EQUAL OPPORTUNITIES COMMITTEE

OFFENCES (AGGRAVATION BY PREJUDICE) (SCOTLAND) BILL

WRITTEN SUBMISSION FROM THE SCOTTISH POLICE FEDERATION

1. I refer to the above and thank you for your invitation dated 11th September 2008 to respond to this consultation. The Scottish Police Federation (SPF) has itself consulted widely on this matter and this response is drawn from replies received from Federation representatives across Scotland.

2. Whilst this consultation is well meaning, the SPF has long held the view a ‘hierarchy of victim’ is incompatible with the basic principle of everyone being equal in the eyes of the law.

3. Notwithstanding our position on this subject, we recognise a number of statutory aggravations now exist (racial, religious etc) and our experience has shown the police time and resource demanded as a consequence of dealing with the inevitable measurement tools such legislation demands, to be far greater than estimates laid down in previous similar consolations. We believe, should this legislation be forthcoming, that experience will be realised once more.

4. The SPF would be surprised if the Courts were to concede the observation made at paragraph 8 of the policy memorandum and believe this perceptual issue to be instrumental in driving this consultation. This perception is not unique and indeed one of our responses stated;

   “we have always had aggravations to crimes where the victim’s status was taken into account making the crime more serious. If the courts dealt with cases where there were aggravations, in the appropriate manner, then there would be no need for new legislation.”

[NB: Paragraph 8 of the policy memorandum, referred to above, states: At common law, it is already possible for the courts to take the motivations of an offender into account when determining sentence, but it is not obligatory. These new statutory aggravations ensure that the courts must consider the offender's hatred towards these groups and sentence the offender accordingly. As such, these aggravations send a clear message that such prejudice and hatred towards these groups is unacceptable and will not be tolerated.]

5. I trust you find the foregoing useful and should you require any further information please do not hesitate to get in touch.

Calum Steele
General Secretary
Scottish Police Federation
20 October 2008