



Law Society
of Scotland

Consultation Response



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

The Society's Criminal Law Committee welcomes the opportunity to consider and respond to the Scottish Government consultation: Independent Review of Hate Crime Legislation in Scotland.

The Committee has the following comments to put forward for consideration.

Chapter 1

Question: Do you consider that the working definition, discussed in this chapter, adequately covers what should be regarded as hate crime by the law of Scotland? Please give reasons for your answer.

We agree that the working definition discussed in chapter one does adequately cover what should be regarded as hate crime in Scotland. The working definition correctly identifies the features of what can be described as a hate crime.

The working definition is written in plain English making accessible to the public and not just the legal fraternity. This is essential in raising public awareness of the nature and range of offences covered and to be covered by the term hate crime. This is especially pertinent given that, as noted, 'many perpetrators would not necessarily think themselves capable of committing a 'hate crime''.

Question: How can we prevent tensions and misunderstandings arising over differences in what is perceived by victims, and others, to be hate crime, and what can be proved as hate crime? Please give your reasons for your answer.

The issue between the terminologies of hate crime in contrast to hate incident seems to be mainly about evidence. Once a hate incident is reported to the police, it will be recorded as exactly that. At that stage, no assessment of the seriousness of the incident is done. The hate incident can then take different routes within and through the criminal justice system.

Following investigation, the hate incident may be reported for consideration of criminal prosecution. It is then a matter for the Crown as independent prosecutors to determine if that hate incident should be prosecuted. That will depend on factors such as the incident being a crime known to the law of Scotland and that sufficient evidence exists to justify a prosecution which would be in the public interest.

The Crown must determine the nature of the crime/offence (considering both common law and statutory crimes). The seriousness of the crime will affect how and in which court that crime/incident will be prosecuted i.e. solemn/summary and has a bearing on what the likely penalty or sentence on conviction will be. How and at what point the various criminal justice authorities calculate their statistics (such as on prosecution, disposal, conviction) will affect when the hate incident is referred to as a hate crime. We suspect that the reference to hate crime arises when the decision is taken to prosecute but on occasion, the reference to hate crime may only be used on conviction.

There is a need to clarify and differentiate the terminology around hate crime and hate incident in order that it is clear to what they refer. This will help to dispel existing confusion which arises when statistics are quoted in publications such as the Monthly Safer Communities and Justice Brief October 2017, under the heading of Hate Crime. That refers to *'increases in charges reported to COPFS in relation to sexual orientation, religion and under the Offensive Behaviour at Football Act'*, *'charges in relation to race and disability hate crime both fell'* and to the number of *'racist incidents recorded by the police'*. It concludes with *'An incident can include a number of crimes or may not have any criminal element to it'*.

In order to ascertain the extent of the issues arising from hate incidents and hate crimes, especially when quoting statistics, it is important for all criminal justice partners to have a common understanding of what the terms mean and how the figures are collated.

We note that the term 'hate incident' follows the type of classification used in The Stephen Lawrence Inquiry Report of an Inquiry by Sir William Macpherson - February 1999¹. It refers to *'a racist incident [as] any incident which is perceived to be racist by the victim or any other.'* We would suggest that a hate incident should be understood to refer to any incident which is alleged to have been motivated through hate by the victim or any other. The term hate incident should refer to all such incidents reported to the police for investigation. All hate incidents must be recorded and investigated with equal rigour. That would ensure, as above, that meaningful statistics on frequency and occurrence can be collated.

¹ (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf)

A number of hate incidents may not be prosecuted for a variety of reasons such as lack of corroboration or identification. The fact that a hate incident is not prosecuted does not mean that it is necessarily less serious. A record of the hate incident should of course be maintained as there may well be evidential reasons why it might be relevant in the future. The Moorov doctrine on mutual corroboration may operate in the future where there has been a course of conduct relating to hate incidents where individual incidents themselves were not able to be prosecuted.

We would therefore support the continuing use of the two terms, hate incident and hate crime.

There are responsibilities on the various criminal justice partners such as Police Scotland and Crown Office to ensure that the public are aware of the importance and status of 'hate incidents' within the criminal justice system. There is an important message that the public should not associate any failure to prosecute or indeed failure to obtain a conviction as amounting to a hate incident not being regarded as serious.

Question: Should we have specific hate crime legislation? Please give reasons for your answer.

We do support the development of specific hate crime legislation. We accept that strong evidence exists that hate crimes are more likely to cause harm both to the victim and to members of the group to which the victim belongs. A clear message must be sent out to the public that such crimes are not tolerated by right minded individuals and society. Ensuring that Scotland is a fair and just society as the Scottish Government has outlined in its Justice in Scotland: Vision and Priorities² requires that the Scottish criminal justice system works effectively for all. That means that,

'Victims of crime are confident that the criminal justice system will act fairly, effectively and will help to reduce the risk of further victimisation'.

Specific hate crime legislation would assist in achieving that aim as far as victims are concerned. Our conclusion that specific hate legislation is required is reinforced when hate crime is viewed from a human rights perspective; the implications of which for Scotland are set out fully in chapter two of the consultation.

Chapter 4

Question: Do you believe there is a need to bring all the statutory sentencing provisions, and other hate crime offences, together in a single piece of legislation?

² (<http://www.gov.scot/Publications/2017/07/9526/2>)

Please give your reasons for your answer.

We consider that it would be appropriate to bring together all the relevant common law and statutory provisions in a single piece of legislation. As is recognised in the consultation, there are a number of crimes and offences that fall in to the category of what might be broadly referred to as hate crime. We would suggest that there are overlaps in the interaction between the various offences and crimes. There are potential gaps where offending behaviour should be considered as criminal but there may not be a relevant offence. . We would suggest that the law has developed in a piecemeal fashion that causes confusion and uncertainty.

Legislation needs to be clear. The Sexual Offences (Scotland) Act 2009 provides a good example. In effectively codifying the various common law crimes and offences, it defines / provides guidance on offences relating to sexual conduct in one statute. That greatly simplifies matters for all involved from the police to the lawyers, defending or prosecuting. It also allows for crimes and offences to be redefined from a modern 21st century perspective.

Clearly legislating for hate crimes will have two advantages. Drafting the legislation, will allow a focus on what factors should be considered as important from a prosecution or sentencing perspective. It would also allow the question of sentencing for hate crimes to be considered anew. In that capacity, we note that the Scottish Sentencing Council is working on producing sentencing guidelines. Any sentencing guidelines in respect of hate crime may be some time off. In the meantime, clarity around the hate crimes would help to promote consistency of sentencing which would lead to fewer appeals. Importantly, that would also assist in the management of the public's expectations of what might be realistic sentencing for hate crime. Of course, guidance as to likely sentences will inform those advising any one accused of a hate crime.

Question: Do you consider that the current Scottish thresholds are appropriate? Please give your reasons for your answer. Should “evincing malice and ill-will” be replaced by a more accessible form of words? If so, please give examples of what might be appropriate.

We note that there is reference to two thresholds. The first threshold seems easier to prove evidentially even where it is contested. The evidence of the accused's words and actions will allow the court to infer that is what the accused did. The question of motivation in the second threshold is harder to establish.

We are not necessarily persuaded as to the need for a more exacting test.

We recognise that the phrase ' *having evinced malice and ill-will* ' is a term recognisable to lawyers, but it is not what might be referred to as plain English. We recognise that there is a need to update such language

to put it into terms that may be readily understood by the public and not what might be described as legal jargon.

We note with interest the various comparative examples. We do consider that the accused '*demonstrated hostility towards the victim*' might be an acceptable alternative form of wording. However, we do note that 'hostility' may be defined as 'unfriendliness' or 'opposition'. Though both these terms form part of what is often understood by 'hostility', the standards of demonstrating unfriendliness or opposition seem not as exacting as the current phrase requires. Any replacement to '*having evinced malice and ill-will*' must reflect the policy intention, be it to reduce the standard or replicate the same test in modern wording. There should not be a reduction on the standard unless specifically intended.

Question: Should an aggravation apply where an offence is motivated by malice and ill-will towards a political entity (e.g. foreign country, overseas movement) which the victim is perceived to be associated with by virtue of their racial or religious group? Please give your reasons for your answer.

We would not offer comment other than to indicate our concerns about the uncertainty on what might be deemed to be 'political'. Political entities change from time to time. Introduction of the political concept may well widen the scope of hate crime too far. Even in the examples provided in the consultation paper, the offending behaviour is likely to be included within the working definition of hate crime.

Question: Should an aggravation apply where an offence is motivated by malice and ill-will towards religious or other beliefs that are held by an individual rather than a wider group? Please give your reasons for your answer.

We note that the reference to the murder of the shopkeeper in Glasgow. It was not technically a crime which could be included as a hate crime on the offender's criminal record or included in the hate crime statistics as a result of the current legislation. That may mean that the overall picture of hate offending may not be clear. That echoes our response to the question on Chapter 1 Page 9 on distinguishing between hate incidents and hate crimes and the need for clarification of terminology as it does seem hard to explain to the public why such a crime would not be included as a hate crime.

Certainly as the review and subsequent legislation proceeds, it would seem that these types of abhorrent crime should be included within the definition of a hate crime. From the public safety aspect, the judge was able to sentence appropriately notwithstanding which is the primary concern.

We would therefore support Dr Glover's view that offences motivated by intolerance of the expression of an individual's beliefs, as well as malice and ill-will based on membership of a religious group should be included as criminal for the purposes of prosecution.

We are not sure exactly to what the term 'other beliefs' refer. We anticipate that the term "*religious or other beliefs*" is intended as comparable to the language expressed in the section 10 of the Equality Act 2010 where existing case law under the Equality Act establishes that religion or belief can mean any religion with a structure and belief system. The 2010 Act also usefully covers non-belief or a lack of religion or belief and confirms that a philosophical belief must be genuinely held and more than an opinion- it must be cogent. It also importantly establishes that a belief must also be worthy of respect in a democratic society and not affect other people's fundamental rights.

We would welcome consistency of language across areas of equality protection whether civil or criminal in nature.

Question: Do you have any views about the appropriate way to refer to transgender identity and/or intersex in the law?

In the context of this consultation we would defer to the evidence provided by the relevant groups

Question: Does the current legislation operate effectively where conduct involves malice and ill-will based on more than one protected characteristic? Please give your reasons for your answer

The crucial point is that the offending behaviour can be charged as arising from one or more statutory aggravations. Where there may be more than one protected characteristic involved, we recognise that the complaint/indictment, as appropriate, may become more complicated if these all need to be libelled. However, if only one protected characteristic is favoured, there may well be problems. The criminal statistics on the incidence of crimes involving malice or ill-will based on more than one protected characteristic may become distorted. Furthermore, it is possible that malice or ill-will involving one of the protected characteristic may not prove. Any charges which the accused faces should be libelled correctly to ensure that he has fair notice of the allegation against him and what the Crown require to prove.

There is also a debate whether any aggravation requires to be proved by corroborated evidence or otherwise.

As far as current hate crimes are concerned, sentencing does take into account the facts and circumstances of the crimes which allows the judge to sentence reflecting all such aggravations.

Question: Should the aggravation consistently be recorded? Please give your reasons for your answer. Is it necessary to have a rule that the sentencing judge states the difference between what the sentence is and what it would have been but for the aggravation? Please give your reasons for your answer.

There should be consistency in recording the aggravations. We would refer to our answer in response on the recording of hate incidents and hate crimes at Chapter 1 Page 9. It is essential that there are accurate statistics recorded to understand the extent of the criminal behaviour amounting to hate crime. That is the only way to monitor both the number of incidents and the responses from the various criminal justice partners.

We are not convinced about the need to state the difference between what the sentence would have been, had it not been for the aggravation. Sentencing is not a mathematical exercise and the judges must have the discretion to sentence appropriately in each case. The sentencing landscape is complicated already by the need for judges to consider and reflect on the sentence. They need to consider any discounting of sentence where early pleas have been tendered in allocating credit and recognising the utilitarian value of the plea to the court. That has already resulted in a number of appeal decisions to clarify just how such provisions should work and the factors that should be taken into account. We consider that the introduction of a rule suggested above would result in an increase in appeals.

This suggestion also seems to encroach into the territory of the Scottish Sentencing Council. There may be scope for sentencing guidelines to be developed as to the rules which a judge should apply in the future.

As far as present sentencing is concerned, there seems to be no immediate cause for concern, as recognised in Lady Rae's case of the Glasgow shopkeeper. The judges have discretion to sentence on the various offences/ crimes including aggravations as found proved taking into account of all the relevant factors.

Chapter 5

Question: Is this provision necessary? Please give reasons for your answer. Should the concept of a standalone charge be extended to other groups? If so, which groups? Please give reasons for your answer.

The offence created by section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 (racially-aggravated harassment and conduct) does not appear to be necessary. Our feeling is that for the purposes of prosecution this may not be the offence of choice because of the perception that it is harder to prove. Proceeding with other offences coupled with a section 96 aggravation may serve the prosecution better. Any sentence that would be imposed on conviction, irrespective of the choice of charge, would in any event be broadly similar. Section 50A also represents one example of the piecemeal development of the law in this area which would benefit from consolidation as referred to above.

There is no need then for a standalone charge to be extended to other groups.

There is still in our view a question whether an aggravation needs to be established by corroboration.

In *The Scottish Criminal Cases Review Commission in the case of Mark Chamberlain-Davidson* [2012] HCJAC 122), the Commission referred the case of Mark Chamberlain-Davidson to the High Court on various grounds. It did refuse to refer the question whether a fact labelled by way of aggravation of a charge required to be proved by corroborated evidence.

At a hearing to determine whether the appellant should be allowed to argue grounds additional to those grounds on which the Commission referred his case, the court stated that he

'should be allowed to advance the submission that if the law is settled to the effect described by the Commission, this court should reconsider it and should hold that the element of intent to rape in a case of this kind should have to be proved by corroborated evidence'.

At the (full) appeal hearing the court quashed the appellant's conviction on other grounds, and did not address the additional grounds. (*Chamberlain –Davidson v HMA* 2013 SCCR 295)

Sir Gerald Gordon, in his commentary on the case, stated: *'It is a pity that the court avoided having to deal with the question of whether aggravations need to be corroborated', particularly in light of the... [aforementioned] excerpt from the opinion of the court (the Lord Justice General (Gill), Lord Menzies and Lord Philip)'.*

This review provides an opportunity for hate crime legislation to resolve that issue.

Chapter 6

Question: Should there be offences relating to the stirring up of hatred against groups? If so, which groups? Please give your reasons for your answer.

We would question whether there is a need for such specific offences to be developed given that the existing legislation adequately allows such behaviour to be prosecuted.

Question: If there are to be offences dealing with the stirring up of hatred against groups, do you consider that there needs to be any specific provision protecting freedom of expression? Please give your reasons for your answer.

If there are to be such specific offences, there must be provisions equivalent to section 7 of the 2012 Act. Any legislation must also be compliant with Article 10 (freedom of expression).

Question: Does the current law deal effectively with online hate? Please give reasons for your answer. Are there specific forms of online activity which should be criminal but are not covered by the existing law? Please give reasons for your answer. Should this be tackled through prosecution of individuals or regulation of social media companies or a combination of the two? Please give reasons for your answer.

The current law does seem to capture online hate crime which can be prosecuted. We note that reflects the views of both sheriffs and prosecutors. How to determine whether it does effectively is different. We have no perception that online activity is not taken seriously. Certainly we would consider that the speed and anonymity of the internet increases the potential for such crimes to arise. That gives rise to resource implications for the police from the volume of such crimes.

There may be scope for the Crown to take a more robust line in relation to offences falling within Category 4 of their Guidance referred to in the consultation.

We note that there have been various attempts by means of private member bills to try to have the social media companies take action in relation to taking down online offensive content. (Anna Turley MP's Malicious Communications (Social Media) Bill in 2016-17 session of Parliament; Liz Saville Roberts MP's Criminal Offences (Misuse of Digital Technologies and Services) (Consolidation) Bill in 2015-16 session (which would have extended to England, Wales and Northern Ireland only). Questions regarding social media providers may well go beyond the scope of this consultation.

However the issue of social media is dealt with, there is a need to ensure that any legislation is sufficiently wide to cover future advances in technology that allow for transmission of online hate.

Chapter 7

Question: How clear is the 2012 Act about what actions might constitute a criminal offence in the context of a regulated football match? Should sectarian singing and speech, and the waving of banners and making gestures of a sectarian nature at a football match be the subject of the criminal law at all? If so, what kind of behaviour should be criminalised? Does equivalent behaviour exist in a non-football context? If so, should it be subject to the same criminal law provisions? Please give reasons for your answer.

We note that there is currently a private members bill before the Scottish Parliament seeking the repeal of the 2012 Act. The 2012 Act has been subject to a number of criticisms. The policy intent behind the 2012 Act was laudable in its attempts to address the issue of offensive behaviour at football matches and threatening communications. It sought to extend the criminal law – and the decision to legislate is a matter

for the Scottish Parliament. There may well be confusion over the offending behaviour that gives rise to crimes prosecuted under the 2012 as compared to crime prosecuted under other legislation. That has given rise to a number of appeals:

MacDonald v Cairns [2013] HCJAC 73 where the High Court noted that *'in enacting s1(1) the Parliament created a criminal offence with an extremely long reach'* and

Martin Walsh v Procurator Fiscal Edinburgh [2015] HCJAC 35 which upheld the singing of 'the Roll of Honour'

A number of offences have been prosecuted under the 2012 Act but when sectarian singing and speech should be made criminal is hard to determine.

There is some suggestion that such behaviour has taken place in non-football context such as parades. Why such behaviour should only be able to be prosecuted if it arises in the context of a 'regulated' football match and not elsewhere seems inconsistent in law.

Question: Is it beneficial to be able to prosecute in Scotland people who usually live in Scotland for offences committed at football matches in other countries? Please give reasons for your answer. Should a similar provision apply to non-football related hate crime? Please give reasons for your answer.

We have no information regarding the application of section 10(1) in respect of how often it has been applied, whether it has been applied in relation to individuals who have travelled further than Berwick and any problems with its applications.

We do have concerns about attempting to extend the Scottish court jurisdiction to prosecute behaviour outside of Scotland albeit in the context of football matches. We favour the view that the question of prosecution should be a matter for the country in question. It would be their decision to prosecute rather than import the standards from Scotland. If there were attempts to extend this type of legislation to other categories, we suspect that there would be resourcing issues for the police to manage such cases. There may well be implications too for the legal profession to cover those accused requiring legal advice outside Scotland. We also consider that there may well be problems in gathering the necessary evidence such as corroboration and identification.

In considering any precedent for prosecution of persons for behaviour committed outside Scotland, we are aware of the provisions of Section 54 Sexual Offences (Scotland) Act 2009 (incitement to commit certain sexual acts outside the United Kingdom) where there may be a parallel. These are measures to combat offenders who travel abroad to commit sexual abuse where their behaviour would constitute a crime if it arose in Scotland. However though the conduct covered by the 2012 Act is serious and offensive, it may not be considered as serious as sexual offending and those involved in the commission of such crimes travelling abroad in search of victims.

Question: Is it appropriate to have a requirement that behaviour is or would be likely to incite public disorder in order for it to amount to a criminal offence? Please give reasons for your answer.

The decision in the case of *MacDonald v Cairns* [2013] HCJAC 73 interprets section 1 (1) (b) of the 2012 Act. Should the terms of section 1(1) (b) (ii) of the 2012 Act be strictly construed when read with section 1(5)?

Criminal behaviour must be behaviour that would be more likely to incite public disorder where public disorder would be likely to occur but for measures in place to prevent it. That was in contrast to the sheriff's view that a public order offence could apply in circumstances in which there was no real likelihood of anyone being caused upset or fear or alarm.

Question: Is there any conduct currently subject to prosecution under section 1 of the 2012 Act which would not be covered by pre-existing common law or legislation? Please give reasons for your answer.

The offence created under section 1 of the 2012 Act may be committed extra-territorially. The Crown Office has expressed the view that it is easier to prosecute for singing certain songs within a football stadium under section 1 rather than under the common law of breach of the peace.

Question: Should a football club be able to apply to the court for a football banning order? Please give reasons for your answer.

We have no views to express on whether a football club can apply for a football order. What must be in place are appropriate safeguards where the application for such an order is opposed.

Chapter 8

Question: Do you consider any change to existing criminal law is required to ensure that there is clarity about when bullying behaviour based on prejudice becomes a hate crime? If so, what would you suggest?

We note that this question may well fall into scope of the type of behaviour that is proposed to be covered by the Domestic Abuse (Scotland) Bill that is currently proceeding through Stage 2.

Question: Do you think that specific legislation should be created to deal with offences involving malice or ill-will based on:

- **age**
- **gender**
- **immigration status**
- **socioeconomic status**
- **membership of gypsy/traveller community**
- **other groups (please specify).**

For each group in respect of which you consider specific legislation is necessary, please indicate why and what you think the legislation should cover.

A number of general issues arise in respect of this question.

If legislation is specifically drafted to deal with any or all of these groups, this may cause confusion as well as overlap with existing legislation where there are crimes that specifically target a number of the 'protected characteristics' as defined in the Equality Act 2010 such as race. There could be an argument that legislation should specifically deal with the groups comprising the remaining 'protected characteristics' such as marriage and civil partnership or pregnancy and maternity where there are no specific offences against such groups.

For specific legislation to encompass all or any of these groups, there would need to be evidence to show that the group was specifically targeted and existing legislation was not able to cover specific incidents. There may be again concerns that the legislation could be very specific which would not allow prosecutions more generally where hate can be established.

In relation to:

Age: Crimes such as bogus workman type fraud already target the elderly where sentences reflect society's disgust at such crimes being committed on vulnerable people. Should such a crime be categorised as a hate crime because the elderly are involved or a theft involving the elderly? It may be possible to suggest that offending against the elderly is motivated by their perceived vulnerability rather than any hatred or animosity towards them. A similar point can be made with regard to crimes that are committed against children or young persons.

Gender: There have been some recent examples of messages targeting females as a result of their gender. This would cover the responses to the recent publicity around sexual harassment involving MPs and MSPs as well as the cases of Caroline Criado- Perez (where messages were retweeted threatening to sexually assault the MP after she backed Jane Austen banknote campaign) and Stella Creasy (death threat from anti-abortion activist telling her 'hopefully she will die like Jo Cox'). There should be no room for such threats to be made on social media. There may well be evidence that such comments would not have been made if they had been male. That might well justify the inclusion of gender as a specific category.

Immigrant status: We note the decision referred to in *R v Rogers*. There may well be crimes committed generally against them as a group.

Socioeconomic status: This may be a hard group to define.

Membership of gypsy/traveller community: We have no observation to make.

Other groups: There would be little support to include paedophiles as a group against whom specific malice or ill-will may be displayed.

Chapter 9

Question: Do you have any views as to how levels of under-reporting might be improved? Please give reasons for your answer. Do you consider that in certain circumstances press reporting of the identity of the complainant in a hate crime should not be permitted? If so, in what circumstances should restriction be permissible?

We refer to our earlier answer in respect of reporting of hate crime and hate incidents. It is essential that the categorisation of such incidents and crime by all criminal justice partners accurately reflect the incidence of such crimes.

We have already referred to the police and the Crown ensuring that those reporting and involved in the criminal prosecution of such hate crimes are supported, even where their incident cannot be prosecuted or where their incident does not result in a conviction. There must be clear channels for effective communication so that they can understand how the justice system works. They must not be discouraged from making a complaint in the future.

Where complainers are involved in the criminal justice system, we do fully support the use of special measures and the work being carried out in relation to recent consultation on Pre-Recording Evidence of Child and Other Vulnerable Witnesses to support how their evidence might be given in the future.

Question: Do you consider that a third party reporting scheme is valuable in encouraging the reporting of hate crime? If so, how might the current scheme be improved?

We have no specific information on how a third party reporting scheme is operating. It is vital that there should be support for a person(s) experiencing hate crime to make a complaint and be involved within the criminal justice system, however that can be achieved.

Question: Are diversion and restorative justice useful parts of the criminal justice process in dealing with hate crime? Please give reasons for your answer. Should such schemes be placed on a statutory footing? Please give reasons for your answer

All manner of disposals should be available to deal with hate incidents and hate crimes. We would stress the importance of educating those who have committed such offences in promoting an understanding of why their behaviour is criminal, however that can best be achieved. Much of the behaviour can be the result of longstanding family beliefs as a number of those who have committed sectarian or religious crimes come from families where other members have previously been convicted for similar offences.

Schemes such as the project at Kilmarnock which was set in Polmont Young Offenders Institution examined the issues and feelings around religion and sectarianism and produced a play encouraging young men to think about the consequences and causes of hate crime in history and the present day³.

³ (http://www.heraldscotland.com/news/13113363.Drama_by_young_men_at_risk_of_offending/)



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