



CAPABILITY SCOTLAND

TURNING DISABILITY INTO ABILITY

Response to Consultation on Supporting Police: Protecting Communities

Capability Scotland is Scotland's leading disability organisation working for a just Scotland. We work with children, adults and families living with a disability to support them in their everyday lives. We also aim to influence policy, legislation, practice and attitudes.

Capability Scotland was a member of the Hate Crime Working Group set up by the Scottish Executive in June 2003 to consider the most appropriate measures needed to combat crime based on hatred towards social groups. At the same time, Capability Scotland and the Disability Rights Commission (DRC) also collaborated to research the issue of hate crimes against disabled people. The resulting research has been used to facilitate and enlighten the hate crimes debate in Scotland, and to inform Capability Scotland's response to a range of consultations. Our research has also been commended by ACPOS as a useful document for police services everywhere.

Our response to this consultation is not concerned with the questions listed at Annex A of the consultation paper. It is solely concerned with the issue of hate crimes and their impact on disabled people.

The working group's remit was "to look at the current criminal justice system and consider improvements, including legislation, which might be made to deal with crimes based on hatred towards social groups". The Group issued its report in autumn 2004 and the Scottish Executive has said it is considering what response to make to its recommendations.

Capability Scotland would hope that the Executive views this bill as a potential suitable vehicle for implementation of those recommendations requiring legislative effect and in particular, recommendations 1) and 2). These are

“Recommendation 1) the Scottish Executive should introduce a statutory aggravation as soon as possible for crimes motivated by malice or ill-will towards an individual based on their sexual orientation, transgender identity or disability. The legislation should be framed in such a way as to allow this protection to be extended to other groups by statutory instrument over time if appropriate evidence emerges that such other groups are subject to a significant level of hate crime. The legislation should ensure the recording of hate-motivated incidents (by the police), and reports and decisions of proceedings (by Crown Office and Procurator Fiscal Service) and convictions (by Scottish Criminal Records Office).

Recommendation 2) Hate-aggravated harassment and alarming and distressing behaviour is a major concern. Consideration should be given to whether a general statutory offence of harassment and alarming or distressing behaviour would be an effective tool to combat such conduct. This would then be applied with a statutory aggravation as described in recommendation 1. If such an offence is not introduced, guidance should be issued to police and prosecutors to ensure the rigorous application of breach of the peace, together with the statutory aggravation, to such offences.”

As the proposed police bill also addresses criminal justice matters, it would be appropriate for these offences to be created by using this legislation either to amend existing law on hate crimes or simply to create new provisions.

For more information on this issue or in relation to this response, please contact
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