

# Response ID ANON-1WKG-HVUG-M

Submitted to **Public Order Offences**

Submitted on **2018-07-18 16:41:17**

## Introduction

### 1 What is your name?

**Name:**

Christian Concern

### 2 What is your email address?

**Email:**

@christianconcern.com

### 3 What is your organisation?

**Organisation:**

Christian Concern

## Section one: Overarching issues and the context of the guidelines

### Other information

### Section two: Developing the Guidelines Section

#### three: Riot - Culpability factors

1 Do you agree with the proposed approach to the assessment of culpability? Please give reasons where you do not agree.

Yes

If not please tell us why:

2 In culpability category B do you prefer the list of descriptive factors or the individual factor to capture any incident of riot?

Culpability B :

#### Riot - Harm factors

3 Do you agree with the proposed approach to the assessment of harm? Please give reasons where you do not agree.

Yes

Reasons if do not agree:

#### Riot - sentence ranges and starting points

4 Do you have any comments on the sentence ranges and starting points?

No

**COMMENTS:**

#### Riot - Aggravating and Mitigating factors

5 Do you agree with the aggravating and mitigating factors? Please state which, if any, should be removed or added.

Yes

**REMOVE/ADD:**

#### Riot related offending guidance

6 Do you have any other comments to add on the content or structure of the draft guideline?

Comments:

#### **Section four: Violent Disorder - Culpability factors**

**7 Do you agree with the proposed approach to the assessment of culpability? Please give reasons where you do not agree.**

Yes

Reasons:

#### **Violent Disorder - Harm factors**

**8 Do you agree with the proposed approach to the assessment of harm? Please give reasons where you do not agree.**

Yes

Reasons:

#### **Violent Disorder - sentence ranges and starting points**

**9 Do you have any comments on the sentence ranges and starting points?**

No

comments:

#### **Violent Disorder - Aggravating and Mitigating factors**

**10 Do you agree with the aggravating and mitigating factors? Please state which, if any, should be removed or added.**

Yes

Reasons:

**11 Do you have any other comments on the content or structure of the draft guideline?**

comments:

#### **Section five: Affray - Culpability factors**

**12 Do you agree with the proposed approach to the assessment of culpability? Please give reasons where you do not agree.**

Yes

Reasons:

#### **Affray - Harm factors**

**13 Do you agree with the proposed approach to the assessment of harm? Please give reasons where you do not agree.**

Yes

Reasons:

#### **Affray - sentence ranges and starting points**

**14 Do you have any comments on the sentence ranges and starting points?**

comments:

#### **Affray - Aggravating and Mitigating factors**

**15 Do you agree with the aggravating and mitigating factors? Please state which, if any, should be removed or added.**

Yes

COMMENTS:

**16 Do you have any other comments regarding the content and structure of the draft guideline?**

comments:

## **Section six: Section 4, Section 4A & Section 5 Public Order offences**

### **Section 4 – Threatening Behaviour - Causing fear or provocation of violence - Culpability factors**

**17 Do you agree with the proposed approach to the assessment of culpability? Please give reasons where you do not agree.**

No

#### **REASONS:**

The key phrase is "with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person ..." The high culpability definition is clear. The lesser culpability is not clear because it just says "All other cases." There should be more clarity in what constitutes lesser culpability.

### **Section 4 - Harm factors**

**18 Do you agree with the proposed approach to the assessment of harm? Please give reasons where you do not agree.**

No

#### **REASONS:**

Once again a clearer definition of Category 2 is required.

### **Section 4 - sentence ranges and starting points basic offence**

**19 Do you have any comments on the sentence ranges and starting points?**

comments:

### **Section 4 Racially and religiously aggravated offences: Assessing aggravation**

**20 Do you agree with the approach to assessing the level of aggravation present in an offence?**

No

### **Section 4 Racially and religiously aggravated offences: sentence ranges and starting points**

**21 Do you agree with the sentence levels and ranges for the aggravated offence, and the inclusion of a separate sentencing table?**

No

#### **Reasons:**

Threatening violence should carry the same sentence no matter what the motivation or who it is done against. There should not be separate categories for racially or religiously aggravated offences as this means that offences against some people are treated differently to others and therefore undermines equality. Threatening violence is a serious offence no matter who it is done against or why it is done.

### **Section 4 Aggravating and Mitigating factors**

**22 Do you agree with the aggravating and mitigating factors? Please state which, if any, should be removed or added.**

No

#### **Reasons:**

It should not be an aggravating factor for the offence to be motivated by hostility to particular characteristics. It does not matter who the offence is committed against or why it was committed, it is always a serious offence. Adding particular characteristics promotes inequality of persons before the law since some people have these particular characteristics and others do not. This means that there is inequality of treatment of offences against some people (with particular characteristics) over others. This clause should be removed from the list of aggravating factors.

An additional mitigating factor could be that the person is acting in self defence - if they have themselves been threatened or harmed by the victim(s).

**23 Do you have any other comments regarding the structure and content of the draft guideline?**

comments:

### **Section 4A - Disorderly Behaviour with intent to cause harassment, alarm or distress - Culpability factors 24 Do**

**you agree with the proposed approach to the assessment of culpability? Please give reasons where you do not agree.**

Yes

Reasons:

#### **Section 4A - Harm factors**

**25 Do you agree with the proposed approach to the assessment of harm? Please give reasons where you do not agree.**

Yes

Reasons:

#### **Section 4A - sentence ranges and starting points - basic offence**

**26 Do you have any comments on the sentence ranges and starting points?**

Comments:

#### **Section 4A - Racially and religiously aggravated offences: assessing aggravation**

**27 Do you agree with the approach to assessing the level of aggravation present in an offence?**

No

No

#### **COMMENTS:**

Offences should be treated equally seriously no matter who they are committed against or why. There should not be an aggravating factor of racial or religious aggravation which results in treating some people differently before the law because of their race or religion. This undermines equality of persons before the law. It also raises the question of why there are not aggravating factors of gender-based aggravation, or economic-status based aggravation, or regional-based aggravation, etc. The list is endless and should not be started at all. Who the offence is committed against or why should not affect sentencing levels.

#### **Section 4A - Racially and religiously aggravated offences: sentence ranges and starting points**

**28 Do you agree with the sentence levels and ranges for the aggravated offence, and the inclusion of a separate sentencing table?**

No

#### **COMMENTS:**

As stated in the answer to the previous question, there should not be aggravating factors based on race or religion, or any other characteristic.

#### **Section 4A - Aggravating and Mitigating factors**

**29 Do you agree with the aggravating and mitigating factors? Please state which, if any, should be removed or added.**

No

#### **REASONS:**

The sentencing should be no less serious if people do not have certain characteristics. The aggravating factor of the offence being motivated by, or demonstrating hostility based on certain characteristics should be removed. This clause undermines equality of treatment of people before the law. All offences should be treated equally seriously no matter who they were committed against.

An additional aggravating factor should be that the offence is committed with the intention to disrupt or shut-down a public event. The use of intimidation and threats against speakers and attendees at public events is undermining free speech in our society. including this as an aggravating factor will help to protect free speech for public events.

**30 Do you have any other comments regarding the structure and content of the draft guideline?**

comments:

#### **Section 5 – Disorderly behaviour causing or likely to cause harassment, alarm or distress - Culpability factors**

**31 Do you agree with the proposed approach to the assessment of culpability? Please give reasons where you do not agree.**

Yes

REASONS:

#### **Section 5 - Harm factors**

**32 Do you agree with the proposed approach to the assessment of harm? Please give reasons where you do not agree.**

Yes

**Reasons:**

### **Section 5 -sentence ranges and starting points**

**33 Do you have any comments on the sentence ranges and starting points?**

comments:

### **Section 5 - Racially and religiously aggravated offences: assessing aggravation and penalties**

**34 Do you agree with the approach to assessing the seriousness of the aggravated s5 offence, and to the penalty uplifts proposed?**

No

**COMMENTS:**

An aggravating factor should not be whether the offence is motivated by hostility to people with certain characteristics. Offences should be punished equally no matter who the offence is committed against, otherwise equality before the law is undermined.

### **Section 5 - Aggravating and Mitigating factors**

**35 Do you agree with the aggravating and mitigating factors? Please state which, if any, should be removed or added.**

No

No

**COMMENTS:**

An aggravating factor should not be whether the offence was motivated by hostility towards people with certain characteristics. All offences should be treated equally seriously no matter who the hostility was towards. Otherwise equality before the law is undermined.

**36 Do you have any other comments regarding the structure and content of the draft guideline?**

### **Section seven: Racial hatred offences and hatred against persons on religious grounds or grounds of sexual orientation - Culpability factors**

**37 Do you agree with the proposed approach to the assessment of culpability? Please give reasons where you do not agree.**

No

**Reasons:**

In the culpability factor for high culpability, it refers to a person who abuses their position to "stir up hatred". It is not clear what would constitute stirring up hatred? If a person robustly criticised someone's religion, for example, this should not be considered to be stirring up hatred. If a person addresses a transgender person using pronouns for their biological sex this should also not be considered to be stirring up hatred. Because this culpability factor is so vague, it should be removed.

### **Hatred offences - Harm factors**

**38 Do you agree with the proposed approach to the assessment of harm? Please give reasons where you do not agree.**

Yes

**Reasons:**

### **Hatred offences - sentence ranges and starting points**

**39 Do you have any comments on the sentence ranges and starting points?**

comments:

### **Hatred offences - Aggravating and Mitigating factors**

**40 Do you agree with the aggravating and mitigating factors? Please state which, if any, should be removed or added.**

Yes

comments:

**41 Do you have any other comments regarding the structure and content of the draft guideline?**

**comments:**

**Section eight: Public Sector Equality Duty**

**42 Are there any other equality and diversity issues the guideline should consider?**

**comments:**

Statistics published for Public Order offences need to be improved in order to record the sex of offenders rather than the gender. Transgender status could also be added where necessary. This is a matter of equality because female offenders need to be distinguished from male-to-female offenders in all criminological statistics, as this impacts upon the accuracy and integrity of any criminological research conducted using such data, and inaccuracies could lead to producing and furthering a seriously distorted picture of the offender population, with negative consequences for debates on sentencing offenders, choice of prison, etc.