Written evidence submitted by Diverse Cymru

Organisation Background
Diverse Cymru is a human rights based organisation that promotes equality for all. We believe that we can work together to challenge discrimination in all its forms and create an equitable future for the people of Wales.

Diverse Cymru aims to make a real difference to people’s lives through delivering services that reduce inequality and increase independence; supporting people to speak for themselves and to connect with decision makers; creating opportunities for participation and development; raising awareness of equality issues; and inspiring people to take action against inequality.

Our current services include direct payment, self-directed and independent living support for both adults and children, including managed banking and software framework development in Cardiff, Carmarthenshire, Pembrokeshire and Ceredigion; a BME mental health and befriending service in Cardiff and the Vale of Glamorgan; family support, welfare benefit, income maximisation, tribunal, and general advocacy and advice for people in Cardiff and the Vale of Glamorgan.

We produce information resources on a wide-range of equality issues, including for those affected by inequality across all protected characteristic groups and information for organisations and service providers; provide a conduit for service user voices to decision-makers throughout Wales through our consultation and engagement work; run citizen involvement projects for people from protected characteristic groups and for carers; and co-ordinate volunteer placements both with Diverse Cymru and supporting external organisations to recruit, involve and support volunteers from under-represented groups.

We provide consultancy services on integrating equality in organisations, diversity champions, and equality impact assessments and deliver a range of bespoke training courses on a wide-range of equality related topics, including the only accredited Personal Assistant training in Wales; training on BME mental health; equality legislation; disability; LGBT issues and more. We facilitate forums and groups that work on various issues, from improving disability access and carrying out disability access observations to equality impact assessments.

This submission focuses specifically on the impacts of hate crime on people from different protected characteristic (equality) groups. We would welcome any opportunity to assist with the development of specific work programmes and actions, and with engaging service users in future. We are happy for our submission to be published.
Submission

Executive summary

- The current legislative framework creates a hierarchy of inequality.
- Diverse Cymru carried out research into crimes against older people this year. Much of our response is based on this research. The research can be found here: https://www.diversecymru.org.uk/ageofjustice
- Barriers to reporting include fear of reprisals; not being believed, understood, listened to, or taken seriously; not knowing who to report to or how; fear of unwelcome interventions, losing care, support or family; being seen as interfering when reporting concerns about others; feelings of guilt, embarrassment, and shame; communication difficulties and mental capacity; and negative responses from criminal justice agencies when reporting age-related crimes.
- Older people wanted: more empathy and understanding; training and education for public and frontline services around communicating with and supporting older people; training, information, and awareness raising for older people, families and the public; a single point of contact and agencies working together to support an individual; more visible policing; regular progress updates on their case.
- The third sector has an important role to play in working in and with diverse communities; raising awareness; and co-producing campaigns with communities.
- Application of sections 145 and 146 of the Criminal Justice Act 2003 is not always recorded.
- Reasons for ‘no further action’ and unsuccessful prosecutions are not routinely recorded.

Recommendations

1. The legislative framework for hate crime should be revised. All prejudice-based crimes should be covered by the legislation and should have equal status. Sentence uplifts should apply to all prejudice-based crimes.
2. There needs to be a common definition of crimes against older people that focuses on and records where age is a motivating or specific factor.
3. A common reporting and recording system for crimes against older people should be implemented across all criminal justice agencies and councils.
4. Multi-agency processes, with appropriate information sharing, should be developed and implemented specifically for crimes against older people. These should include a single point of contact and active referral processes. All agencies and older people should be involved.
5. A holistic approach should be implemented based on identifying the older person’s wishes and outcomes. The process should look at
criminal and civil justice options, restorative justice, mediation, social care, housing, health and well-being, support, and community group and third sector organisation services. This can apply to other characteristics too.

6. Awareness raising should highlight the impacts of crimes against older people and the support that is available.

7. All circumstances where section 145 or 146 of the Criminal Justice Act 2003 has been applied are recorded in both hate crime statistics and offenders’ records.

8. CPS hate crime prosecution data should include reasons for not progressing a case, not applying hate crime legislation, and not being successful.

9. A wide range of community support services should be available and promoted. This should include counselling, befriending, advice, peer support, and dementia-specific services.

10. Victims’ confidence should be rebuilt and isolation tackled through support services and befriending

11. A high-profile campaign with information resources should be implemented. This should include information on what crimes are, how to report, tackling ageist stereotypes, and support available.

12. A free telephone helpline to report all crimes against older people and access support should be available.

Full submission

The effectiveness of current legislation and law enforcement policies for preventing and prosecuting hate crime and its associated violence.

1. The current legislative framework which applies to hate crime creates a hierarchy of inequalities.

2. The purpose of sentence uplifts for racially or religiously aggravated crimes is to send a clear message that prejudice-based hostility is unacceptable in modern Britain and to recognise the devastating impact these crimes have on both individuals and wider communities.

3. Sentence uplifts do not apply in relation to crimes motivated on the grounds of disability, sexual orientation, or gender identity. In these cases, a sentence can only be increased to the maximum standard term.

4. Crimes against older people are not included within the legislative framework for hate crimes. There is no sentence uplift or sentencing application for crimes against older people. When a crime is recognised as a crime against older people it tends to be recorded as a vulnerability factor, which does not recognise prejudice or hostility as a motivating factor.

5. Crimes based on hostility or prejudice towards men or women are also not included within the hate crime framework. This is due to the specific legislation
which applies to violence against women and girls. However, some prejudice-based crimes could be missed by not having a hate crime category.

6. These differences in how hate crime is treated in relation to different characteristics lead to a perception that some prejudice-based crimes are more serious than others and that some prejudices are tolerated in British society.

7. Concerns have previously been raised (for example in the Law Commission project on the case for extending the existing hate crime offences) about difficulties applying a definition of hostility in relation to particular characteristics, e.g. disability. We do not agree with this perception.

8. We feel that prejudice-based hostility is proven by the gestures, words, actions, insignia, and circumstances around the crime. Therefore, extending hate crime offences to include all protected characteristics is workable, as hostility would need to be proven in court.

9. We recommend that the legislative framework for hate crime be revised. All prejudice-based crimes should be covered by the legislation and should have equal status. Sentence uplifts should apply to all prejudice-based crimes.

The barriers that prevent individuals from reporting hate crime, and measures to improve reporting rates.

10. Diverse Cymru recently carried out research into crimes against older people in Wales. The research can be found here: https://www.diversecymru.org.uk/ageofjustice

11. This project included identifying reasons why older people do not report hate crime and how to improve reporting rates.

12. Many of these barriers concur with research into the barriers to reporting other hate crimes. These include:
   - Fear of reprisals
   - Not being believed, understood, listened to, or taken seriously
   - Not knowing who to report to or how

13. Some barriers were more common in relation to crimes against older people than in relation to other hate crimes. These include:
   - Fear of unwelcome interventions, losing care, support or family
   - Being seen as interfering when reporting concerns about others
   - Feelings of guilt, embarrassment, and shame
   - Communication difficulties and mental capacity
   - Negative responses from criminal justice agencies when reporting age-related crimes

14. Older people felt that there were specific improvements which would assist them to report crimes against older people. These included:
   - More empathy and understanding for older people
   - Training and education for police, social services, health, housing and third sector agencies around communicating with and supporting older people
• Training, information, and awareness raising for older people, families and the public
• A single point of contact and agencies working together to support an individual
• More visible policing
• Regular progress updates

15. Recommendations, which apply in England as much as in Wales include:
• Multi-agency processes, with appropriate information sharing, should be developed and implemented specifically for crimes against older people. These should include a single point of contact and active referral processes.
• Active referrals and multi-agency processes should involve all organisations. The police, Victim Support, social services, trading standards, housing departments, social housing providers, landlords, fire and rescue service, Local Health Board, domestic abuses services, older people’s organisations, and community groups and networks should all be involved in these processes.
• A holistic approach should be implemented based on identifying the older person’s wishes and outcomes. The process should look at criminal and civil justice options, restorative justice, mediation, social care, housing, health and well-being, support, and community group and third sector organisation services.
• Older people should be involved in all processes and decisions relating to them as equal partners. Advocacy should be made available where an individual wants it. The role and nature of advocacy should be explained to all individuals at the start of the process.
• Specific training in older people’s issues and concerns should be rolled out to all police, social services, local authority departments, fire and rescue services, Community Cohesion Coordinators, Victim Support and third sector support organisations.
• There needs to be a common definition of crimes against older people that focuses on and records where age is a motivating or specific factor.
• A common reporting and recording system for crimes against older people should be implemented across all criminal justice agencies and councils.
• Awareness raising should highlight the impacts of crimes against older people and the support that is available.

16. These recommendations can apply to other protected characteristics.

The role of the voluntary sector, community representatives, and other frontline organisations in challenging attitudes that underpin hate crime.
17. The third sector have a very important role in connecting with communities. They can act as a conduit for information to communities which are traditionally considered ‘hard to reach.’

18. Awareness raising of hate crime, and addressing stigma and discrimination are important roles undertaken by the third sector. These campaigns work more effectively when co-produced with individuals from protected characteristic groups. Disseminating campaigns and awareness-raising in partnership with the public sector is vital.

19. We do not believe that legislative reform should be the only action to address hate crime. Some of the important actions which can be undertaken through the third sector include:
   - Tackling prejudice and the root causes of hate crime, prejudice and discrimination through education
   - Community initiatives
   - Campaigns
   - Addressing the myths and misconceptions around stereotypes
   - Promoting positive images and contributions of people from protected groups

Statistical trends in hate crime and how the recording, measurement and analysis of hate crime can be improved.

20. Application of section 145 or 146 of the Criminal Justice Act 2003 is not always recorded. There are a variety of reasons for this, including the fact that where the maximum sentence has been applied, regardless of the prejudice-based element, there is no effect of the application on section 145 or 146. Not having accurate figures for the application of sections 145 and 146 leads to the public feeling that hate crime is not being prosecuted as such.

21. Offenders’ records do not always include the application of section 145 or 146. This can be a barrier to identifying repeat hate crime offenders and to successful prosecution in these cases.

22. We recommend that all circumstances where section 145 or 146 of the Criminal Justice Act 2003 has been applied are recorded in both hate crime statistics and offenders’ records.

23. Current CPS data on hate crime prosecutions does not include the reasons for ‘no further action’ or for not applying section 145 or 146 of the CJA 2003 or specific aggravated offences when prosecuting. This leads to a perception that hate crimes are often not successfully prosecuted. Not having the reasons for not progressing a case, not applying hate crime legislation, or unsuccessful prosecutions also means that we cannot identify and address reasons for low prosecution rates.

24. We recommend that CPS hate crime prosecution data should include reasons for not progressing a case, not applying hate crime legislation, and not being successful.
The type, extent and effectiveness of the support that is available to victims and their families and how it might be improved.

25. Our Age of Justice project identified concerns around support and methods of improving support for older people. Older people felt they are not understood and that support is rarely offered and is difficult to access.

26. These recommendations can apply across England and Wales and to other protected characteristics.

27. Recommendations include:

- A wide range of community support services should be available and promoted. This should include counselling, befriending, advice, peer support, and dementia-specific services.
- Tailoring support to match victims’ needs
- Rebuilding victims’ confidence and tackling isolation through support services and befriending
- A high-profile campaign with information resources should be implemented. This should include information on what crimes are, how to report, tackling ageist stereotypes, and support available.
- Having a free telephone helpline for older people
- Addressing societal perceptions of older people and valuing them

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