

Notice of Motion 2019/206: Review of procedures following incidents of hate or unlawful discrimination

Contact Name and Details	Mr Bevan Powell Equality, Diversity and Inclusion Adviser powellb@methodistchurch.org.uk
Resolutions	See end of report.

This report expands on Notice of Motion 2019/206 with specific recommendations for the endorsement of the Methodist Council. The notice of motion was referred to the Council without the Conference expressing a mind on it.

Notice of Motion 2019/206: Review of procedures following incidents of hate or unlawful discrimination

The Conference notes the significant work that has been undertaken by the Equality, Diversity and Inclusion Committee. However, continuing reports of incidents of hate or unlawful discrimination within the Methodist Church show there is more work to be done and raise major concerns about the adequacy of our current arrangements for the protection and safeguarding of victims.

The Conference therefore directs the EDI Committee to undertake a review of connexional procedures and protocols, and Standing Orders, in liaison with the Law and Polity Committee and the Conference Officer for Legal and Constitutional Practice, in order to:

- *ensure their effectiveness in protecting and supporting victims who experience discrimination and hate;*
- *ensure that churches and circuits are adequately protected and supported in taking measures to prevent the spread of incidents of hate or unlawful discrimination by particular individuals within their contexts.*

In addition, the Conference directs the EDI Committee to provide:

1. *for the collation and reporting of statistics at local Church, Circuit and District levels, on the number of incidents involving unlawful discrimination or hate;*
2. *recommendations for training and/or resources to meet needs within Circuits and Districts in regard to the management and resolution of incidents of unlawful discrimination or hate.*

In considering this motion, it is important to define and distinguish the difference between hate crime and unlawful discrimination:

Hate Crime:

Hate crime in England and Wales is defined as:

‘any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic’

Hate crime legislation in England and Wales is monitored by the police on five protected characteristics:

- Disability,
- Race,
- Religion,
- Sexual Orientation
- Transgender

Hate crimes can include:

- threatening behaviour
- assault
- robbery
- damage to property
- inciting others to commit hate crimes
- harassment

Hate crimes are dealt with by arresting and charging the perpetrator with the criminal offence. For example, if someone was assaulted, the perpetrator would be charged with assault. The hate – for example homophobic - element is **an aggravating** feature which is taken into account in sentencing. **Any regular criminal offence can be aggravated by having a hate element.** A criminal offence where hate is a motivating factor can lead to a longer sentence.

Hate crimes are far more prevalent than official statistics suggest. Proportionately, they are more likely to be directed against the person than non-hate crimes, and they tend to be experienced repeatedly. Victims often expect their victimisation to continue, or are otherwise fearful of attacks in the future. Hate crimes can have a greater emotional impact on the victim than comparable non-hate crimes, and can cause increased levels of fear and anxiety that can also permeate through wider communities. (College of Policing – Hate Crime Operations Guidance)

Hate Incident:

Any non-crime incident which is perceived, by the victim or any other person, to be motivated by a **hostility or prejudice based on:**

- Disability
- Race
- Religion
- Sexual Orientation
- Transgender

The Equality Act 2010 - Unlawful Discrimination:

The Equality Act 2010 protects people from discrimination in the workplace and in wider society.

Under the Equality Act 2010 Unlawful Discrimination is defined as:

- **Direct Discrimination** – treating a person worse than someone else just because of a protected characteristic.
- **Indirect Discrimination** – doing something that has a worse impact on a protected group than on people who do not have that characteristic.
- **Discrimination by Association** – treating a person worse because they are associated with a person who has a protected characteristic.
- **Discrimination by Perception** – treating a person worse than someone else because they are assumed to have a particular protected characteristic (eg if a straight person is not appointed to a job because they are assumed to be gay).
- **Discrimination arising from disability** – a person with a disability who is treated unfavourably because of something connected to their disability where it cannot be shown to be objectively justified.
- **Victimisation** – treating someone badly or victimising them because they have complained about discrimination or helped someone else complain.
- **Harassment** – engaging in unwanted conduct related to a relevant protected characteristic. Such conduct has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

An individual may take legal action should illegal discrimination takes place.

The Equality and Human Rights Commission can take action in court:

- To provide legal assistance to victims of discrimination
- To intervene in or institute legal proceedings, including judicial review, and
- To make applications to court for injunctions or, in Scotland, interdicts.

These powers can be exercised across a range of issues, including employment, access to goods, facilities and services, housing, transport and education.

Religious Organisations – Exemptions

The Equality Act 2010 provides an exemption for religious or belief organisations from the duty not to discriminate. This exception permits restrictions in the provision of facilities, goods, services, membership and other activities. The exemption applies only in relation to sex (gender), sexual orientation, and religion and belief and only in certain circumstances.

When does the exemption apply?

In relation to service users the exemption only applies where a restriction is necessary:

- to comply with the purpose of the religion or belief organisation, or
- to avoid causing offence to members of the religion or belief that the organisation represents.

These exemptions can apply for religious and belief organisations, **but there are no exemptions in**

the Equality Act for individuals. The law does not permit a person to use their religion or belief to discriminate against or withhold the civil and legal rights of another person.

Recommendations

1. A joint review of Safeguarding Procedures to be undertaken by the Director of Safeguarding, Mr Tim Carter, and EDI Adviser Mr Bevan Powell on behalf of the Safeguarding and Equality Diversity and Inclusion (EDI) Committees; to explore possible opportunities for expanding existing safeguarding procedures to encompass incidents involving hate, unlawful discrimination, abuse or bullying as described in the Equalities Act 2010.
2. The EDI and Safeguarding Committees jointly to produce a best practice guide, which would be 'victim-centred' in approach for Circuits and Districts, to give guidance on ensuring:
 - a. The safety and wellbeing of victims
 - b. The speedy and effective pastoral care of victims
 - c. That incidents are reported and recorded
 - d. That reporting and complaints options are explained to victims
 - e. That all individuals in leadership positions within Circuits and Districts, are encouraged always to challenge inappropriate behaviour
 - f. Encouragement of the reporting of incidents by witnesses, of hate, unlawful discrimination, abuse or bullying, as described in the Equalities Act 2010
 - g. The development of an effective risk assessment mechanism to guide those responsible for complaints or discipline procedures to decide the circumstance under which it would be safe for face to face reconciliation, if at all.
 - h. That victims are kept up to date with progress made regarding complaints or disciplinary processes.
3. The Connexional Team to identify appropriate training and/or resources to meet needs within Circuits and Districts in regard to the management and resolution of incidents of unlawful discrimination or hate and to implement learning from the best practice guide.
4. The issues raised by this Notice of Motion should be referred to the review of Part 11 of Standing Orders and those undertaking the review encouraged to consult the EDI Adviser on how incidents of discrimination and hate crime might best be addressed in future arrangements.

*****RESOLUTIONS**

76/1. The Council receives the report.

76/2. The Council directs the Equality Diversity and Inclusion Committee and the Safeguarding Committee to undertake a joint review of Safeguarding Procedures to explore possible opportunities for expanding existing safeguarding procedures to encompass incidents involving hate, unlawful discrimination, abuse or bullying as described under the Equalities Act 2010. [Recommendation 1]

76/3. The Council directs the Equality Diversity and Inclusion Committee and the Safeguarding Committee jointly to explore options for the production of a best practice guide, which would be 'victim-centred' in approach, for Circuits and Districts, as described within the report. [Recommendation 2]

76/4. The Council directs the Connexional Team to identify appropriate training and/or resources to meet needs within Circuits and Districts in regard to the management and resolution of incidents of unlawful discrimination or hate and to implement learning from the best practice guide. [Recommendation 3]

76/5. The Council refers the issues raised by Notice of Motion 2019/206 to the review of Part 11 of Standing Orders and encourages those undertaking the review to consult the EDI Adviser in respect of how incidents of discrimination and hate crime might best be addressed in future arrangements. [Recommendation 4]