

# Home Affairs Select Committee: Inquiry into Hate Crime and its violent consequences

Ref 3516

August 2016

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## About this call for evidence

The Home Affairs Committee has announced an inquiry into hate crime and its consequences in response to a number of recent events namely;

- The 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, in the days immediately following the EU referendum.
- The killing of Jo Cox MP, which has also raised serious questions about how to address the potential for violent action from those holding extremist or fixated views.
- The Government announcement on 30 June 2016 that the Home Office would be publishing a new action plan on hate crime.<sup>1</sup>

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. As currently defined in legislation, it can be motivated by disability, gender identity, race, religion or faith and sexual orientation.

The select committee has invited written evidence on, but not restricted to, the following issues:

- The effectiveness of current legislation and law enforcement policies for preventing and prosecuting hate crime and its associated violence.
- The barriers that prevent individuals from reporting hate crime, and measures to improve reporting rates.
- The role of social media companies and other online platforms in helping to identify online sources of hate crime and to prevent online hate incidents from escalating.
- The role of the voluntary sector, community representatives, and other frontline organisations in challenging attitudes that underpin hate crime.
- Statistical trends in hate crime and how the recording, measurement and analysis of hate crime can be improved.
- The type, extent and effectiveness of the support that is available to victims and their families and how it might be improved.

Age UK is pleased to have the opportunity to make a submission in response to the call for evidence.

## About Age UK

Age UK is the country's largest charity dedicated to helping everyone make the most of later life. We believe in a world where everyone can love later life and we work every day to achieve this. We help more than 5 million people every year, providing support, companionship and advice for older people who need it most. The Age UK network includes Age UK, Age Cymru, Age NI and Age Scotland and around 150 local Age UK partners in England.

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<sup>1</sup> The action plan '*Action Against Hate*' was published by the Home Office on 26 July 2016.

Please note this submission relates to our experience in England only.

## 1. Introduction and background

- 1.1. Negative attitudes towards older people and ageing are pervasive in our society. In common with most other forms of discrimination, ageism is based on inaccurate stereotypes. In the case of older people they are often portrayed as frail, out of touch, and grumpy. Research has shown that those over 70 are seen as incapable and pitiable, when compared with other groups.<sup>2</sup>
- 1.2. In part, the stereotyping of older people is a result of the overwhelming tendency to view those of us over a certain age as one homogeneous mass, failing to reflect the increasing diversity within older generations. By way of illustration, the number of black and minority ethnic people aged 70+ is projected to rise from 170,000 in 2006 to 1.9 million in 2051 – an 11-fold increase.<sup>3</sup> This diversity means that increasingly older people face hostility and prejudice based on more than one characteristic protected under the Equality Act 2010. For example the Camden New Journal reported last year that older gay men living in the borough were the victims of a spate of hate crimes including *'gay-hate graffiti scrawled on doors, faeces left on doorsteps and allegations that homophobic harassment drove one man in his 70s to take his own life'*.<sup>4</sup>
- 1.3. The notion of the older population as a threat is also a component of the prejudice they face. In the immediate wake of the outcome of the EU referendum there was naturally much heated debate about the factors which lead to the success of the 'Leave' campaign. In some quarters this legitimate debate quickly descended into denigration of those who were presumed to be 'to blame' including older people who were described, not only in social media but also in some opinion pieces in the broadsheets, as case 'wrinkly bastards'<sup>5</sup> or even 'virtual corpses'<sup>6</sup>. Although these references may have been intended as 'tongue in cheek', they become less easy to dismiss when coupled with calls to curtail voting rights as in the latter case.
- 1.4. Age UK believes that such expressions of prejudice and hostility foster an environment in which crimes against older people and in some circumstances ageist hate crimes become more permissible and contribute to the 'dehumanising' of our older citizens, possibly leading to behaviour such as physical abuse in care homes.
- 1.5. These concerns have been echoed by the United Nations Independent Expert on the enjoyment of all human rights by older persons, Rosa Kornfeld-Matte who recently issued a statement highlighting that *"We have seen a number of European national newspapers and social media outlets stigmatising older persons as the*

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<sup>2</sup> D. Abrams, T. Eilola and H. Swift, *Attitudes to Age in Britain 2008–9*, Department for Work and Pensions, 2009

<sup>3</sup> N. Lievesley, *The Future Ageing of the Ethnic Minority Population of England and Wales*, Runnymede, 2010

<sup>4</sup> <http://www.camdennewjournal.com/oapgayhate> accessed 17.08.16

<sup>5</sup> Coren, G. (25 June 2016) *Brexit: The wrinklies have well and truly stitched us up*. The Times, London

<sup>6</sup> Paxman, J (19 August 2016), *The Diary: Jeremy Paxman*, Financial Times, London

*scapegoats for Brexit and calling for restrictions on 'grey' votes", she said while explaining that the decision to leave the EU reportedly received strong support from voters over the age of 65. "One magazine even suggested that the pensioners' right to vote should be taken away, just as their driver's licenses are, after they reach certain age." The statement continues "The impact of ageism should not be underestimated" ... "Ageism is the root of the marginalization, social exclusion and isolation of older persons. It is also intimately linked to violence and abuse against them in public and private spheres as scapegoating and stereotyping nourish subconscious motives."*<sup>7</sup>

## 2. Crimes against older people

- 2.1. Despite this evidence of hostility and prejudice directed towards older people and the widespread acceptance of the fact that this can result in discrimination as recognised in the Equality Act 2010, it is notable that hate crime motivated by ageism is not at present a widely recognised concept and is not part of the broader debate on the issue. The Government's new action plan for tackling hate crime *Action Against Hate* make no reference at all to the experiences of older people.
- 2.2. This omission reflects the fact that hate crime legislation does not currently cover older people. The Crown Prosecution Service (CPS) does monitor the number of 'crimes against older people' referred by the police, flags them on its digital case management system and includes them in its annual report on hate crime. In the latest report, it found that in 2015/16, there were 3,759 prosecutions for crimes against older people, an increase of 1.8% on the previous year when it completed 3,693 cases. The number of completed prosecutions for crimes against older people increased for the seventh year running.<sup>8</sup>
- 2.3. Crimes against older people often take place in a context of abuse and mistreatment, which may be physical, emotional, sexual or financial. The UK Study of Abuse and Neglect of Older People Prevalence Survey suggested that around 340,000 (about 1 in 25) older people living in private households are affected by abuse every year. While no comparable figure exists we know that older people also experience abuse in other settings such as nursing homes, residential care homes, hospitals and prisons.
- 2.4. Some of these incidents of abuse will amount to criminal offences which can be prosecuted under various pieces of legislation including the Mental Capacity Act 2005, Criminal Justice and Courts Act 2015 or Fraud Act 2006. However, as the stark difference between the abuse prevalence figures and the figures for successful prosecutions of crimes against older people suggest there is a serious under-reporting of such crimes, due to fear, embarrassment and a lack of access to trusted

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<sup>7</sup> OHCHR (July 2016) *UN human rights expert deplors ageist attacks sparked by Brexit* <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20241&LangID=E> (accessed 30.08.16)

<sup>8</sup> CPS (2016) *Hate crime report 2014-2015 and 2015-2016*

people to whom older people can report their experiences. It is estimated that only 6% of older victims report abuse to the police.<sup>9</sup>

### 3. Ageist Hate Crime

3.1. In some instances crimes against older people will be motivated by hostility and ageist prejudice while others will not. In its policy on prosecuting crime against older people the CPS recognises this, suggesting that the crimes that this group experience can be divided into the following, potentially overlapping, categories:

a) criminal abuse or neglect of older people where there is a relationship and an expectation of trust (for example domestic violence and where older people are targeted because they are either perceived or known to lack mental capacity); or criminal abuse or neglect of older people living either temporarily or permanently in care settings, whether these settings are regulated or unregulated;

b) crimes which are specifically targeted at older people because they are perceived as vulnerable or potentially easy to steal from (for example, financial abuse or theft, muggings of older people, doorstep theft, distraction burglary or rogue traders);

c) crimes against older people which are not initially related to their age but may later become so (for example, a burglary where the burglar does not know the age of the householder but later exploits the situation on discovering that the householder is an older person); and

d) *crimes against older people which are in part, or wholly motivated by hostility based on age, or perceived age*, (for example, an assault, harassment or antisocial behaviour, involving derogatory statements associated with the victim's age).<sup>10</sup>

3.2. There is currently a lack of reliable research evidence about the numbers of crimes against older people which fall into category (d) and could therefore be considered as hate crimes. However there are indications that hostility and prejudice on the grounds of age may play a role in at least some cases of criminal abuse and neglect, domestic violence and frauds and scams.

3.3. In most reported cases of abuse of older people there is little evident consideration of the fact that perpetrators may have been motivated, at least in part, by hostility towards victims because of their age. This is despite the fact that in some cases abuse is overtly linked to the victims' ages, such as the truly appalling crimes inflicted on older residents living with dementia at Roundstones Care Home in Filey. In one instance of cruelty Siobhan Koralewski, who was convicted of ill treatment of a person who lacks capability, is reported to have taken her top off, showing her vest and shouting: "Do you like that you dirty old man?" she then slapped him across the face four times and pulled him by his leg. As he fell on the floor she sat astride him

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<sup>9</sup> *UK Study of Abuse and Neglect of Older People Prevalence Survey Report*, Department of Health and Comic Relief, 2007

<sup>10</sup> CPS (2008) *Crimes against older people - prosecution policy*

and bounced on top of him before squeezing and biting his leg so he cried out in pain.<sup>11</sup> It appears that in cases such as these ageist attitudes are contributing to the dehumanisation of the older person making it easier to maltreat them without feeling guilt or remorse.

- 3.4. There is also some anecdotal evidence that older people experience harassment that is motivated by hostility and prejudice linked to their age. Age UK has identified a number of experiences of harassment or abuse reported to its helpline that appear to have been motivated to some degree by hostility based on the victim's age or age in conjunction with disability, although further comprehensive research would be required to verify this.
- 3.5. The CPS recognises the link between crime and ageism in its 'crimes against older people prosecution' policy. In this document it states *'We understand that racist crime has a link to racism as a prejudicial set of ideas; just as sexual crime or domestic violence has a link to sexism and the application of power and control. Some crimes against the older person have a link to ageism as a prejudicial set of ideas. The CPS acknowledges that ageism may provide the backdrop where crimes against older people are tolerated.'*
- 3.6. However as noted above, hate crime legislation does not currently cover older people. Sections 145 and 146 of the Criminal Justice Act 2003, which provide for a sentencing uplift apply only to cases of racist and religious crime, homophobic and transphobic crime and disability hate crime. While sentencing guidelines do invite courts to increase the sentence for offences against older people on the basis that their perceived vulnerability is an aggravating factor increasing the seriousness of the crime, this does not specifically address the issue of ageist hate crime.

## 4. Conclusions and recommendations

- 4.1. We understand from the hate crime action plan that the Government continues to consider the Law Commission's recommendations on hate crime law reform, including a full scale review of aggravated sentences and offences. Any such future review should consider whether the existing hate crime legalisation should be extended to cover age.
- 4.2. We welcome the announcement from the CPS that it is establishing a National Scrutiny Panel on crimes against older people to assist it in updating its policy and legal guidance to ensure it takes appropriate account of relevant issues in cases of crime against older people, such as safeguarding and the prevalence of acquisitive crime. This work is due to be completed by March 2017.
- 4.3. More broadly the criminal justice system needs to recognise more openly the direct and indirect discrimination that older people face at a societal level, as a result of stereotyping and all too often, attaching lesser value to them as human beings.

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<sup>11</sup> <http://www.telegraph.co.uk/news/uknews/crime/11304361/Bullying-care-worker-jailed-after-attacking-dementia-patients.html> (accessed 18.08.16)