

Select Committee on Community Safety and Community Services – 21st March, 2011

Report of the Corporate Resources Directorate

Definition of Hate Crime

Purpose of Report

1. This report sets out the Lord MacPherson definition of hate crime.

Background

2. **The Stephen Lawrence Inquiry**

Following the brutal racial murder of Stephen Lawrence in London, an inquiry was held into the circumstances surrounding his death, and in particular the role of the Metropolitan Police during that investigation. 70 recommendations were made in order to stop a repeat ever happening again including the definition of hate crime. The 1999 report was called “The MacPherson Report” named after the chairman of the Stephen Lawrence Inquiry.

3. **Definition**

A Hate Crime is: ‘Any hate incident, which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate’.

The perception of the victim or any other person is the defining factor in determining a hate incident. The prejudice or hate perceived can be based on any identifying factor including:

- disability
- age
- race
- religion or belief
- sexual orientation
- gender identify

A victim of a hate crime does not have to be a member of a minority group or someone who is generally considered to be vulnerable.

The spectrum of hate crime runs from abuse and harassment through to violent extremism. It can take many forms including:

- Physical attacks
- Arson
- Offensive graffiti and other damage to property
- Verbal abuse and intimidation (e.g., obscene telephone calls)

Failure to robustly tackle hate crime not only fails to protect the individual victim, but can also damage community cohesion, damaging community relationships by fear or distrust.

People who are found guilty of an offence with a Hate Crime element will receive a harsher sentence than normal, and are more likely to be given a custodial sentence, as the courts will not tolerate prejudice and hate as an acceptable excuse for this kind of behaviour.

4. **Status of the MacPherson Definition**

In respect of the status of the MacPherson definition, the 1999 MacPherson Report served to lay the groundwork for the legal understanding and definition of hate crime and from this various legislation recognising hate crimes on the basis of religion, disability, age, sexual orientation, etc., have become part of equality law.

In particular, following the MacPherson Report this led to the enactment of the Race Relations (Amendment) Act 2000.

Therefore, the Council must implement various legislation/codes, which have been created following the MacPherson Report and adopt that definition. This is illustrated in some examples below. All of this legislation requires the adoption of a subjective test:

The Racial and Religious Hatred Act 2007

Makes it a criminal offence to use threatening words/behaviour with the intention of stirring up hatred against any group of people because of their religious beliefs/lack of religious beliefs.

The Equality Act 2006

Created new equality board (Commission for Equality and Human Rights).

Race Relations (Amendment) Act 2000

The Act is amended to include a positive (more subjective) duty to promote racial equality.

The MacPherson Inquiry recommended that race relation legislation should apply to police forces (previously police officers had certain exemptions) and that it be unlawful for the police and other authorities to provide inferior treatment to certain groups.

The Crime and Disorder Act 1998

This created a number of new racially and religiously aggravated offences – The Criminal Justice Act 2003 introduced tougher sentences for offences motivated by the hatred of the victim's sexual orientation (this MUST now be taken into account by the sentencing court as an aggravating factor, in addition to race or religious hate motivation).

The definition of hate crime as outlined above has not only permeated and influenced most if not all of our equality legislation; many statutory bodies have also adopted it. Further more, the MacPherson Model, which has been adopted in our guidance/codes/legislation, is now also seen as good/best practice in Europe.

Finance

5. There are no direct financial implications arising from this report.

Law

6. The Association of Chief Police Officers (ACPO) and the Crown Prosecution Service (CPS) have agreed on the following definition of a hate crime:

Any criminal offence which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on the following:

- a person's race, or perceived race
- a person's religion, or perceived religion
- a person's sexual orientation, or perceived sexual orientation
- a person's disability, or perceived disability
- against a person who is transgender, or perceived to be transgender

The Stephen Lawrence Inquiry uncovered institutional racism in the handling of the murder of Stephen Lawrence and brought wider recognition in England and Wales to 'aggravated' offences (created in the Crime and Disorder Act 1998). These crimes are committed on the grounds of a person's or group's ethnicity or race. This report was central to the move towards investigating alleged hate crime with the perception of the victim or witnesses as the starting point.

In 2001, legislative amendments extended protection against targeted hostility to religious groups. Then, in 2003, Section 146 of the Criminal Justice Act allowed courts to increase sentences related to hostility shown towards disability or sexual orientation.

The Equality Act 2010 simplifies and strengthens discrimination law by bringing together previous legislation into a single Act and extending protection from discrimination to more people than before.

Some of the new measures include protection for many carers from discrimination (as part of new protection from discrimination by association), dual discrimination (direct discrimination because of a combination of two protected characteristics – age, disability, gender reassignment, race religion or belief, sex and sexual orientation), increased protection for disabled people from discrimination and stronger public equality duties.

The provisions in the Equality Act will come into force at different times, but the main ones began on 1 October 2010.

Equality Impact

7. This report is in accordance with the council's equality and diversity policy.

Hate crime/incidents target people because of their identity, such activity is discrimination and infringes human rights and can fundamentally affect their quality of life.

Recommendation

8. It is recommended that the Committee note the contents of this report.



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