reasons' being the most common individual response (20 per cent).

Although the youngest age group the *Scottish Household Survey 2018*<sup>16</sup> covers is 16-24 year olds, the Scottish Governments expects that those under the age of 18 are similarly affected by discrimination and harassment.

<sup>14</sup> <https://www.gov.scot/publications/scottish-crime-justice-survey-2017-18-main-findings/pages/20/>

<sup>15</sup> <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/pages/4/>

<sup>16</sup> <https://www.gov.scot/publications/scottish-crime-justice-survey-2017-18-main-findings/pages/20/>

## Mental health

The *Scottish Health Survey 2017*<sup>17</sup> and the *Scottish Schools Adolescent Lifestyle and Substance Use Survey, 2015*<sup>18</sup> report that at ages 13-15, girls were more likely than boys to have poor mental wellbeing in 2015. The same surveys also state 15-year-old girls had poorer mental wellbeing than 13-year-olds, on average, and had also seen a greater decline in some specific aspects of their mental health, since 2010. While 61% of girls aged 15 said that they had been 'feeling cheerful' all the time or often in 2010, this fell to 44% in 2015. The proportion of those who said that they had 'had energy to spare' fell from 43% to 28%.

At ages 13-15, girls were also significantly more likely than boys to experience emotional problems, with 31% of girls aged 13, and 44% of girls aged 15, showing a borderline or abnormal emotional problems score in 2015 (compared to 12% and 15% respectively of boys of the same ages).

The proportion of 15-year-old girls saying it was certainly true that they worry a lot or that they were nervous in new situations and easily lose confidence increased considerably between 2006 and 2015. 29% said that they worried a lot in 2006, compared to 50% in 2015, while the proportion who said that it was certainly true that they were nervous in new situations and easily lose confidence increased from 31% in 2006 to 44% in 2015.

As of 2015, girls aged 13 and 15 years old were more likely to experience poor mental wellbeing and emotional and behavioural problems if they were a young carer. While 13-year-old girls who were not carers had a mean score of 48.7 on the Warwick-Edinburgh Mental Wellbeing Scale (WEMWBS), those who were young carers had a mean score of 44.2. The relationship between caring and experiencing emotional and behavioural problems was particularly strong among 15-year-old girls.<sup>19</sup>

### **Lord Bracadale's Review findings**

Lord Bracadale considered whether age should be included as a characteristic within hate crime legislation. He noted stakeholders reported that while it may be that many crimes against the elderly are motivated by a desire to exploit a perceived vulnerability, some crimes are motivated by hostility based on the perceived age of the victim. He found that, 'there is sufficient evidence of hostility-based offences against the elderly, particularly in the light of the information provided by Action for Elder Abuse, to include age as a protected characteristic based on the current model of hostility.' Lord Bracadale also considered the application of this to children and young people particularly in reference to bullying.<sup>20</sup>

<sup>17</sup> <https://www2.gov.scot/Topics/Research/by-topic/health-community-care/social-research/SALSUS>

<sup>18</sup> <https://www2.gov.scot/Topics/Research/by-topic/health-community-care/social-research/SALSUS>

<sup>19</sup> <https://www2.gov.scot/Topics/Research/by-topic/health-community-care/social-research/SALSUS>

<sup>20</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/pages/5/>

Lord Bracadale therefore recommended that, there should be a new statutory aggravation based on age hostility. He suggested that this should covers people of any age and should not refer to a particular age group such as elderly people or children and young people.<sup>21</sup>

Lord Bracadale also recommended to introduce stirring up offences for all existing and any new characteristics including age. He recommended that the threshold about the nature of the conduct in a stirring up of hatred offence should be based on including conduct that is 'threatening or abusive'. He also considers the reference to 'insulting' conduct, currently included in the stirring up of racial hatred offence, should not form part of any new stirring up offences.<sup>22</sup>

## **Consultation**

The consultation, *One Scotland: Hate Has No Home Here*<sup>23</sup>, ran from 14 November 2018 to 24 February 2019. This sought views on the above recommendations and what should be included in the new Hate Crime Bill. There were 1,159 written responses submitted in total with approximately 91% (1,051) of these from members of the public and the remainder by organisations (108).

In December 2018 and January to February of 2019, as part of the consultation process, the Scottish Government also ran eleven public awareness events throughout Scotland. Many of these were attended by young people either with a general interest in hate crime legislation or as representatives of young people's organisations.

Subsequently the Scottish Government contracted independent external analysts who undertook the analysis of the consultation responses and produced a report, *Consultation on amending Scottish hate crime legislation: analysis of responses*<sup>24</sup>, published by the SG in June 2019.

In regards to a new statutory aggravation for age, there were mixed views. A total of 29% of respondents were in favour and 55% were not, although 63% of organisations supported a new statutory aggravation for age. Those in favour argued that there was a need for legislation in this area and there should be a consistent approach to statutory aggravations applied across all characteristics. These respondents also thought that the creation of a new statutory aggravation relating to age would provide a deterrent to age-related hostility. Those opposed thought that there was little evidence of age-related hostility being targeted either at older people or at young people and, therefore, legislation in this area was not

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<sup>21</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/pages/5/>

<sup>22</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/pages/6/>

<sup>23</sup> <https://www.gov.scot/publications/one-scotland-hate-home-here-consultation-hate-crime-amending-current-scottish-hate-crime-legislation/pages/4/>

<sup>24</sup> <https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/1/>

needed. Some thought a statutory aggravation relating to ‘age’ would be unworkable in practice<sup>25</sup>.

Respondents felt that most offences committed against the elderly were likely to be motivated by a perpetrator’s perception of the victim’s vulnerability, rather than age-related hostility<sup>26</sup>.

It was also highlighted that since age is a protected characteristic under the *Equality Act 2010*<sup>27</sup> adding age would represent a consistent approach.

Respondents suggested that young people regularly feel discriminated against because of their age. They also raised the issue of intersectionality where children from groups as defined by reference to one of the existing characteristics protected by hate crime legislation being more likely to experience hate crime and that this could be compounded because the offender sees them as additionally vulnerable on account of their youth.

We also heard from the attendees at the consultation public awareness events that any legislative changes should not put young people at risk from being overly-criminalised.

Other respondents queried the current definition of an age hostility aggravation put forward in the consultation document and suggested that this needs to be made clearer in order to mitigate potential legislative limitations.

Consequently it was recommended that any legislative development which would directly impact children and young people should be subject to a Child Rights and Wellbeing Impact Assessment.

Despite these concerns there remains broad support among interested parties that this Bill would have positive impact on the lives of Scottish children and young people particularly in respect to affording a more robust level of protection to those under 18 from within the characteristics.<sup>28</sup>

#### Police Scotland consultation response<sup>29</sup>

Police Scotland highlighted this in their consultation response that young people (under 25) are more likely to be perpetrators of hate crime. Police Scotland

<sup>25</sup> <https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/8/>

<sup>26</sup> <https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/14/>

<sup>27</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>28</sup> <https://consult.gov.scot/hate-crime/consultation-on-scottish-hate-crime-legislation/>  
<https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/8/>

<sup>29</sup> [https://consult.gov.scot/hate-crime/consultation-on-scottish-hate-crime-legislation/consultation/view\\_respondent?show\\_all\\_questions=0&q\\_\\_text=&sort=excerpt&order=asc&ending&b\\_index=240&uuld=888417645](https://consult.gov.scot/hate-crime/consultation-on-scottish-hate-crime-legislation/consultation/view_respondent?show_all_questions=0&q__text=&sort=excerpt&order=asc&ending&b_index=240&uuld=888417645)

highlighted this in their consultation response which also states, 'we recognise that many offences committed by children are committed against other children'. They noted that support and education for young people is needed to 'ensure that the rights and needs of victims are supported and addressed.'

Police Scotland did not support adding the characteristic of age to hate crime legislation because they believe the majority of crimes are in relation to age are more likely to be motivated by vulnerability, or a perceived vulnerability of older people. They also asked 'for further detailed consideration of how a new statutory aggravation on age hostility might be introduced without generating unintended negative consequences on children.'

Police Scotland added, 'we wish to inform children of the devastating impacts of hate crimes and incidents and educate them to change behaviour and attitudes in future generations.' They want to work with partners to 'create an environment where children learn and change their behaviour to avoid future harm and further victims.'

### **Additional Stakeholder Engagement**

Stakeholder engagement sessions were held in the summer of 2018 with a number of stakeholders including youth organisations. During the course of these engagements it was revealed that younger people, in particular, welcomed the addition of a statutory aggravation for age.

### **YouthLink Scotland Events<sup>30</sup>**

The Scottish Government provided grant funding for YouthLink Scotland to host consultation events with children and young people on what should be included in the new 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 and therefore they were very supportive of age being added as a characteristic within hate crime law.

They were also supportive of developing a statutory aggravation for gender hostility. There was a strong feeling that any new legislation should be inclusive for both men and women and therefore there should not be a standalone offence for misogyny.

They were supportive of the extension of the stirring up of hatred offences for all protected characteristics and agreed that the terms used in Scottish hate crime legislation in relation to transgender identity and intersex should be updated.

They were also generally in agreement that section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 should be repealed because all hate crime

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<sup>30</sup> <https://actiononprejudice.s3.amazonaws.com/uploads/2019/02/Young-peoples-response-to-the-consultation-on-amending-hate-crime-legislation-facilitated-by-YouthLink-Scotland.pdf>

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 of the Criminal Justice and Licensing (Scotland) Act 2010 to include fear, alarm and distress. It was felt that all three terms are important and should be included.

The group were generally not supportive of the proposed definition as recommended by the Working Group on Defining Sectarianism in Scots Law. They thought that the Working Group's 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. 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

## **8. Have you consulted with relevant stakeholders?**

The following youth organisations responded to the consultation paper for Lord Bracadale's, *Independent Review of Hate Crime Legislation in Scotland*<sup>31</sup>:

- Commissioner for Children and Young People;
- Equalities and Human Rights committee of the Scottish Parliament (EHRiC) and the Equalities and Human Rights committee of the Scottish Youth Parliament (EQU);
- LGBT Youth;
- Young Scot;
- Youth Parliament
- YouthLink Scotland

The following youth organisations responded to the consultation paper for, *One Scotland: Hate Has No Home Here*<sup>32</sup>:

- Children in Scotland;
- LGBT Youth Scotland;
- Scottish Children's Reporter Administration;
- Together (Scottish Alliance for Children's Rights);
- YouthLink Scotland;
- Youth Community Support Agency YCSA

The following youth organisations attended the 2018 summer engagement events:

- LGBT Youth Scotland
- YouthLink
- Children's Parliament

<sup>31</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/pages/12/>

<sup>32</sup> <https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/20/>

The following youth organisations attended the YouthLink Scotland consultation events:

- Edinburgh Interfaith Association
- LGBT Youth Scotland
- Hope for Autism
- Youth Community Support Agency (YCSA)

### **9. Have you involved children and young people in the development of the policy/measure?**

The Ministerial consultation launch took place at the 6VT Youth Café (and third party reporting centre) in Edinburgh on 14 November 2018. This was attended by the Cabinet Secretary for the Justice, the Cabinet Secretary for Communities and Local Government and the Lord Advocate and provided them with a valuable opportunity to meet with young people affected by hate crime and to hear directly of their experiences.

Subsequently the Scottish Government filmed a short video<sup>33</sup> with two young people identified through 6VT. In the film they provided insightful lived experiences of hate crime which helped to inform the presentation and discussions at the 11 consultation roadshows.

As above, the Scottish Government provided grant funding for YouthLink Scotland to hosting their own consultation events with young people. In doing so they met with the Edinburgh Interfaith Association, Hope for Autism, LGBT Youth Scotland and the Youth Community Support Agency (YCSA). YouthLink Scotland then used these engagement sessions to inform their own response to the consultation.

The variety of methods utilised to engage and consult with children and young people directly, as well as with relevant stakeholders representing children and young people has enabled the Scottish Government to make an informed assessment of the impact on this particular group of people.

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<sup>33</sup> <https://vimeo.com/317454838/66ac4456a5>

## CRWIA – Stage 3

### Publication Template

#### CRWIA for legislation (Scottish Government use only)

CRWIA title: Hate Crime Bill Date of publication:	
<b>Executive summary</b>	<p>This Child Rights and Wellbeing Impact Assessment considers the impact of the consolidation, modernisation and extension of Scottish Hate Crime Legislation.</p> <p>The Bill seeks to consolidate, modernise and extend existing hate crime legislation by:</p> <ul style="list-style-type: none"><li>• adding age as a new characteristic;</li><li>• the conferral of an enabling power to include the additional characteristic of sex through regulations at a later date;</li><li>• updating the definition of transgender identity, including removing the term 'intersexuality' and creating a separate category for variations in sex characteristics;</li><li>• providing new stirring up hatred offences that will apply to all characteristics in the Bill (currently these offences only relate to race);</li><li>• abolish the common law offence of blasphemy</li></ul> <p>The Bill is expected to have a direct and positive impact on children and young people in Scotland for a number of reasons:</p> <ul style="list-style-type: none"><li>• The Bill includes a new statutory aggravation for age and a new stirring up hatred offences based on age. This will provide protection for children and young people who may be victims of age related hate crime by making it clear that this type of prejudice is unacceptable and will not be tolerated.</li><li>• The Bill also introduces new stirring up hatred offences based on religion, disability, sexual orientation, transgender identity and variations in sex characteristics (currently this only exists for race) and will therefore provide increased protection for children and young people who may be victims of such offences.</li></ul> <p>Hate crime can cause serious harm to children and young people both physically, mentally and emotionally and also result in social isolation and disconnected from their peers. The Bill sends a message that hate crime is unacceptable and will not be tolerated by society</p>

The Bill contributes directly to three of the Section 96(2) of Children and Young People (Scotland) Act (SHANARRI) wellbeing indicators:

- Safe;
- Healthy;
- Included

The Bill contributes to the fulfilment of seven articles of the UNCRC:

- Article 2 (Non-discrimination),
- Article 4 (Protection of rights),
- Article 12 (Respect for the views of the child),
- Article 14 (Freedom of thought, conscience and religion),
- Article 19 (Protection from all forms of violence),
- Article 23 (Children with disabilities),
- Article 30 (Children of minorities/indigenous groups)

It will also contribute to implementing some of the recommendations given to the UK in the UN's Committee on the Rights of the Child in their Concluding Observations (2016). In total, this Bill is acting in accordance to four recommendations.

- Consider amending equality legislation to protect all children under 18 from discrimination on the grounds of their age.
- Raise awareness and strengthen preventive activities to protect vulnerable groups of children from discrimination and stigmatisation.
- Ensure that the best interests of the child is adequately integrated into all legislative, administrative and judicial proceedings and decisions as well as policies and programmes.
- Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services.

The impact assessment has therefore identified that these legislative measures will have a significantly positive impact on furthering child rights and wellbeing in Scotland.

Following the Scottish Government consultation, the Scottish Government does not anticipate that the Bill will leave children open to any legal disadvantage or increase of police charges or prosecution. The Bill's inclusion of age as a characteristic has the potential to counter-act aged based

	<p>prejudice while also addressing wider societal issues surrounding the negative portrayals of children and young people by the media.</p>
<p><b>Background</b></p>	<p>In September 2016, a review by the <i>Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion</i><sup>34</sup> was published which recommended that:</p> <ul style="list-style-type: none"> <li>• the Scottish Government should consider whether the existing criminal law provides sufficient protections for those who may be at risk of hate crime,</li> <li>• the Scottish Government should lead discussion on the development of clearer terminology and definitions around hate crime, prejudice and community cohesion</li> </ul> <p>This led to the appointment of Lord Bracadale, in January 2017, to conduct an <i>Independent Review of Hate Crime Legislation in Scotland</i><sup>35</sup>. The remit for Lord Bracadale’s review was to consider whether existing hate crime law represents the most effective approach for the justice system to deal with criminal conduct motivated by hatred, malice, ill-will or prejudice. Lord Bracadale was asked by the Scottish Ministers to consider:</p> <ul style="list-style-type: none"> <li>• the current law and consider how well it deals with hate crime behaviour,</li> <li>• whether new statutory aggravations should be created for example in relation to age and gender,</li> <li>• whether the religious statutory aggravation is fit for purpose or should be expanded,</li> <li>• whether we should make hate crime laws simpler by bringing them all together in one place,</li> <li>• any issues or gaps in the framework for hate crime laws and to make sure that hate crime laws are compatible with laws that protect human rights and equality</li> </ul> <p>Lord Bracadale published his <i>Independent Review of Hate Crime Legislation in Scotland</i><sup>36</sup> on 31 May 2018. In response, the Scottish Government, accepted his recommendation to consolidate all Scottish hate crime legislation into one new hate crime statute and committed to consult on the detail of what will be included in the new Hate Crime Bill.</p>
<p><b>Scope of the CRWIA,</b></p>	<p>Although the Bill applies across Scotland, it specifically creates criminal offences and statutory aggravations which</p>

<sup>34</sup> <https://www.gov.scot/publications/report-independent-advisory-group-hate-crime-prejudice-community-cohesion/>

<sup>35</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/>

<sup>36</sup> <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/>

<p><b>identifying the children and young people affected by the policy, and summarising the evidence base</b></p>	<p>give protection to those persons with characteristics relating to age, disability, race, religion, sexual orientation, transgender identity and variations in sex characteristics.</p> <p>The Bill will provide specific protection to victims of hate crime, including children and young people, who have one or more of the following characteristics:</p> <ul style="list-style-type: none"> <li>• age,</li> <li>• disability,</li> <li>• race,</li> <li>• religion,</li> <li>• sexual orientation,</li> <li>• transgender identity</li> <li>• variations in sex characteristics.</li> </ul> <p>The evidence base used to develop the assessment included Scottish Government publications, <i>Scottish Crime and Justice Survey 2017-18</i><sup>37</sup>, and the, <i>Scottish Household Survey 2018</i><sup>38</sup>, along with wider sources such as the <i>Girls' Attitudes Survey 2019</i><sup>39</sup>.</p> <p>The Scottish Government consultation, <i>One Scotland: Hate Has No Home Here</i><sup>40</sup>, considered Lord Bracadale's recommendations to inform what should be included in the Bill. As part of the consultation process the Scottish Government also ran twelve public awareness events throughout Scotland. Many of these were attended by young people either with a general interest in hate crime legislation or as representatives of young people's organisations.</p> <p>Furthermore the Scottish Government contracted independent external analysts who undertook the analysis of the consultation responses and produced a report, <i>Consultation on amending Scottish hate crime legislation: analysis of responses</i><sup>41</sup>, published by the SG in June 2019.</p>
<p><b>Children and young people's</b></p>	<p>The consultation, <i>One Scotland: Hate Has No Home Here</i><sup>42</sup>, ran from 14 November 2018 to 24 February 2019. This sought views on the above recommendations and what</p>

<sup>37</sup> <https://www.gov.scot/publications/scottish-crime-justice-survey-2017-18-main-findings/pages/2/>

<sup>38</sup> <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/pages/1/>

<sup>39</sup> <https://www.girlguiding.org.uk/globalassets/docs-and-resources/research-and-campaigns/girls-attitudes-survey-2019.pdf>

<sup>40</sup> <https://www.gov.scot/publications/one-scotland-hate-home-here-consultation-hate-crime-amending-current-scottish-hate-crime-legislation/pages/2/>

<sup>41</sup> <https://www.gov.scot/publications/consultation-amending-scottish-hate-crime-legislation-analysis-responses/pages/1/>

<sup>42</sup> <https://www.gov.scot/publications/one-scotland-hate-home-here-consultation-hate-crime-amending-current-scottish-hate-crime-legislation/pages/2/>

<p><b>views and experiences</b></p>	<p>should be included in the new Hate Crime Bill. There were 1,159 written responses submitted in total with approximately 91% (1,051) of these from members of the public and the remainder by organisations (108).</p> <p>Responses to the consultation and attendance at the associated roadshow events revealed a wide range of informative information regarding young people’s views on hate crime legislation.</p> <p>Through the consultation exercise, and other engagement events, the Scottish Government communicated directly with key stakeholders including YouthLink Scotland, Police Scotland and LGBT Youth Scotland.</p> <p>Additionally, the Scottish Government also provided a grant to YouthLink Scotland for hosting their own consultation events. They, in turn, gathered the views of other children and young people’s organisations on what should be included in the Bill. In doing so they met with the Edinburgh Interfaith Association, Hope for Autism, LGBT Youth Scotland and the Youth Community Support Agency (YCSA). YouthLink Scotland then used these engagement sessions to inform their own response to the consultation.</p>
<p><b>Key Findings, including an assessment of the impact on children’s rights, and how the measure will contribute to children’s wellbeing</b></p>	<p>The Bill will have a positive impact on enhancing Children’s Rights in Scotland, and in ensuring the wellbeing of Scottish children.</p> <p><b>1) UNCRC Articles</b></p> <p>Hate crime can be physical and/or psychological violence and abuse. The Bill will provide protection for children and young people at risk from criminal offences rooted in prejudice. Hate crime is one of the most damaging forms of intolerance and any child or young person targeted as result of their age, race, religion, disability, sexual orientation, variations in sex characteristics or transgender identity is a victim of prejudice. The Bill will contribute to furthering the implementation of UNCRC in Scotland by offering greater protection to children at risk from discrimination in relation to these characteristics.</p> <p>The Scottish Government sought the views of children and young people to inform the development of the Bill through grant funding YouthLink Scotland to host consultation events with children and young people. These exercises helped inform on what should be included in the Bill and contributed towards the delivery of Scotland’s commitment to respecting the views of the child in all aspects.</p>

	<p>The Bill sends a message that hate crime is unacceptable and will not be tolerated by society. It aims to:</p> <ul style="list-style-type: none"> <li>• reassure children and young people of their right to practise their religion publically and without fear of doing so</li> <li>• make clear that offences motivated by prejudice in relation to disability is unacceptable and will not be tolerated</li> <li>• send a message that race related hate crime is unacceptable and will not be tolerated</li> </ul> <p><b>2) UNCRC Concluding Observations 2016</b></p> <p>The 2016 Concluding Observations sets out the recommendations made by the UN Committee on the Rights of the Child to the UK Government, setting out what it needs to do to comply with, and better progress, the implementation of the UNCRC.</p> <p>This Bill contributes to taking forward the following recommendations:</p> <p><b>General principles</b></p> <p><b>Non-discrimination:</b></p> <ul style="list-style-type: none"> <li>• Raise awareness and strengthen preventive activities to protect vulnerable groups of children from discrimination and stigmatisation.</li> </ul> <p><b>Best interests of the child:</b></p> <ul style="list-style-type: none"> <li>• Ensure that the best interests of the child is adequately integrated into all legislative, administrative and judicial proceedings and decisions as well as policies and programmes.</li> </ul> <p><b>Respect the views of the child:</b></p> <ul style="list-style-type: none"> <li>• Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services.</li> </ul> <p>Lastly, the Bill also contributes to the furthering of child wellbeing in Scotland in reference to the eight child wellbeing indicators. The Bill will directly impact on the indicators of: Safe, Healthy and Included.</p>
<b>Monitoring and review</b>	Given the nature of this Bill it will be appropriate for a review of this assessment during the course of the Bill process and

	beyond as the Scottish Government continues to engage with key stakeholders.
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Bill - Clause	Aims of measure	Likely to impact on . ..	Compliance with UNCRC requirements	Contribution to local duties to safeguard, support and promote child wellbeing
Consolidation and modernisation of legislative framework for hate crime law	Consolidate, modernise and extends Scottish Hate Crime legislation.	Positively on those agreed under 18.	Article 2 (Non-discrimination): Article 4 (Protection of rights): Article 12 (Respect for the views of the child): Article 14 (Freedom of thought, conscience and religion): Article 19 (Protection from all forms of violence): Article 23 (Children with disabilities): Article 30 (Children of minorities/indigenous groups):	Safe Healthy Included
Stirring Up Offences for all characteristics.	Providing new stirring up hatred offences for all characteristics in the Bill (including age).	Positively on those agreed under 18.	Article 2 (Non-discrimination): Article 4 (Protection of rights): Article 12 (Respect for the views of the child): Article 14 (Freedom of thought, conscience and religion): Article 19 (Protection from all forms of violence): Article 23 (Children with disabilities): Article 30 (Children of	Safe Healthy Included

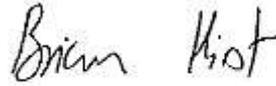
			minorities/indigenous groups):	
New aggravations for crime motivated on grounds of age	An offence is aggravated if the offender evinces malice and ill-will towards a victim based on their age	Positively on those agreed under 18.	Article 2 (Non-discrimination): Article 4 (Protection of rights): Article 12 (Respect for the views of the child): Article 14 (Freedom of thought, conscience and religion): Article 19 (Protection from all forms of violence): Article 23 (Children with disabilities): Article 30 (Children of minorities/indigenous groups):	Safe Healthy Included
Abolish blasphemy	To abolish the common law offence of blasphemy.	No-one: last prosecution over 175 years ago.		

## CRWIA Declaration

### Authorisation

**Policy lead**

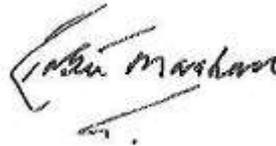
Brian Hirst  
Hate Crime Bill Policy Support Officer  
Connected Communities Division



Date 04 March 2020

**Deputy Director or equivalent**

Robert Marshall  
Deputy Director  
Connected Communities Division



Date 04 March 2020



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