**The Police Scotland/Safer Scotland hate posters campaign**

**Background briefing note**

**The hate posters campaign**

On 26 September One Scotland and Police Scotland jointly launched a series of billboard posters in a campaign against ‘hate’. These posters began with large font headings: *Dear BIGOTS, Dear disabalists, Dear homophobes, Dear racists, Dear transphobes*. Whilst the last four of these targeted those attacking people with a particular characteristic (i.e. disabled, gay, racial minorities, and transgender people), the first, Dear BIGOTS (the only one in capital letters) was ambiguous – and could either be read as itself targeting religious people by calling them ‘BIGOTS’ or referring to those who attacked people because of their religion as ‘BIGOTS’. There were two forms of the Dear BIGOTs poster, although only the one on the left is displayed on the Safer Scotland website.[[1]](#footnote-1)



The poster on the left is capable of either interpretation until one reads halfway down the entire text. The poster on the right is capable of either interpretation throughout.

However, both posters conclude with language (‘End of Sermon’) which is likely to be widely understood as referring to Christians – thereby reinforcing negative stereotyping of Christians as ‘Bigots’. Both posters, but particularly the one on the right imply that religious people (whether Christian, Muslim, Jewish etc.) are ‘bigots’ and spread ‘hate’.

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| --- | --- | --- |
| **Title** | **Implied victim**  | **Implied aggressor** |
| *Dear BIGOTS* (longer version) | Those wearing religious dress (Muslim, Sikh, Jewish?) | Members of other groups – but ‘End of sermon’ implies Christians |
| *Dear BIGOTS* (shorter version) | Non religious people | Religious people, with a specific implication of Christians |
| *Dear disabalists* | disabled people | Non disabled people |
| *Dear homophobes* | Lesbian and gay people | Non LGB people |
| *Dear racists* | Members of racial minorities  | Members of other racial groups |
| *Dear transphobes* | transgender people | Non transgender people |

It is clear from the above analysis that the poster campaign implies that Christians are propagators of ‘hate’ and ‘others’ i.e. members of non Christian religions and non religious people are their victims. There is nothing in the posters which would suggest that sectarianism (i.e. Catholic/Protestant) is the focus.

This is particularly serious as the message of these posters is reinforced by the logos of both Police Scotland and Safer Scotland, clearly indicating ‘state sponsorship’ for their messages

**Hate crime laws in Scotland**

Scottish hate crime law relates to hate for people with particular characteristics being an aggravating factor in other criminal offences. Currently the only ‘standalone offence’ is that of stirring up racial hatred. This is distinct from England and Wales where hate speech itself is a criminal offence if it is either intended to incite hatred or likely to stir up hatred. The posters therefore do not constitute an offence under Scottish hate crime laws.

However, the College of Policing’s *Hate Crime Operational Guidance* requires police to record non crime ‘hate incidents’, which are defined as: *Any non-crime incident which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a person’s religion or perceived religion.*[[2]](#footnote-2)The posters may therefore be a ‘hate incident’ and police officers are required to record them as such.

*For recording purposes, the perception of the victim, or any other person (see 1.2.4 Other person), is the defining factor in determining whether an incident is a hate incident, or in recognising the hostility element of a hate crime. The victim does not have to justify or provide evidence of their belief, and police officers or staff should not directly challenge this perception. Evidence of the hostility is not required for an incident or crime to be recorded as a hate crime or hate incident.*

*Crimes and incidents must be correctly recorded if the police are to meet the objective of reducing under-reporting and improve understanding of the nature of hate crime*.[[3]](#footnote-3)

**International human rights law**

The fact that this poster campaign is state sponsored makes it far more serious in relation to international human rights law than normal hate crime. It is therefore potentially in contravention of the International Covenant on Civil and Political Rights (ICCPR) which the UK is a legally bound signatory of. Article 20(2) of the ICCPR specifically prohibits any advocacy that incites hostility on the basis of religion. This formed part of the basis of the formal complaint made by Barnabas Fund to Police Scotland on 5 October 2018.

**Background events**

For a number of years there has been growing concern among Christians in Scotland that action against ‘hate crime’ has been misused by some public authorities, including the police to stop legitimate, peaceful expression of Christian beliefs. The arrest of street preachers is merely one such example. Prior to 1997 there had been no such arrests since Victorian times,[[4]](#footnote-4) they now occur multiple times each year, although normally the charges are either subsequently dropped or the courts dismiss the charges. Some occur because preachers are asked questions by various groups seeking to set them up.[[5]](#footnote-5) Others are arrested because of a ‘hate’ complaint even though they have said nothing obviously offensive.[[6]](#footnote-6) Such misuse of action against hate crime infringes important human rights such as freedom of religion or belief and freedom of speech. However, misuse of hate crime campaigns has been ignored by the various reports and reviews on hate crime which have been commissioned in Scotland in recent years. Where even multiple such concerns have been raised in consultation responses, they have been disregarded. The significant concerns which have been voiced by Christians about the Safer Scotland/Police Scotland poster campaigns need to be viewed in this light.

**October 2015** Independent Advisory Group on Hate Crime established by the Scottish government.

**September 2016** the Independent Advisory Group published a report raising the question of whether Scotland might need new hate laws to protect against ‘gender, age or membership or other groups such as refugees and asylum seekers’. It also called for multi-agency working at national and local level to tackle hate crime. It did not address concerns about misuse of approaches to tackling hate crime which adversely affected freedom of speech and freedom of religion.[[7]](#footnote-7)

**August 2016** The Lord Advocate raised concerns that Tanveer Ahmed who had murdered Glasgow Ahmaddiyya shopkeeper Asad Shah did not meet the statutory threshold to be charged with a religiously aggravated offence. Ahmed has been inspired by Mumtaz Qadri, who murdered Salman Taseer, who was governor of Pakistan’s Punjab province. He did so because Mr Taseer, a liberal Muslim, had called for reform of Pakistan’s blasphemy laws and supported Asia Bibi, a Christian woman falsely accused of blasphemy. Qadri’s execution in February 2016 led to widespread pro blasphemy law demonstrations across Pakistan, some aspects of which spilled over to the UK, including Scotland. The Scottish Justice Secretary stated that the Lord Advocate has ‘raised a very important issue and as a government we are now going to consider that very carefully and if necessary we will bring forward legislation to address this very issue that the Lord Advocate has raised.’ [[8]](#footnote-8)

**January 2017** the Scottish Justice Secretary announced a review of the effectiveness of Scottish hate crime law to be conducted by former Judge Lord Bracdale. That review included:

1. **A comparative review of hate crime law in other countries**. Lord Bracdale’s final report states this legal review made a “huge contribution” to “the final report, providing legal benchmarks for testing recommendations”. However, this comparative review did not include any evaluation of the impact of these laws on human rights such as freedom of religion and freedom of speech. The “benchmark” foreign laws cited include the Australian State of Victoria’s Racial and Religious Tolerance Act 2001. This law came into force a few months after the 9/11 attacks and was widely viewed by Islamists as an Islamic blasphemy law. It was almost immediately used by the Islamic Council of Victoria to target a church seminar on Islam, with the two pastors concerned prosecuted for ‘vilifying’ Islam by quoting passages from the Qur’an. The ensuing case (known internationally as ‘the two Dannys’ case’) dragged on for five years before the Appeal Court quashed their convictions. One of the judges strongly criticised this particular law.[[9]](#footnote-9)
2. **A public consultation** between 31 August and 23 November 2017. The published analysis of the consultation responses repeatedly states that a large number of people tried to raise concerns in the consultation about freedom of religion and freedom of speech. However, these were largely discounted by the inquiry.[[10]](#footnote-10)

**May 2018** **Lord Bracdale published his review** which

* Justified hate crime laws on the grounds of their ‘symbolic function’.
* Recommended (no.15) a new offence of incitement to hatred which would extend to all categories of hate crime (i.e. including religion) where hatred was likely to be stirred up.[[11]](#footnote-11) If implemented this would bring Scottish hate crime law broadly in line with English law and would potentially make the sort claims made by the posters published by Police Scotland/Safer Scotland a crime – though *only* if the intention of such claims was to stir up religious hatred and this could be proved.
* The final report entirely failed to address the damage to human rights, such as freedom of speech and freedom of religion or belief caused by, what has been sometimes mistakenly as, action against hate crime.

**14 November 2018** the Scottish government opened a three month consultation on implementing Lord Bracdale’s recommendations.[[12]](#footnote-12) This includes a new standalone offence of inciting hatred against a person with any protected characteristic where there is either an intention to stir up hatred or a likelihood that it will be stirred up.

**15 November 2018** The Independent Working Group on Sectarianism in Scots Law published its final report which recommended there should be a legal definition of sectarian prejudice in Scots criminal law, but this ‘should be specifically defined as an issue that exists between Christian communities’. This implies that sectarian hatred is solely done by ‘Christians’ – and ignores for example, widespread sectarian violence among different Islamic groups, despite this having been a factor in the 2016 Asad Shah murder in Glasgow.

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1. <https://onescotland.org/campaigns/hate-crime-campaign/> [accessed 26 November 2018]. [↑](#footnote-ref-1)
2. *Hate Crime Operational Guidance* (College of Policing,2014);3. [↑](#footnote-ref-2)
3. *Hate Crime Operational Guidance* (College of Policing,2014):5. [↑](#footnote-ref-3)
4. The first such arrest was Alan and Alison Redmond Bate in Wakefield, The appeal court ruled their arrest was a serious violation of freedom of speech and unlawful <<https://www.theguardian.com/uk/1999/jul/24/johnezard>> [accessed 23 November2018]. [↑](#footnote-ref-4)
5. For example, Gordon Larmour against whom Kilmarnock Sheriff Court dismissed all charges in minutes in January 2017 <https://www.telegraph.co.uk/news/2017/02/05/preacher-locked-hate-crime-quoting-bible-gay-teenager/> [accessed 23 November 2018]. [↑](#footnote-ref-5)
6. For example, it is difficult to see anything offensive said by Rev Josh Josh Williamson, pastor of Craigie Reformed Baptist Church in Perth, before he was arrested in 2014 <https://www.youtube.com/watch?v=QacAwemMamc> [accessed 23 November 2018]. [↑](#footnote-ref-6)
7. *Report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion* <http://dera.ioe.ac.uk/27526/1/00506074.pdf> [accessed 23 November 2018]. [↑](#footnote-ref-7)
8. ‘Asad Shah murder case leads to law review’ *Holyrood* 10 August 2016 <https://www.holyrood.com/articles/news/asad-shah-murder-case-leads-law-review> [accessed 21 November 2018]. [↑](#footnote-ref-8)
9. James Chalmers and Fiona Leverick *A Comparative Analysis of Hate Crime Legislation: A Report to the Hate Crime Legislation Review* <https://consult.gov.scot/hate-crime/independent-review-of-hate-crime-legislation/supporting\_documents/495517\_APPENDIX%20%20ACADEMIC%20REPORT.pdf> [accessed 23 November 2018]. [↑](#footnote-ref-9)
10. *Independent Review of Hate Crime Legislation in Scotland: Analysis of Consultation Responses* sections 2.11; 3.15; 3.37 (x2); 4.17; 4.20;; 4.48; 4.54; 5.12; 5.23; 5.24; 6.10; 6.12 (x 3); 6.13; 6.23; 7.14; 8.17 <https://www2.gov.scot/Resource/0053/00536008.pdf> [accessed 23 November 2018]. [↑](#footnote-ref-10)
11. Lord Bracdale *Independent Review of Hate Crime Legislation in Scotland, Final Report* (Edinburgh:Scottish Government, May 2018). [↑](#footnote-ref-11)
12. Consultation on Scottish hate crime legislation <https://consult.gov.scot/hate-crime/consultation-on-scottish-hate-crime-legislation/> [accessed 28 November 2018]. [↑](#footnote-ref-12)