

**CONSULTATION SUBMISSION:  
Law Commission inquiry on reform of hate crime legislation**

**Executive Summary**

The Men and Boys Coalition recognises the extent and seriousness of gender-based violence against women, and of misogynistic abuse and harassment. We are very happy to support efforts to reduce such offending and support victims. This submission aims to assist the Law Commission in revising the laws in any ways that would be practical, fair and reasonable and in keeping with principles of justice and equality, especially where relevant to our member organisations and their client/interest groups.

**On the consultation questions relevant to us, our positions are as follows:**

**Consultation Question 11**

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*21.19 & 21.20 We provisionally propose that gender or sex should be a protected characteristic for the purposes of hate crime law. Do consultees agree?*

*21.21 We invite consultees' views on whether gender-specific carve outs for sexual offences, forced marriage, FGM and crimes committed in the domestic abuse context are needed, if gender or sex is protected for the purposes of hate crime law.*

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**MBC Position:** We are neutral on the question of whether gender or sex should be a protected characteristic, but **IF** gender or sex is to be a protected characteristic, then the specified crimes **SHOULD** be carved out of the legislation.

**Consultation Question 12**

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*21.22 We invite consultees' view as to whether sex or gender-based hate crime protection should be limited to women or include both women and men.*

**MBC Position:** We strongly believe that any sex or gender-based hate crime protection **MUST** include both women and men. This would be especially true if the legislative change do **NOT** include a carve-out for sexual and domestic abuse and other intimate crimes.

For absolute clarity, we are saying that one particular combination of proposals here: that gender-based hate crimes should **include** intimate crimes **AND** only protect female victims, to be entirely unacceptable, misguided and profoundly unjust.

We will explain our reasoning for these positions on the pages that follow.

## **Preface: About the Men and Boys Coalition**

The Men and Boys Coalition is a registered charity which operates as a mutually supportive network of over 100 organisations, charities, campaigners and academics who are committed to highlighting and taking action on gender-specific issues that affect men and boys. Our mission statement decrees that we will, where possible, engage political and administrative leaders to ensure the voices of men and boys are heard and their needs are included in policy decisions. Relevant to this submission, our membership includes numerous organisations and activists who specialise in working with male victims and survivors of gender-related intimate crimes such as sexual abuse and domestic violence. For more information and our full list of members, please visit [www.menandboyscoalition.org.uk](http://www.menandboyscoalition.org.uk)

### **1. On the extension of hate crime legislation to the characteristic of gender.**

The Men and Boys Coalition has never called for or campaigned for the extension of hate crime laws to include sex or gender characteristics, to protect men from crimes motivated by gender-based hostility or prejudice. While we assert that crimes of this nature can occur and should be challenged when they do, we accept that they are rare and legislative change has never been among our immediate priorities.

We recognise and understand that the large proportion of offences of this type are directed at women, not men, and that the political will to extend hate crime legislation on this front has come from our friends and colleagues in the women's sector. We defer to their judgement as to what is in the best interests of women.

That said, some of the proposals intended to protect women do have significant implications for the legal status and the wellbeing of men and boys, and so this does oblige us to take positions.

We will go on to describe some significant concerns about the practical implementation of such proposals, but on the top-level question of whether hate-crime legislation should be extended to cover sex/gender, we remain **NEUTRAL**.

### **2. On the proposed carve out of sexual, domestic and other intimate crimes from any hate crime legislation**

Having considered the relevant sections of the consultation document, we would agree that if there is to be any extension of the law in this respect, the best solution would be to extend hate crime legislation to the protected characteristic of gender, while **excluding** so-called 'VAWG' crimes from its operation.

We would echo the concerns raised in the consultation document, Chapter 12, which identify the risks of creating a misleading hierarchy of victims in crimes such as rape or domestic abuse between crimes which are or are not motivated by 'hate,' hostility or prejudice and those where this cannot be demonstrated; we share concerns that judgements about motivations could make these difficult and sensitive criminal trials even more complex and introduce further doubt for jurors.

We note with concern the suggestion in sections 12.117-12.118 that **all** acts of sexual and domestic violence committed by a man against a woman should be considered inherently misogynistic and therefore hate crimes. We ask the Commission to reject this argument in entirety. It rests upon a highly contentious article of ideological faith, one that is highly controversial and widely challenged within academic theory and clinical practice by criminologists, psychologists, and other behavioural scientists. It is also asking the law to perform an arbitrary political function in protecting an ideological theory from inconvenient contrary evidence, which we suggest should never be considered an appropriate function of law or the judicial system.

Finally, we would note that the suggested carve-out would very largely eliminate the most serious concerns we have regarding the impacts of this proposal on the status and wellbeing of male victims of sexual and domestic abuse and other intimate crimes. (See below.)

In summary, the Men and Boys Coalition would **SUPPORT** a carve-out of sexual, domestic and intimate crimes from any gender hate crime provisions.

### **3. On the question of whether sex or gender-based hate crime protection should be limited to women or include both women and men**

Our most pressing and serious concerns in regard to this question relate to the potential impacts of this legislative change **WITHOUT** a carve-out of so-called VAWG crimes (see next section).

However, even with such a carve out, we would strongly advocate that any extension to hate-crime legislation should refer to 'gender' as a protected characteristic, and not specify women only.

As a charity with a stated objective of working to attain gender equality, we believe that equality under the law is one of the fundamental principles of British justice. With very few exceptions, British law (within all jurisdictions of the UK) has never discriminated according to the personal characteristics of defendants or alleged victims, and we assert that this should always be the default in law-making unless there are insurmountable reasons why it cannot.

We believe there are two extremely relevant and important direct legislative precedents on this question. We note that all Equalities legislation in the UK has always used non-specified sex/gender as its basis. At no time has anyone (to our knowledge) argued or demonstrated that this has had the effect of minimising or obscuring the nature of oppressive gender social hierarchies.

Secondly, hate crime legislation in the UK has never excluded white people from articles on racial discrimination or heterosexual people from protection from sexuality-related hate crimes. We note there has never been any suggestion that the law, written in this way, has undermined people's understanding of the true nature of racism or homophobia. We submit that these are much stronger and more relevant comparisons to the current proposal than those of protections given to disabled or transgender people. (cf Consultation document 13.12-13.17)

We would add that popular public support for (or acceptance of) hate crime legislation is very strongly centred on a sense of fairness. It is our assessment that people would be far less likely to assent to and/or support hate crime legislation if it were gender-exclusive rather than inclusive.

We note that in the introduction to the consultation document, the Law Commission states that:

*Moreover, hate crime laws in England and Wales turn on the motivation for the offence, or the demonstration of hostility, not the identity of the victim: the law does not, for instance, treat a black victim differently from a white victim, or a gay offender differently from a heterosexual offender. (1.24)*

On that basis, we submit that it would be bizarre and inconsistent to treat a male victim differently to a female victim.

In conclusion, we strongly agree with Lord Bracadale in his review of hate crime law in Scotland, where he wrote:

*“Although I agree that the essence of the conduct which we are seeking to cover is usually against women, it is not inconceivable that there could be hostility against a man (or non-binary person) based on their gender... A human rights-based approach suggests that having a consistent approach which is capable of applying in equivalent cases, regardless of the sex of the victim, is better.”*

#### **4. On the question of whether sex or gender-based hate crime protection could be limited to women WITHOUT a carve-out for sexual, domestic and intimate crimes.**

This question was not directly raised in this form by the consultation but we feel it is necessary to explore it in some depth.

To begin, we submit that the consultation document does not adequately reflect or understand the unique circumstances, situations and experiences of male victims of sexual, domestic and other intimate crimes, or the wider ‘additional harm’ considerations they involve.

In chapter 12, the consultation lays out at some length the evidence and arguments to show that such crimes have profound and severe gender-specific impacts on female victims, with the implication that this a reason why hate-crime provisions should be extended only to women.

This entirely overlooks an extensive body of research and scholarship which shows that male victims of the same crimes experience profound and severe impacts which – without making any kind of comparison or claim of equivalence – are also, in their own right, deserving of consideration.

High on this list is the extensive evidence that male victims of intimate and gender-based crimes experience extensive trauma, emotional and psychological harm, much of which directly relates to issues of gender and masculinity.

Among the considerations unique to male survivors of these particular crimes is a pervasive belief or perception that they are the ‘forgotten victims’ or ‘second-class survivors’ of crimes like rape, child abuse and domestic violence - a belief that no one really cares much about them or their suffering. We will say quite bluntly that if the proposal here progresses to law, these survivors would be proven absolutely correct in that assessment.

As a matter of the utmost seriousness, we ask the Law Commission to consider the devastating effects that would be felt by male victims of creating a whole new hierarchy of sexual violence, encoded into legal statute, which would say quite explicitly that offences conducted against men and boys are less serious than those committed against women and girls.

We note the concerns voiced in 12.119 about creating a rape myths around 'hierarchies of sexual violence' and ask the Commission to understand that what they are proposing here does precisely this.

Male rape victims will be told that according to the law of the land, their rape was a less serious offence than that of a woman. Male victims who may carry the scars of years of extreme and brutal domestic violence will see their abuser convicted of a less serious crime, with a less severe sentence, just because they are the 'wrong' gender.

The full implications of this are almost unfathomable. A message will effectively be sent to child abusers that it is better to rape little boys than little girls, as it is likely to result in lower investigative priorities from police or a shorter sentence from a judge.

We urge the Commission to appreciate that intimate violence against men and boys is not like other crimes. It causes devastating, lasting emotional and psychological trauma, much of it relating to gender identity, conceptions of masculinity and self-worth. There is no comparison should be made to other crimes of violence, or property crimes.

What is being proposed here would be, in our view, an act of conscious, wilful cruelty against some of the most vulnerable and damaged men and boys in our society. It would be nothing short of legislative violence which would have immediate, tangible and widespread negative impacts upon the mental health and wellbeing of male survivors. Those would include highly notable and prominent victims such as those attacked by the Manchester serial rapist Reynhard Sinaga and the victims of Barry Bennell and the wider football child abuse scandal.

We remind the Commission that under their own definition of 'suitability' (10.154) any change to the law must be "consistent with the rights of others."

In our view, establishing a legal code which states that a crime such as rape is a less serious offence when committed against a man or a boy than against a woman or a girl would violate that principle quite flagrantly and egregiously.

As a final point of pragmatic politics, we have no doubt that if or when this proposal is aired publicly or debated politically, it will generate an immediate and strongly aggrieved response from male survivors of rape, sexual abuse and related crimes, and there can be little doubt that they would have the overwhelming support of the public, media and most politicians in their cause.

It seems highly probable that if a change to the law was proposed on this basis, it would be highly likely to derail all efforts to reform hate crime legislation altogether.

**ENDS**

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