Written evidence submitted by Adrian Hart

1. About me: This submission is written in a personal capacity. I am the author of three publications relevant to this inquiry as well as a number of articles. The three publications are:
   (b) *Leave Those Kids Alone: how official hate speech regulation interferes in school life*, The Manifesto Club (2011)
   (c) *That’s Racist! how the regulation of speech and thought divides us all*, Academic Imprint Books (2014)

2. Executive Summary (very briefly)
   - The definition of hate crime is counterproductive
   - The EU referendum has not witnessed an unleashing of hate across British society
   - Britain needs to demonstrate more confidence in its outstanding levels of tolerance and recognise that freedom of speech (including the speech we may loath) is the pre-condition for challenging what is described here as ‘hate’.

3. I refer below to the background, terms of reference and chair’s statement for this government inquiry. All of these are underpinned by presuppositions which I hope the inquiry will later find to be wrong.

4. In your section headed ‘Background’ ‘hate crime’ is defined ‘as any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice based on a personal characteristic. Hate crime can be motivated by disability, gender identity, race, religion or faith and sexual orientation.’ The use of what has become dubbed the ‘Macpherson definition’ (itself borrowed and adapted by the Stephen Lawrence Inquiry from a definition used by the ACPO) is, today, a problem all by itself. When the ACPO first coined the definition, the intention was to encourage police officers in 1980s Britain to be seen to be taking allegations of racist incidents seriously and, thereafter, subject these allegations to proper investigation. After investigation an alleged crime would only then be described as having a racist motivation.

   4.1 After the Macpherson definition was taken up as the recommended definition of a racist incident within the Race Relations Amendment Act (2000) we saw the advent of public bodies recording ‘incidents’ as part of their day to day monitoring of ‘institutional racism’. My research into UK schools noted that, in many cases, a new approach was evident which (put crudely) held that *if a child or anyone else thinks an incident is racist, it is…* Such incidents (I note in my report *The Myth of Racist Kids*) were duly recorded and aggregate figures then submitted to the local authority. For its part the local
authority invariably encouraged schools to submit as many incidents as they could in order to demonstrate that racism was being addressed rather than ignored.

4.2 There is no space here to develop the story of how the use of the Macpherson definition spread throughout public life in Britain (I do this in my book That’s Racist!) but I would ask the Inquiry to at least consider the idea that all is far from well with this definition (and accompanying ‘zero tolerance’ approach) and its ostentatious promotion as an emblem of how earnest an organisation is about its equalities duties. I would contend that perception of what constitutes a hate incident or constitutes the hate which has motivated a crime has expanded across the decades of this century despite the fact that 21st C Britain is palpably less racist, less homophobic and more tolerant of difference than ever before. *Indeed it is precisely the rarity of genuine, violent or cruelly abusive ‘hate’ incidents in daily life that make them so shocking and newsworthy; we are shocked because it’s rare.* If the Inquiry finds such a statement fallacious then at least I hope its eventual report will offer strong evidence to back-up its view of modern Britain awash with hate crime and endemic prejudice. The fact that evidence of such widespread prejudice is impossible to find should not lead the Inquiry to automatically conclude that it lies buried under the surface (hiding in council estates or deep inside our unconscious). However, if the Inquiry were to accept the rhetoric of anti-racist and other organisations it will fall into the trap of viewing incidents as merely the ‘tip of the iceberg’ of a far greater (albeit invisible) problem. I hope the Inquiry will avoid any approach that presumes the British population as infected (as Macpherson put it) in some sense or other with hatred or animus or as uniquely vulnerable to ‘infection’.

4.3 Moreover (and leading on from the above) I would contend that perception of racism, homophobia etc is heightened today by two very modern trends: first is the idea that ‘offensive’ words or phrases inflict grave wounds (they don’t); second is the idea (given added force by Macpherson’s notion of ‘institutional’ prejudice as ‘unwitting’ or ‘unconscious’ bias or hate) that human beings in general and the British public (we may even say the working class in particular) are a hapless and helpless lot – permanently ‘at risk’ from racial or other forms of offense or from becoming perpetrators. Both these trends intertwine at the point that policy imagines human beings as either scarred by offensive words, phrases or images or incited rather like attack-dogs simply upon hearing or seeing a hateful ‘message’. The many references to ‘dog-whistle’ politics and the importance of sending the ‘right’ rather than the ‘wrong’ messages are indicative of this tendency to assume adult citizens are no better than children and struggle to discern a good message from a bad one. I would urge that the Inquiry questions these kinds of assumption and asks itself whether policy which seeks to shelter us and regulate what we can see or hear simply serves to heighten sensitivities, raise levels of victimhood/offence-taking (and seeking) and, by further encouraging a ‘you can’t say that’ climate in society merely drive unpleasant ideas and attitudes underground. In a free society such things should be out in the open, subjected to scrutiny, afforded an opportunity of a hearing and, if necessary, ridiculed and condemned without need of the state to act as arbiter. I would therefore urge the Inquiry to explore the proposition that only through freedom of speech can we challenge racism and other forms of hatred.
From my home town of Brighton I’d like to offer an example of how hate speech regulation works in the opposite direction to community cohesion. We had, a few years ago, a city councillor accused of race hate and subjected to unjust vilification with equality laws and codes providing the tools for her inquisitors. The hate incident committed by this hapless 72 year old councillor was to comment to a newspaper that, in her opinion, a shop selling place mats depicting the Robertson Jam ‘golliwog’ were ‘nostalgic not racist’. She had been invited to comment on a the story following complaints by shoppers that the place mats were offensive. The councillors comments also included the suggestion that taking offence to the place mats amounted to ‘political correctness’ and resulted in newspaper readers issuing complaints to the council. The council instigated an investigation and concluded that the councillors comments had ‘failed to foster good relations between people who share a protected characteristic and those who do not’. Citing its Macpherson-inspired ‘zero tolerance’ equality policies, the council stated that the councillor had failed to uphold these requirements. Ridiculed in both national and local newspapers and subjected to court-room style hearings and a 70 page report she was at least relieved to learn that the police had decided not to proceed with charges. But I feel it important for this Inquiry to note that Cllr Barnett came very close to the current definition of hate crime. Certainly complainants were arguing to the police that the councillor had incited racial hatred under section 18 of the Public Order Act (1986) because she had implied that objecting to the place mats was ‘political correctness’. The police concluded that there was insufficient evidence to show that the councillor intended her comments to stir up racial hatred.

In your section headed ‘Background’ you state, ‘The days immediately following the EU referendum saw a rise in the number of attacks on people from ethnic minorities and of non-British nationality, including on their community centres and places of worship.’ Keith Vaz later adds, ‘The Committee is launching this inquiry following a number of deeply concerning and tragic incidents, such as the appalling murder of Jo Cox and racially motivated attacks against individuals following the EU referendum result.’ I would like to make the following comments:

5.1 The fact that a few racist or drunk or otherwise anti-social people felt emboldened by the EU referendum result and acted on this impulse is not in dispute. However, from media stories focussing on an American abused by drunken teenagers on a Manchester tram to a Polish community centre daubed with graffiti, the idea that such incidents form part of a post-referendum ‘surge’ in racism needs to be assessed carefully. In particular it needs to be assessed in the context of a concerted effort by seemingly large numbers of furious ‘Remain’ voters determined to cast their opponents as racist, xenophobic, ignorant and duped by Leave campaign lies.

5.2 The picture painted of racism ‘unleashed’ by the Brexit result looked convincing. The mainstream news media lined up harrowing stories which then sat alongside police statistics inferring an increase in reported hate crime. Anti-racist organisations were on hand to point out that the figure was likely much higher as most hate crimes, they say, go unreported.
5.3 But I would point out two aspects to this. First, there are clear indications that hate incident reporting quickly became orchestrated by well-meaning citizens via social media sites like ‘Worrying Signs’ and twitter (#postrefracism, #PostBrexitRacism etc) and from here many complainants were directed to the Police online reporting site True Vision. As one commentator in The Spectator put it: ‘Consider the Brexit aftermath. The police say that 3,192 reports of hate incidents were received in the last two weeks of June, and 3,001 in the first two weeks of July. Apparently that constitutes a rise of 48 per cent and 20 per cent respectively on last year’s levels of incidents. But can we engage in some scepticism here? Many of these incidents (the police can’t at the moment say how many) were reported through True Vision, a police-funded website that allows anyone anywhere to report something they either experienced or witnessed, anonymously if they like. No evidence is needed. Everything is instantly logged as a hate incident. This inevitably presents a warped view of reality.’ Second, our sense that the few actual, violent or otherwise shocking hate crimes brought to our attention by media were merely the tip of the iceberg was substantiated by social media driven hearsay. I write about one of these here.

“…on my own Facebook page the Monday after the result, someone posted a mobile phone snap of a smashed window at a Spanish tapas restaurant in south London. Its caption read ‘Spanish and Turkish restaurants in Lewisham had their windows smashed over the weekend. Very widespread reports coming in now.’ The post quickly received 1,833 shares. One commenter noted: ‘The ghost of Sir Oswald Mosley now stalks the streets of England.’ The same picture and caption soon appeared on Twitter. According to one tweeter, it showed ‘the rise of fascism across the country... linked to Brexit’; another said ‘fucking outrageous, this is what #Leave is about... cut the shit and admit it’; and the IRR itself asked, ‘is there any chance we could use your pic for a round-up of post-Brexit racial violence?’ The IRR was joined by reporters from the local and national press asking the same question.

But was the picture all it seemed? On a south London discussion forum, the picture prompted a great deal of discussion, before one contributor pointed out, ‘I’m no expert, but that looks like a robbery attempt’. A few other contributors then said that there had been a spate of botched shop burglaries in the area over the past few months. The Met have since confirmed what many were starting to suspect: ‘These offences are not considered to have a hate-crime motivation.’ Indeed, local Lewisham police have since said that there has been no spike in reported hate crimes since the Brexit vote.”

6. The issues listed in your section headed ‘Terms of Reference’ are all predicated on the assumption that hate crime is a growing social problem today. I hope this enquiry will begin by questioning any assumptions it has of this kind, scrutinising the data and how it is collected and asking itself if, in fact, increasing/adding to existing legislation, encouraging more incident reporting, cooperating with facebook and twitter to scoop up more incidents and funding more ‘prevention’ initiatives will serve only to increase hypersentivity, victimhood, offence-seeking while driving real prejudice underground where it can only fester. We should have more faith in Britains growing superdiversity. The public today are more at ease with ethnic and other differences than at any time in history. We should place
our confidence in a society which is robust and fully equipped to interact freely without the need to be protected from what the state increasingly perceives to be the consequences of ourselves. Again, I’d say that this approach is tantamount to treating adult society as though it were a school playground. As any old fashioned teacher will tell you – the greatest amount of unfettered peer interaction is vital to the development of resilience (in short, kids work things out). The opposite of that is a culture of victimhood resulting in all minor incidents and disputes requiring resolution from a higher authority (the baseline moves from resilience to vulnerability). Treating adults as hapless children who must be protected from adversity or have their bad attitudes silenced in the name of fostering good relations can only result in the exact opposite.

7. **Lastly**, ‘hate crime motivated by extremism and actions carried out by fixated individuals (“lone wolves”)’ has not been my focus in this submission. On this topic I would only say that it should be taken separately and not merged with the analysis on racist, homophobic and other so-called hate crime covering protected characteristics.

END 01/09/16