



Submission to the Department of Justice and Equality

Consultation

on

**“Hate Speech, Hate Crime and reform of the
Incitement to Hatred Legislation”**

December 2019

Background

The National Youth Council of Ireland (NYCI) is the representative body for 52 voluntary youth organisations in Ireland (full list in appendix 1). Our member organisations work with and for up to 380,000 young people aged 10 to 24 years in every community with the support of 40,000 volunteers and 1,400 paid staff. NYCI functions to represent the interests of young people and youth organisations. NYCI's role is recognised in legislation (Youth Work Act) and we are recognised as a Social Partner and represented on the National Economic and Social Council. The NYCI aims through its member organisations and its representative role to empower young people to participate in society as fulfilled confident individuals. The work of NYCI is based on principles of equality, social justice and equal participation for all. In achieving these aims, the NYCI seeks the emergence of a society in which young people are valued citizens who can make a meaningful contribution to their community. We are deeply committed to the promotion of human rights and espouse an ethos of respect and understanding in all aspects of our work.

This submission is informed by our work on the ground with youth workers, our member youth organisations and our direct engagement with young people who participate in our Young Voices youth dialogue programme. We also held two recent consultations (March and September 2019) with young people on their experiences of racial discrimination in Ireland. It is also informed by our experience co-ordinating the No Hate Speech Movement in Ireland from 2014 to 2018 as part of the Council of Europe's campaign to fight online hate speech. NYCI is a member of the Coalition Against Hate Crime (Ireland).

Substantive comments

NYCI is of the view that while reform of the Incitement to Hatred Act is valid, the Government's priority should be to enact hate crime legislation. Once this legislation is in place, it would then be timely for the Government to review and reform the Incitement to Hatred Act. In summary, we urge Government to focus on the development and enactment of Hate Crime legislation.

We do however welcome the opportunity to contribute to this consultation. In this submission we wish to make a number of key observations with regard to tackling hate speech informed by our work and experience to date:

- A number of crucial factors have to be taken into account when the legislation against hate speech is being drafted. These factors include:
 - the context of the offence: for example, if it is publicly uttered by a journalist or a politician it is more damaging
 - the impact on the affected community, the degree of increased discrimination the community faces as a result of the hate speech, including the impact on mental health as a result of the hate speech

- the current reading of the Incitement to Hatred Act which puts the burden of proof on the plaintiff to show that a crime has been committed as a direct result of the hate speech

NYCI key recommendation:

- Enact Hate Crime legislation as a first step and then follow up with reform of the Incitement to Hatred 1989 Act
- A number of crucial factors as detailed above have to be taken into account when the legislation against hate speech is being drafted

Response to Questions

In response to the questions set by the Department of Justice on the Incitement to Hatred Act 1989:

Question1.

Are there other groups in society with shared identity characteristics, for example disability, gender identity, or others, who are vulnerable to having hatred stirred up against them and should be included in the list of protected characteristics?

NYCI Response:

Yes – NYCI would recommend that protected groups include minority ethnic groups, Travellers, minority religious groups, LGBTI+ people, people with a disability and women.

Question 2.

Do you think the term “hatred” is the correct term to use in the Act? If not what should it be replaced with? Would there be implications for freedom of expression?

NYCI response:

The definition of Hate Speech that young people involved in the No Hate Speech Movement in Ireland is as follows;

“Hate speech, as defined by the No Hate Speech Movement Ireland, covers all forms of expression which spread, incite, promote or attempt to justify any form of hatred, stereotyping or discrimination based on intolerance. This includes, but is not limited to, intolerance of people based on their ethnic and cultural backgrounds (including Travellers and Roma), religious belief (including those with none), disability and health (including mental health), sexual orientation and gender identity. Hate speech also includes sexism, misogyny, aggressive nationalism, and all forms of threatening and/or abusive language based on an identifiable characteristic of a person.”

We believe that the wording needs to be linked to discrimination based on intolerance.

Question 3.

Bearing in mind that the Act is designed only to deal with hate speech which is sufficiently serious to be dealt with as a criminal matter (rather than by other measures), do you think the wording of the Act should be changed to make prosecutions under for incitement to hatred online more effective? What, in your view, should those changes be?

NYCI response:

Some online contributors and spaces deliberately use hate speech to incite hatred and intolerance. The Act must address the fact that a number of on-line spaces are being used to create and spread hatred and this must be included specifically in the Act.

Question 4.

In your view, does the requirement that an offence must be intended or likely to stir up hatred make the legislation less effective?

Question 5. If so, what changes would you suggest to this element of the 1989 Act (without broadening the scope of the Act beyond incitement)?

NYCI response:

In order to ensure that any revised legislation is effective and robust, it is important that terms such as ‘stirring up hatred’ are defined properly. We would recommend that ‘stirring up hatred’ should be redefined under the legislation as spreading, inciting, promoting or attempting to justify discrimination.

Conclusion

NYCI accepts the challenges with introducing legislation that balances the right to free speech and the need to combat hate speech. We concur with the Irish Human Rights and Equality Commission call to *“encompass other policy and regulatory measures to encourage non-discriminatory discourse, to educate the public on the harm of hate speech, and to ensure that its extent and impact are adequately tracked.”*¹

The National Youth Council of Ireland would urge the Government to draft Hate Crime legislation and would welcome the opportunity to make a submission on legislative proposals in this area.

¹ https://www.ihrec.ie/app/uploads/2019/11/IHREC_CERD_UN_Submission_Oct_19.pdf pg 40

Appendix 1

NYCI MEMBERS LIST 2019

FULL MEMBERS (with voting rights)

1. An Óige
2. BelongTo
3. Blakestown and Mountview Youth Initiative
4. Boys Brigade
5. Catholic Guides of Ireland
6. Church of Ireland Youth Department
7. CoderDojo Foundation
8. Colaiste na bhFiann
9. Crosscare (Catholic Youth Care)
10. ECO – Unesco
11. EIL Intercultural Learning
12. Feachtas
13. Foroige
14. Gaisce
15. Girls' Brigade Ireland
16. Girls' Friendly Society
17. Involve Youth Service Ltd
18. Irish Association of Youth Orchestras
19. Irish Congress of Trade Unions (Youth Committee)
20. Irish Girl Guides
21. Irish Methodist Youth and Children's Department
22. Irish Red Cross Youth
23. Irish Second Level Students' Union
24. Junior Chamber Ireland
25. Killinarden Community Council Youth Project
26. Labour Youth
27. Localise
28. Macra na Feirme
29. Migrants Rights Centre
30. No Name Clubs
31. Ógra Fianna Fail
32. Ógras
33. Order of Malta Ireland
34. Phoenix Youth Project
35. Scouting Ireland
36. Sphere 17 Regional Youth Service
37. SpunOut
38. St Andrew's Resource Centre
39. Swan Regional Youth Service
40. The West End Youth Centre
41. Union of Students in Ireland
42. Voluntary Service International
43. YMCA Ireland
44. Young Christian Workers
45. Young Fine Gael
46. Young Irish Film Makers
47. Young Social Innovators
48. Youth Theatre Ireland
49. Youth Work Ireland

AFFILIATE MEMBERS (no voting rights)

1. Amnesty International
2. Enable Ireland
3. Irish Wheelchair Association