

Hate Crime in Scotland 2012-13

Introduction

This publication provides details of hate crime reported to the Procurator Fiscal in Scotland in 2012-13, and earlier years.

It brings together figures on race crime as well as crimes reported with an aggravation related to religion, disability, sexual orientation or transgender identity. It also provides details of charges reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, following the first full year of operation of this new legislation. The relevant legislative provisions are provided in Annex 1.

Background

The information in this publication is obtained from the Crown Office and Procurator Fiscal Service (COPFS) operational database. The database manages and processes reports submitted to Procurators Fiscal by the police and other reporting agencies throughout Scotland.

The legislation for the newer categories of hate crime (disability, sexual orientation and transgender identity) came into force on 24 March 2010. Therefore the information in this publication covers 2010-11 to 2012-13 only. For the more established categories of hate crime (racial and religious) the figures cover the six year period 2007-08 to 2012-13.

The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 came into force on 1 March 2012. The information in this publication thus covers 2011-12 and 2012-13, but the 2011-12 figures only relate to the single month of March 2012.

In many cases, charges under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 do not include an aggravation, because the charge itself covers the relevant behaviour. However in certain subsections of the Act, the charge does not include the behaviour against specific individuals or groups covered by the Hate Crime categories and in these instances the charge may be reported with an aggravation.

The figures quoted in this publication relate to the number of charges reported rather than the number of individuals charged or the number of incidents that gave rise to such charges. Where a charge has more than one hate crime aggravation, it is included in the overall figures for each type of hate crime into which it falls. If a charge under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 contains a hate crime aggravation it is also included in the overall figures for each type of hate crime into which it falls.

The tables provide information on the initial decision taken by Procurators Fiscal on how a charge will proceed. Further information on what is

included in each decision category, including a breakdown of the reasons for taking no action, is given in Annex 1.

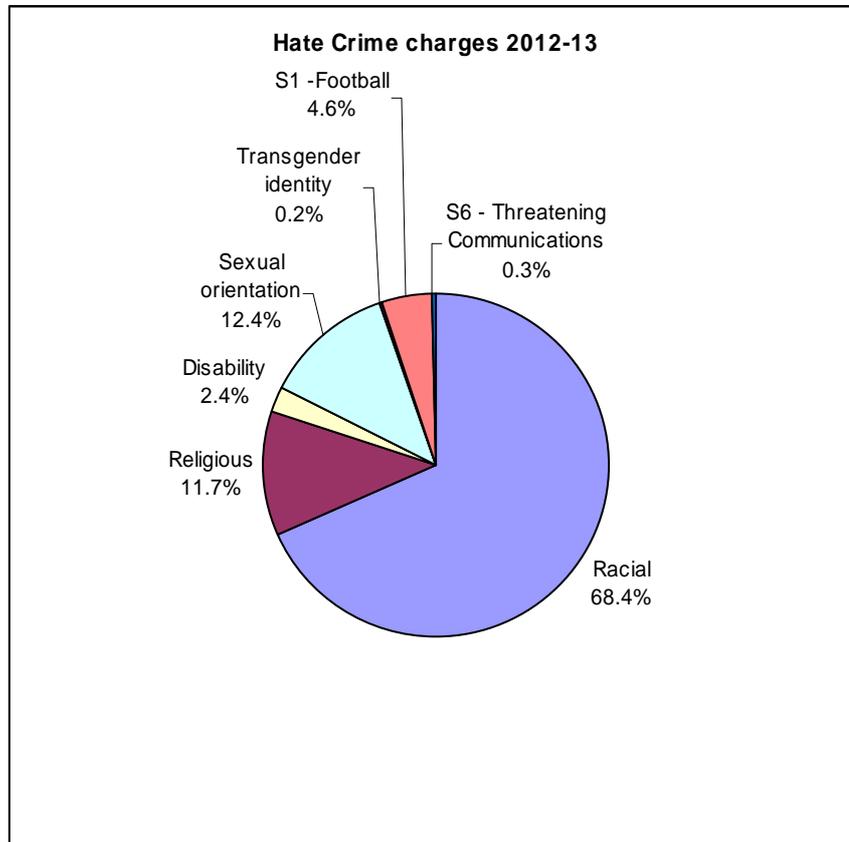
Main points

Overall

Racial crime is the most commonly reported hate crime, with more than twice the number of charges in 2012-13 than the other four categories of hate crime combined.

For the first time in 2012-13, sexual orientation aggravated crime was the second most common type of hate crime, with slightly more charges reported with a sexual orientation aggravation than with a religious aggravation. However, some charges that would previously have been reported with a religious aggravation are now likely to be reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

The number of charges reported with an aggravation of disability or sexual orientation continued to increase in 2012-13, following the introduction of this legislation in 2010. The number of charges reported with a transgender aggravation has remained broadly the same since this legislation was introduced.



Race crime (Tables 1a, 1b)

In total 4,012 charges relating to race crime were reported in 2012-13, 12% fewer than in 2011-12. This is the lowest annual figure in the period covered in this report (and the lowest since 2003-04 when 3,322 charges were reported). The decrease is largely due to a decrease in the number of charges reported relating to racially aggravated harassment and behaviour – charges relating to other offences with a racial aggravation are at a similar level to previous years.

Court proceedings were commenced in respect of 83% of charges in 2012-13, similar to the level in previous years. In total, 91% of charges reported in 2012-13 led to court proceedings (including those not separately prosecuted, but which may have been incorporated into other charges for the same accused).

In total 1% of charges reported in 2012-13 were dealt with by direct measures and 2% by referral to the Children's Reporter. No action was taken in respect of 5% of charges.

Religious crime (Tables 2a, 2b)

There were 687 charges with a religious aggravation reported in 2012-13, 24% fewer than in 2011-12. The number of charges reported in 2011-12 was particularly high, possibly due to increased awareness, reporting and recording of these crimes, following several incidents which received significant media attention during the year. The number of charges reported in 2012-13 is in line with the levels seen in earlier years.

However, the figures for 2012-13 cannot be directly compared with the figures for earlier years, because some charges that would previously have been reported with a religious aggravation may now be reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. Research by the Scottish Government suggests that there were 75 additional charges under this legislation in 2012-13 which related to religiously aggravated behaviour. Including charges under both pieces of legislation therefore implies a total of 762 religiously aggravated charges in 2012-13, a decrease of 15% compared to 2011-12.

In 2012-13, court proceedings were commenced in 81% of charges with a religious aggravation, a slightly lower proportion than in earlier years when proceedings were commenced in around 87% of charges. In total, 93% of charges reported in 2012-13 led to court proceedings (including those not separately prosecuted, but which may have been incorporated into other charges for the same accused), a similar proportion to previous years.

In total 1% of charges reported in 2012-13 were dealt with by direct measures and 2% by referral to the Children's Reporter. No action was taken in respect of 3% of charges.

Disability (Table 3)

In 2012-13, 138 charges were reported with an aggravation of prejudice relating to disability, more than double the number reported in 2011-12. Increased awareness by victims of disability hate crime that such offensive behaviour should not be tolerated may account for the increase in reporting. There is a broad consensus however that this type of crime continues to be under reported compared to other forms of hate crime.

Court proceedings were commenced in respect of 90 charges (65%) reported in 2012-13. In total 100 (72%) charges led to court proceedings, including those not separately prosecuted, but which may have been incorporated into other charges for the same accused.

No action was taken in respect of 17 charges (12%) reported in 2012-13. The most common reason for taking no action was the lack of sufficient admissible evidence for the substantial charge even though there was sufficient evidence for the disability aggravation associated with the charge. If there are no proceedings on the substantial charge, there can be no proceedings on an aggravation associated with the charge.

At the time of publication, 11 charges (8%) are awaiting the outcome of further enquiries before a final decision on proceedings is taken.

Sexual orientation (Table 4)

In 2012-13, 729 charges were reported with an aggravation of prejudice relating to sexual orientation, 12% more than in 2011-12.

Court proceedings were commenced in 77% of charges (or 86% including those not separately prosecuted, but which may have been incorporated into other charges for the same accused).

In total 5% of charges reported in 2012-13 were dealt with by direct measures and 2% by referral to the Children's Reporter. No action was taken in respect of 6% of charges.

Transgender identity (Table 5)

In 2012-13, 14 charges were reported with an aggravation of prejudice relating to transgender identity, similar to the numbers reported in the previous two years.

Court proceedings were commenced in 12 charges (including one not separately prosecuted but which may have been incorporated into other charges for the same accused).

Offensive Behaviour at Football – Section 1 (Table 6)

This legislation came into force on 1 March 2012. There were 65 charges reported in March 2012. In 2012-13, the first full year of implementation, 268 charges were reported.

In 2012-13, court proceedings were commenced in 82% of charges. In total, 84% of charges led to court proceedings (including those not separately prosecuted, but which may have been incorporated into other charges for the same accused).

In total 4% of charges reported in 2012-13 were dealt with by direct measures and 2% by referral to the Children's Reporter. No action was taken in respect of 8% of charges.

Threatening Communications – Section 6 (Table 7)

This legislation came into force on 1 March 2012. There were 5 charges reported in March 2012. In 2012-13, the first full year of implementation, 20 charges were reported.

In 2012-13, court proceedings were commenced in 13 charges (including 4 not separately prosecuted but which may have been incorporated into other charges for the same accused).

Table 1a: Race crime Charges reported, 2007-08 to 2012-13 (numbers)						
Year	07-08	08-09	09-10	10-11	11-12	12-13
Total number of charges of race crimes	4361	4327	4317	4175	4544	4012
Of which						
Charges related to racially aggravated harassment and behaviour	2696	2778	2654	2573	2790	2380
Charges related to another offence with a racial aggravation	1665	1549	1663	1602	1754	1632
Decision on how charge will proceed						
Court proceedings	3523	3454	3530	3498	3720	3312
Not separately prosecuted	350	392	338	370	362	349
Direct measures	73	56	67	44	63	47
Referred to Children's Reporter	213	212	136	42	85	75
No action	202	213	246	221	312	202
Awaiting decision	-	-	-	-	2	27

Table 1b: Race crime Charges reported, 2007-08 to 2012-13 (percentages)							
Year	07-08	08-09	09-10	10-11	11-12	12-13	
Total number of charges of race crimes	4361	4327	4317	4175	4544	4012	
Of which							
Charges related to racially aggravated harassment and behaviour	62%	64%	61%	62%	61%	59%	
Charges related to another offence with a racial aggravation	38%	36%	39%	38%	39%	41%	
Decision on how charge will proceed							
Court proceedings	81%	80%	82%	84%	82%	83%	
Not separately prosecuted	8%	9%	8%	9%	8%	9%	
Direct measures	2%	1%	2%	1%	1%	1%	
Referred to Children's Reporter	5%	5%	3%	1%	2%	2%	
No action	5%	5%	6%	5%	7%	5%	
Awaiting decision	0%	0%	0%	0%	0%	1%	

Table 2a: Religiously aggravated crime Charges reported, 2007-08 to 2012-13 (numbers)						
Year	07-08	08-09	09-10	10-11	11-12	12-13
Total number of charges of an offence aggravated by religious prejudice	609	669	632	696	901	687
Decision on how charge will proceed						
Court proceedings	530	580	551	594	783	559
Not separately prosecuted	34	45	47	62	67	81
Direct measures	17	17	5	14	11	7
Referred to Children's Reporter	14	3	11	3	5	14
No action	14	24	18	23	32	23
Awaiting decision	-	-	-	-	3	3

Table 2b: Religiously aggravated crime Charges reported, 2007-08 to 2012-13 (percentages)						
Year	07-08	08-09	09-10	10-11	11-12	12-13
Total number of charges of an offence aggravated by religious prejudice	609	669	632	696	901	687
Decision on how charge will proceed						
Court proceedings	87%	87%	87%	85%	87%	81%
Not separately prosecuted	6%	7%	7%	9%	7%	12%
Direct measures	3%	3%	1%	2%	1%	1%
Referred to Children's Reporter	2%	0%	2%	0%	1%	2%
No action	2%	4%	3%	3%	4%	3%
Awaiting decision	0%	0%	0%	0%	0%	0%

**Table 3: Disability aggravated crime
Charges reported, 2010-11 to 2012-13**

Year	10-11	11-12	12-13		10-11	11-12	12-13
Total number of charges of an offence aggravated by prejudice related to disability	48	60	138		48	60	138
Decision on how charge will proceed							
	Numbers				Percentages		
Court proceedings	35	36	90		73%	60%	65%
Not separately prosecuted	2	7	10		4%	12%	7%
Direct measures	3	3	4		6%	5%	3%
Referred to Children's Reporter	-	2	6		0%	3%	4%
No action	8	11	17		17%	18%	12%
Awaiting decision	-	1	11		0%	2%	8%

**Table 4: Sexual orientation aggravated crime
Charges reported, 2010-11 to 2012-13**

Year	10-11	11-12	12-13		10-11	11-12	12-13
Total number of charges of an offence aggravated by prejudice related to sexual orientation	452	650	729		452	650	729
Decision on how charge will proceed							
	Numbers				Percentages		
Court proceedings	357	536	564		79%	82%	77%
Not separately prosecuted	37	43	64		8%	7%	9%
Direct measures	15	22	34		3%	3%	5%
Referred to Children's Reporter	7	11	17		2%	2%	2%
No action	36	38	45		8%	6%	6%
Awaiting decision	-	-	5		0%	0%	1%

Table 5: Transgender identity aggravated crime								
Charges reported, 2010-11 to 2012-13								
Year	10-11	11-12	12-13		10-11	11-12	12-13	
Total number of charges of an offence aggravated by prejudice related to transgender identity	14	16	14		14	16	14	
Decision on how charge will proceed								
	Numbers					Percentages		
Court proceedings	14	12	11		100%	75%	79%	
Not separately prosecuted	-	1	1		0%	6%	7%	
Direct measures	-	-	-		0%	0%	0%	
Referred to Children's Reporter	-	2	1		0%	13%	7%	
No action	-	1	1		0%	6%	7%	
Awaiting decision	-	-	-		0%	0%	0%	

**Table 6: Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012
Section 1 (Football)**

Year	11-12	12-13		11-12	12-13
Total number of charges under Section 1 (Football)	65	268		65	268
Decision on how charge will proceed					
	Numbers			Percentages	
Court proceedings	57	219		88%	82%
Not separately prosecuted	2	7		3%	3%
Direct measures	1	11		2%	4%
Referred to Children's Reporter	-	5		0%	2%
No action	-	22		0%	8%
Awaiting decision	5	4		8%	1%

**Table 7: Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012
Section 6 (Threatening Communications)**

Year	11-12	12-13		11-12	12-13
Total number of charges under Section 6 (Threatening Communications)	5	20		5	20
Decision on how charge will proceed					
	Numbers			Percentages	
Court proceedings	5	9		100%	45%
Not separately prosecuted	-	4		0%	20%
Direct measures	-	2		0%	10%
Referred to Children's Reporter	-	2		0%	10%
No action	-	1		0%	5%
Awaiting decision	-	2		0%	10%

Annex 1

Legislation

1. Race crime is defined as any charge of racially aggravated harassment and behaviour in terms of Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 or Section 18, 19 or 23(1)a of the Public Order Act 1980 or any racial aggravation in terms of Section 96 of the Crime and Disorder Act 1998.
2. Religiously aggravated offences are defined as charges that include an aggravation of religiously motivated behaviour in terms of Section 74 of the Criminal Justice (Scotland) Act 2003.
3. Disability aggravated offences are defined as charges that include an aggravation of prejudice relating to disability in terms of Section 1 of the Offences (Aggravated by Prejudice) (Scotland) Act 2009.
4. Sexual orientation aggravated offences are defined as charges that include an aggravation of prejudice relating to sexual orientation in terms of Section 2 of the Offences (Aggravated by Prejudice) (Scotland) Act 2009.
5. Transgender identity aggravated offences are defined as charges that include an aggravation of prejudice relating to transgender identity in terms of Section 2 of the Offences (Aggravated by Prejudice) (Scotland) Act 2009.
6. The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 came into force on 1 March 2012. Charges under Section 1 cover offensive behaviour at football, and those under Section 6 cover threatening communications.

Definitions

7. Not separately prosecuted include charges which were not separately prosecuted, but where other charges for the accused within the same case were prosecuted. In some cases the charges which were prosecuted may have included details from the charges which were not prosecuted.
8. Direct measures include fiscal fines, warning letters and referral to diversion from prosecution schemes.
9. No action includes charges where a decision has been taken not to proceed. This will include charges where there is insufficient evidence to proceed or where further action would be disproportionate. Tables 8 and 9 below give a breakdown of the reasons for no action in 2012-13.

10. Cases awaiting decision include those where no decision has been taken yet, and also those which have been reviewed and have been marked for “further enquiries” i.e. where more information is required before a final decision can be taken on whether to proceed.

Table 8: Breakdown of reason for no action, 2012-13					
	Category				
	Racial	Religious	Disability	Sexual orientation	Trans-gender
Total number of charges – no action	202	23	17	45	1
Not a crime	24	3	1	8	-
Insufficient admissible evidence	114	7	10	21	1
Further action disproportionate	15	4	2	6	-
Mitigating circumstances	14	1	1	1	-
Other	35	8	3	9	-

Table 9: Breakdown of reason for no action, 2012-13		
	Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012	
	Section 1 (Football)	Section 6 (Threatening communications)
Total number of charges – no action	22	1
Not a crime	5	-
Insufficient admissible evidence	5	1
Further action disproportionate	6	-
Mitigating circumstances	-	-
Other	6	-

Convictions

11. The figures in this publication relate to initial decisions taken by the Procurator Fiscal. Many of the charges reported in the most recent year, 2012-13, will not yet have reached a conclusion, so information on the number convicted is not yet available.

12. Figures on convictions for years up to 2011-12 are published by the Scottish Government (<http://www.scotland.gov.uk/Publications/2012/11/5336/0>). Conviction information on aggravations is available based on charges convicted. The figures for race crime cover convictions with racial aggravations only and do not include racial charges. Information on convictions for 2012-13, including those under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, will be published in November 2013.

Related research - religious aggravations and offensive behaviour at football

13. The Scottish Government has published research which provides details of the circumstances of charges with religious aggravations reported in 2012-13. This includes information on the religion targeted, the location where the offence was committed, and the age and gender of the accused. Similar research has also been published relating to charges reported in 2010-11 and 2011-12.
14. The Scottish Government has also published research which provides details of the circumstances of charges under Section 1 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. This includes information on the location where the offence was committed including the football stadium if appropriate, the nature of the offensive behaviour, the age and gender of the accused and their team affiliation.

Data sources and data quality

15. The information in this publication is taken from the COPFS operational database used to manage the processing of reports submitted to Procurators Fiscal by the police and other reporting agencies throughout Scotland. Since this is a live database, the figures given here may not exactly match those previously published. For instance, if the Procurator Fiscal amends a charge, the database only holds details of the amended charge.
16. The legislation for disability, sexual orientation and transgender identity hate crime came into force on 24 March 2010. The figures given in this report therefore cover the first three full years of implementation, when procedures and processes will still have been bedding down to some extent. Spot checks of the data revealed that in some cases the aggravations had not been recorded correctly. Errors identified have been corrected where possible.
17. The total number of charges relating to Section 6 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, and to the hate crimes categories of transgender identity and to a lesser extent disability, is small. The percentages derived

from these figures should therefore be treated with caution, because they are based on small numbers.

18. Percentages may not add up to 100% due to rounding.

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