

## **Hate Crime in Scotland 2011-12**

### **Introduction**

This publication provides details of hate crime reported to the Procurator Fiscal in Scotland in 2011-12, 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. 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 figures quoted 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.

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 and 2011-12 only. For the more established categories of hate crime (racial and religious) the figures cover the six year period 2006-07 to 2011-12.

The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 came into force on 1 March 2012, and therefore was only in force for one month in the period covered by this publication. Full details of offences under this act are not therefore included, but some provisional information is included in the Annex.

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 the Annex.

### **Main points**

#### **Race crime (Tables 1a, 1b)**

In total 4,518 charges relating to race crime were reported in 2011-12, 8% more than in 2010-11. This is the highest number reported in the last six years.

Court proceedings were commenced in respect of 81% of charges in 2011-12, lower than the figure for 2010-11 (84%) but similar to the level

in earlier years. In total, 89% of charges reported in 2011-12 led to court proceedings (including those not separately prosecuted, but which may have been incorporated into other charges for the same accused).

In total 3% of charges were dealt with by direct measures including referral to the Children's Reporter. No action was taken in respect of 6% of charges.

#### Religious crime (Tables 2a, 2b)

There were 897 charges with a religious aggravation reported in 2011-12, 29% more than in 2010-11, and the highest number since the relevant legislation came into force. This large increase is likely to be partly due to increased awareness, reporting and recording of these crimes, following several incidents which received significant media attention during 2011-12.

In 2011-12, court proceedings were commenced in 86% of charges, a similar level to previous years. In total, 93% 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 1% of charges reported in 2011-12 were dealt with by direct measures including referral to the Children's Reporter. No action was taken in respect of 3% of charges.

#### Disability (Table 3)

In 2011-12, 68 charges were reported with an aggravation of prejudice relating to disability, 20 more than were reported in 2010-11, the first full year of implementation of the legislation.

Court proceedings were commenced in respect of 39 charges (57%) reported in 2011-12. In total 45 (66%) charges led to court proceedings, including those not separately prosecuted, but which may have been incorporated into other charges for the same accused. These percentages are lower than the corresponding figures for 2010-11 which were over 70%, although this is partly because 8 charges (12%) reported in 2011-12 are still awaiting a decision.

No action was taken in respect of 10 charges (15%) reported in 2011-12. 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.

#### Sexual orientation (Table 4)

In 2011-12, 652 charges were reported with an aggravation of prejudice relating to sexual orientation. This is 46% more than the number reported in 2010-11, the first full year of implementation of the legislation. This

increase is likely to be due to increased awareness, reporting and recording of these crimes, following several incidents relating to religious prejudice which received significant media attention during the year and which may have increased awareness of other hate crimes as well.

Court proceedings were commenced in 82% of charges (or 88% including those not separately prosecuted, but which may have been incorporated into other charges for the same accused).

In total 4% of charges were dealt with by direct measures including referral to the Children's Reporter. No action was taken in respect of 4% of charges.

#### Transgender identity (Table 5)

In 2011-12, 16 charges were reported with an aggravation of prejudice relating to transgender identity, compared with 14 charges the previous year.

A decision on how to proceed is still to be made in respect of 3 charges but court proceedings were commenced in all other transgender identity charges in both years (including one not separately prosecuted but which may have been incorporated into other charges for the same accused).

<b>Table 1a: Race crime Charges reported, 2006-07 to 2011-12 (numbers)</b>						
<b>Year</b>	<b>06-07</b>	<b>07-08</b>	<b>08-09</b>	<b>09-10</b>	<b>10-11</b>	<b>11-12</b>
<b>Total number of charges of race crimes</b>	<b>4361</b>	<b>4365</b>	<b>4334</b>	<b>4320</b>	<b>4178</b>	<b>4518</b>
Of which						
Charges related to racially aggravated harassment and behaviour	2771	2698	2782	2657	2577	2795
Charges related to another offence with a racial aggravation	1590	1667	1552	1663	1601	1723
<b>Decision on how charge will proceed</b>						
Court proceedings	3457	3513	3450	3520	3499	3677
Not separately prosecuted	414	360	398	347	374	347
Direct measures	92	74	57	69	43	62
Referred to Children's Reporter	229	213	216	137	43	68
No action	169	205	213	247	212	277
Awaiting decision	-	-	-	-	7	87

<b>Table 1b: Race crime Charges reported, 2006-07 to 2011-12 (percentages)</b>							
<b>Year</b>	<b>06-07</b>	<b>07-08</b>	<b>08-09</b>	<b>09-10</b>	<b>10-11</b>	<b>11-12</b>	
<b>Total number of charges of race crimes</b>	<b>4361</b>	<b>4365</b>	<b>4334</b>	<b>4320</b>	<b>4178</b>	<b>4518</b>	
<b>Of which</b>							
Charges related to racially aggravated harassment and behaviour	64%	62%	64%	62%	62%	62%	
Charges related to another offence with a racial aggravation	36%	38%	36%	38%	38%	38%	
<b>Decision on how charge will proceed</b>							
Court proceedings	79%	80%	80%	81%	84%	81%	
Not separately prosecuted	9%	8%	9%	8%	9%	8%	
Direct measures	2%	2%	1%	2%	1%	1%	
Referred to Children's Reporter	5%	5%	5%	3%	1%	2%	
No action	4%	5%	5%	6%	5%	6%	
Awaiting decision	0%	0%	0%	0%	0%	2%	

<b>Table 2a: Religiously aggravated crime Charges reported, 2006-07 to 2011-12 (numbers)</b>						
<b>Year</b>	<b>06-07</b>	<b>07-08</b>	<b>08-09</b>	<b>09-10</b>	<b>10-11</b>	<b>11-12</b>
<b>Total number of charges of an offence aggravated by religious prejudice</b>	<b>696</b>	<b>609</b>	<b>667</b>	<b>632</b>	<b>695</b>	<b>897</b>
Decision on how charge will proceed						
Court proceedings	600	528	578	551	594	772
Not separately prosecuted	63	35	45	47	62	64
Direct measures	11	18	17	5	14	8
Referred to Children's Reporter	11	14	3	11	3	2
No action	11	14	24	18	22	27
Awaiting decision	-	-	-	-	-	24

<b>Table 2b: Religiously aggravated crime Charges reported, 2006-07 to 2010-11 (percentages)</b>						
<b>Year</b>	<b>06-07</b>	<b>07-08</b>	<b>08-09</b>	<b>09-10</b>	<b>10-11</b>	<b>11-12</b>
<b>Total number of charges of an offence aggravated by religious prejudice</b>	<b>696</b>	<b>609</b>	<b>667</b>	<b>632</b>	<b>695</b>	<b>897</b>
Decision on how charge will proceed						
Court proceedings	86%	87%	87%	87%	85%	86%
Not separately prosecuted	9%	6%	7%	7%	9%	7%
Direct measures	2%	3%	3%	1%	2%	1%
Referred to Children's Reporter	2%	2%	0%	2%	0%	0%
No action	2%	2%	4%	3%	3%	3%
Awaiting decision	0%	0%	0%	0%	0%	3%

<b>Table 3: Disability aggravated crime Charges reported, 2010-11 to 2011-12</b>					
Year	10-11	11-12		10-11	11-12
<b>Total number of charges of an offence aggravated by prejudice related to disability</b>	<b>48</b>	<b>68</b>		<b>48</b>	<b>68</b>
Decision on how charge will proceed					
	Numbers			Percentages	
Court proceedings	35	39		73%	57%
Not separately prosecuted	2	6		4%	9%
Direct measures	3	3		6%	4%
Referred to Children's Reporter	-	2		0%	3%
No action	8	10		17%	15%
Awaiting decision	-	8		0%	12%

<b>Table 4: Sexual orientation aggravated crime Charges reported, 2010-11 to 2011-12</b>					
Year	10-11	11-12		10-11	11-12
<b>Total number of charges of an offence aggravated by prejudice related to sexual orientation</b>	<b>447</b>	<b>652</b>		<b>447</b>	<b>652</b>
Decision on how charge will proceed					
	Numbers			Percentages	
Court proceedings	353	535		79%	82%
Not separately prosecuted	36	41		8%	6%
Direct measures	15	21		3%	3%
Referred to Children's Reporter	7	8		2%	1%
No action	35	27		8%	4%
Awaiting decision	1	20		0%	3%

<b>Table 5: Transgender identity aggravated crime Charges reported, 2010-11 to 2011-12</b>					
<b>Year</b>	<b>10-11</b>	<b>11-12</b>		<b>10-11</b>	<b>11-12</b>
<b>Total number of charges of an offence aggravated by prejudice related to transgender identity</b>	<b>14</b>	<b>16</b>		<b>14</b>	<b>16</b>
<b>Decision on how charge will proceed</b>					
	<b>Numbers</b>			<b>Percentages</b>	
Court proceedings	14	12		100%	75%
Not separately prosecuted	-	1		0%	6%
Direct measures	-	-		0%	0%
Referred to Children's Reporter	-	-		0%	0%
No action	-	-		0%	0%
Awaiting decision	-	3		0%	19%

## 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.

### The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

6. This act came into force on 1 March 2012, and therefore was only in force for one month in the period covered by this publication. Full details of offences under this act are not therefore included, but provisional figures show that 42 charges were reported to the procurator fiscal under this act in March 2012. Table 6 below gives the initial decision made for these charges.

<b>Table 6: Offensive Behaviour at Football and Threatening Communications Charges reported in March 2012</b>		
Year	Section 1 (Football)	Section 6 (Threatening communications)
<b>Total number of charges</b>	<b>38</b>	<b>4</b>
Decision on how charge will proceed		
Court proceedings	36	4

Not separately prosecuted	1	-
Direct measures	1	-

## Definitions

7. Not separately prosecuted include charges which were not separately prosecuted, but where other charges for the accused within the same case were. 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. Table 7 below gives a breakdown of the reasons for no action in 2011-12.
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 7: Breakdown of reason for no action, 2011-12					
	Category				
	Racial	Religious	Disability	Sexual orientation	Trans-gender
<b>Total number of charges – no action</b>	<b>277</b>	<b>27</b>	<b>10</b>	<b>27</b>	<b>0</b>
Not a crime	27	5	-	6	-
Insufficient admissible evidence	124	17	7	12	-
Further action disproportionate	19	4	2	9	-
Mitigating circumstances	18	1	-	-	-
Other	89	-	1	-	-

## 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, 2011-12, 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 2010-11 are published by the Scottish Government.  
<http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/Datasets/CrimProcDatDev> The figures are based on persons convicted, rather than on charges. Conviction information on aggravations is currently classified as data being developed because its reliability is still being fully verified. The figures for race crime cover convictions with racial aggravations only and do not include racial charges.

### **Religious aggravations**

13. In November 2011, the Scottish Government published research <http://www.scotland.gov.uk/Publications/2011/11/17154035/0> which provided details of the circumstances of charges reported in 2010-11 that included a religious aggravation. This included information on the religion targeted, the location where the offence was committed, and the age and gender of the accused. Further research relating to charges reported in 2011-12 will be published later in 2012.

### **Data sources and data quality**

14. 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.
15. 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 two 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, and the figures for 2010-11 have been revised as necessary.
16. The total number of charges relating to the newer hate crimes categories is small, particularly for transgender identity and disability aggravations. The percentages derived from these figures should therefore be treated with caution, because they are based on small numbers.
17. Percentages may not add up to 100% due to rounding.

## **AN OFFICIAL STATISTICS PUBLICATION FOR SCOTLAND**

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