



**Response to Draft  
Proposals for a Youth  
Justice Agency Hate  
Crime Policy**

**November 2014**

**For further information contact:**

Paula Rodgers, Policy Co-ordinator (Justice)

028 9031 1007 [paula@includeyouth.org](mailto:paula@includeyouth.org)

Include Youth, Alpha House, 3 Rosemary Street, BELFAST, BT1 1QA

[twitter.com/includeyouth](https://twitter.com/includeyouth) [www.includeyouth.org](http://www.includeyouth.org)

[facebook.com/IncludeYouthOrganisation](https://facebook.com/IncludeYouthOrganisation)

## **Include Youth**

Include Youth is an independent non-governmental organisation that actively promotes the rights, best interests of and best practice with disadvantaged and vulnerable children and young people.

The young people we work with and for include those from socially disadvantaged areas, those who have had poor educational experiences, those from a care background, young people who have committed or are at risk of committing crime, misusing drugs or alcohol, undertaking unsafe sexual behaviour or other harmful activities, or of being harmed themselves.

The Give and Take Scheme aims to improve the employability and increase the self-esteem of young people in need or at risk from across Northern Ireland. The Scheme works with approximately 145 young people from a care or criminal justice background. The Scheme aims to support young people to overcome particular barriers that prevent them from moving into mainstream training or employment and towards independent living. Seventy-five per cent of young people on the Scheme are care experienced, while over a third has a background in offending.

Include Youth also delivers an Employability Service on behalf of two of the Health Trusts for young people aged 16 + who have had experience of the care system. This service is designed to offer tangible and concrete opportunities to assist young people leaving care to prepare for, and engage in work.

The organisation also leads on the collaborative initiative START which operates across several sites in Northern Ireland, working with community based organisations to improve education, employment and training outcomes for the most disadvantaged young people.

Include Youth's Young Voices programme is a way of delivering participative democracy to marginalised young people in Northern Ireland. Its main aim is to support marginalised young people at risk or with experience of the criminal justice system, to become involved in decision making processes which impact on their lives, particularly in social welfare, education and criminal justice matters. The project works with a range of groups of young people in the community and in custody.

Include Youth's policy advocacy work is informed by relevant international human rights and children's rights standards, is evidence based, including that provided by young people and practitioners and is based on high quality, critical analysis.



Reflecting the profile of the young people we work with and with our service provision, Include Youth's two main policy priority areas are employability and youth justice. In light of this we have approached this consultation through the lens of those two areas as it were, as that is where both our expertise and interests lie.

## **Specific Comments**

### **Consultation Process**

We welcome the YJA commitment to consult widely on this draft policy and appreciated the invite to participate in the stakeholder workshop. While we put forward substantial comments at that workshop we also wanted to submit a written response to the draft policy. We were pleased to facilitate discussions with young people over the previous month on the issue and trust that the information the young people provided will help inform the YJA direction of travel.

### **Do you agree with our general approach and our aims for our hate crime policy?**

We welcome the Agency's considerations of responses received to the Community Safety Strategy<sup>1</sup> and to the fact that the Agency has regarded the wider strategic context of hate in our society. The recent OFMDFM public consultation documents on developing a Sexual Orientation Strategy for Northern Ireland and on a Racial Equality Strategy<sup>2</sup> are clearly highly significant and the YJA draft policy on Hate Crimes cannot be developed without cognisance of these wider developments. We would recommend some reference to Together: Building a United Community<sup>3</sup>, as it is imperative that this YJA policy is set within the context of this wider strategy. We would also like to see some reference being made to the relevant wider international standards and rights frameworks that exist. This could include the work of the UN Committee on the Elimination of Racial Discrimination (CERD) and in particular to its Concluding Observation on the UK's most recent report.<sup>4</sup> The Committee highlighted the relationship between sectarianism and racism and proposed a holistic approach to tackling both racism and sectarianism. Reference should also be made to the European Convention on Human Rights (ECHR), International Covenant of Civil and Political Rights (ICCPR), United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of People with Disabilities (UNCRPD).

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<sup>1</sup> Building Safer, Shared, Confident Communities: A Community Safety Strategy for NI 2012 – 2017.

<sup>2</sup> A Sense of Belonging: Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014-2024, OFMDFM, 2014.

<sup>3</sup> Together: Building a United Community, May 2013, OFMDFM.

<sup>4</sup> Concluding Observations of the Committee for the Elimination of Racial Discrimination to the UK Report, 14<sup>th</sup> September 2011.



## Legislative Reform

Hate crime is a fundamental abuse of human rights which can have a devastating impact on children, young people and their families.

During 2013/2014 financial year, the PPS received 572 files involving hate crime.<sup>5</sup>

We are particularly concerned about the rise in racist hate crime. PSNI statistics from the 12 months to June 2014 show that racist incidents rose by 36%, from 830 to 1,132. In the same period, racist crimes increased by 51%, from 525 to 796.<sup>6</sup>

The prosecution figures are disappointingly low, given the rise in recorded incidents. Only 12 out of a reported 14,000 recorded hate motivated incidents have resulted in successful prosecutions in the last 5 years.<sup>7</sup>

We note that the draft policy in paragraph 5.9 refers to the difficulties around the PPS's 'need for sufficient objective evidence in order to prosecute a crime as having been aggravated by hostility' and the subsequent outcome that cases initially identified as hate crimes by the victim and the police may be prosecuted without the hate element.

We understand that this leaves the YJA in a difficult position as it cannot legally treat a case as a hate crime where the court has not recognised it as such or sentenced on that basis. As a result the hate element cannot be dealt with in a youth conference.

Include Youth believes there is a need for urgent legislative reform in order to ensure that hate motivated offences are not only recorded as such but are also prosecuted as such. This call for law reform has been made by international human rights monitoring bodies. For example, both the Advisory Committee on the Framework Convention for the Protection of National Minorities and the UN Committee on the Convention for the Elimination of all forms of Racial Discrimination (CERD) have called on the NI Executive to address legislative shortcomings within the race equality legislation. Following the McPherson Report, and an application to the European Court of Human Rights that protections be brought in in Northern Ireland it was stated that Northern Ireland should have legislation to protect the victims of hate crime. Such legislation still does not exist.

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<sup>5</sup> Public Prosecution Service, Statistical Bulletin on cases involving hate crime, September 2014

<sup>6</sup> BBC News, Radio 4's The Report, 11 September 2014, The Complex rise in Northern Ireland Hate Crime.



Given that there is now a suitable definition saying there is an offence if it is perceived by the victim or any other person to be motivated by hate, we are urgently calling for legislation to be put in place to reflect that definition.

We would welcome reference to and support for the need for legislative reform within the YJA Hate Crime policy.

### **Victims**

We support the YJA's commitment to tackling hate crime and welcome the plans to support victims of hate crime in as supportive and sensitive a way as possible. We welcome the intention to engage with representative groups and in particular to ensure that victims have an advocate should they not wish to participate in the youth conferencing process.

**A key issue within this draft policy is the need for the YJA to balance the needs of both victim and young person during a youth conference. We want to avoid any potential for re-victimisation and ensure that the victim receives all possible support. However, we must also avoid placing the young person at a disadvantage if they acknowledge a hate element to an offence during their conference.**

### **Do you have any specific concerns or suggestions in relation to this?**

We would recommend that reference be made to the need to ensure that a young person who may be meeting a victim of hate related crime, is given adequate support to participate in the process and that the young person does not feel that they are being made to feel responsible for wider societal discrimination and prejudice. The nature of the conversation and the outcomes must be proportionate to the relevant case. A victim who has experienced hostility and prejudice for many years will understandably see a conference as a vent to express the hurt and anger they have felt. But this must not be allowed to happen in a disproportionate way in the context of a conference.

While we agree with the need to challenge prejudicial attitudes we would urge caution in how subsequent interventions are decided upon. It is not surprising that young people adopt the prevailing prejudicial and discriminatory views of their family, circle of friends and indeed wider community. Some of the young people we spoke to admitted they held racist and sectarian views.

*"They're coming in to this country illegally."*

*"They're all over here to steal our jobs."*



But many of them acknowledged the role that family and community attitudes can have in forming their own views.

*“I used to have prejudice about different religions, but as I grow up I know it’s a load of b\*\*\*\*\*ks. I was pushed into it when I was younger but I have Protestant mates now and go to their areas and stuff.”*

*“If you grow up in a family that’s racist, then you’re going to be that way then.”*

*“Sometimes people don’t even know they are being sectarian, it’s just the way it’s always been in Northern Ireland.”*

Some of the young people indicated that they would react badly if they were forced to take part in some form of intervention.

*“If the young person doesn’t know he’s being racist and hasn’t committed the offence, then why should it be put in the conference plan?”*

*“If someone forced me to do something, I would do it 10 times worse.”*

The young people may never have been challenged on these attitudes in the past. As such the YJA should be sensitive to the wider and more compelling influences in a young person’s life.

It is critical that a level of trust and understanding is established with the young person before any judgement is made on the reasons why they may hold prejudicial attitudes or have committed a hate crime. While the impact of the crime must be addressed and the consequences to the victim made clear to the young person, there is also a need to fully understand the motivation behind the crime. As one practitioner who accompanied a group of young people to the discussion group stated:

*“You need to build a relationship with the young person. Not just judge them and find out why it happened – it might have been motivated by something that wasn’t a hate crime. If you start with it as a hate crime you could go down the wrong path in your work with the young person. They could have done it for another reason, they may have done it to fit in, or because they have been abused themselves. It could be anger that’s coming from something else.”*

We are also concerned that young people may be labelled as having prejudicial attitudes and that their offence may be regarded as a hate motivated crime, when that may not be the case. Several of the young people we consulted with in the JJC said that it would be difficult to ascertain what the true motivation is behind a crime and they were concerned that the victim's word would be taken over theirs.

*"You can label anything as a hate crime, like I could hit someone who's gay and they think I hit them because they're gay – but I didn't do it because of that."*

*"I would just fight with the first person who came, I wouldn't fight them 'cos they're black."*

Other young people agreed that victim should have a right to say if they think a crime was hate motivated and to have it dealt with in the youth conference.

*"They should have a right to have a say."*

*"They (victim) might have low self esteem and feel not able to say things, you need to tell them and help them know it's ok."*

Given the current legislative constraints, we agree with the YJA decision that they will challenge strong prejudicial views if these become evident during a young person's engagement with the YJA and work to address these. This will inevitable require that all relevant staff and suitably training and supported in order to ensure that they have the skills and confidence to undertake such work with young people.

We asked the young people if they agreed that some intervention should be carried out with young people, even if they had not been convicted of a hate crime, but did display prejudicial attitudes in relation to their crime.

*"If they haven't committed it, they shouldn't be punished."*

*"I wouldn't be happy about it if it was done to me."*

Additionally we would be interested to know how many incidences of bullying are reported in the JJC with regard to a young person feeling they are being bullied due to their race, religion, sexual orientation or disability. What monitoring and recording mechanisms are in place to assess the extent of this problem and what actions are currently taken to deal with it?



## Interventions

We note the intention in the Draft Action Plan to ‘scope and develop or adapt a targeted hate crime/ prejudicial attitudes intervention by March 2015’. We will be keen to hear more about the development of this intervention. While we appreciate the drafting of the policy is the first step in the process, in many respects the action that will follow will be the element of the programme which we will be most interested in finding out more about. We are interested to find out if there will be a specific intervention programme developed for hate crime related to race, religion, sexual orientation and disability. Also, we would like to know if the intervention that will be used in a conference situation will be different to that which may be delivered informally, when a staff member becomes aware of a young person’s prejudicial attitude. Will the programme of intervention delivered to young people in Woodlands Juvenile Justice Centre be different to that delivered to young people who are not detained? Only when we learn more about this level of detail will we be able to respond specifically to the actions the YJA will take in this regard.

We asked the young people we consulted with how they thought we could address the issue of hate crime with young people convicted of a hate crime and what the YJA could do to address it.

*“Restorative work.”*

*“Teach them about racism and hate crime.”*

*“Get them to volunteer with a disabled charity.”*

*“Show them how vulnerable disabled people really are.”*

*“Make them see how tough it is and see how restrictive life is for them.”*

*“School should teach them.”*

*“You need to educate parents.”*

*“Education – you need to teach them what is right and wrong.”*

*“They (YJA) should employ a couple of Muslims – I’m calling them ‘them’ without even realising it, I’m already classing them differently.”*



*“If people knew the reasons why someone had to leave their country and why they had to leave their home, they might understand better.”*

*“I would like to do a class on hate crime.”*

### **Monitoring**

It is vital that a monitoring and evaluation process is established to know what impact the YJA has had in addressing hate crime. What structures will be put in place to assess the success of the hate crime interventions?

### **Are you satisfied with our proposals to help avoid institutional bias? In what other ways might the YJA help to meet your stakeholders’ needs?**

We support the delivery of awareness training to all staff on hate crime and related diversity issues which will accompany this policy. We note that ‘specialist training in the delivery of new hate crime interventions’ will be developed by March 2015. We would be keen to hear more about the content of this training and also on the bank of resources that will be made available on the YJA intranet.

### **Current Support Initiatives**

We applaud the various initiatives the YJA is currently taking forward to address specific needs amongst those with whom they engage. We particularly support the work undertaken with the Royal College of Speech and Language Therapists on developing ‘The Box’. This is an important support tool given the high numbers of young people with speech and language difficulties who come into contact with the YJA. We welcome the circulation of a pack containing information regarding the latest tools and research in working with young people with a learning disability.

### **Concluding Comments**

Include Youth has welcomed the opportunity to work with the YJA as they seek to refine this policy. The discussions with young people highlighted the various aspects of hate crime and helped us to understand how the YJA could better support both victim and young person. We trust that this communication with young people will continue as the YJA develops a programme of intervention. We are happy to provide any further clarification on any aspect of our response and look forward to being kept informed of future developments in this important work.

