



# TOWARDS A COORDINATED RESPONSE TO RISING HATE IN VICTORIA

EQUALITY AUSTRALIA'S SUBMISSION TO THE VICTORIAN LEGISLATIVE  
COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE INQUIRY INTO ANTI-  
LGBTIQA+ HATE CRIMES IN VICTORIA

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# INTRODUCTION

Equality Australia welcomes the opportunity to contribute to the Victoria Legislative Council Legal and Social Issues Committee (**Committee**) Inquiry into anti-LGBTIQ+ hate crimes in Victoria (**Inquiry**).

**LGBTIQ+ Victorians are experiencing a deeply concerning rise in hate.** At its most extreme, this includes violent crimes where LGBTIQ+ people have been lured through apps to be assaulted, extorted, robbed, and in some cases videoed for online content. But the rise in hate also includes harassment and abuse, in both online and offline spaces. Even where conduct falls short of a criminal threshold, these behaviours are part of the same underlying climate fuelling anti-LGBTIQ+ hate, and any policy response will fail unless it addresses the situation holistically.

**Hostility and violence against our communities is not new. However, there are new, evolving patterns in the drivers and expression of hate.** In recent years, there has been a noticeable shift in the visibility, organisation and amplification of anti-LGBTIQ+ narratives, particularly in online environments. This sits alongside broader increases in hostility towards other minority communities, including migrants and First Nations peoples.

There is growing evidence that coordinated groups both in Australia and internationally are contributing deliberately to the spread and normalisation of hatred against our communities and others. This is contributing to an environment in which prejudices are reinforced, and where the risk of violent conduct increases significantly. Some commentators have described aspects of this activity as part of an “anti-gender” or “anti-rights” movement.

Although we make a large number of recommendations, they are interdependent: effective responses to hate crimes require more and better data than what is available; data is linked to reporting of hate crimes; reporting should be linked to wraparound specialist services for victims; and so on. **Investing in one part of the system without addressing the whole would undermine the effectiveness of Victoria’s response.**

**The best way to address hate crimes is to prevent them from happening in the first place.** Although much of the detail of this submission focuses on responses to hate crimes after they have happened, an effective approach to prevention is very important and requires significant investment, including to understand what effective prevention looks like.

This submission addresses the 9 terms of reference (**TOR**) for the inquiry, although TOR 8 and 9 are addressed throughout rather than in separate sections.

## TOR 1: COMMUNICATION AND RECRUITMENT METHODS OF ANTI-LGBTIQ+ INFLUENCERS AND HATE GROUPS

In this section we describe the broader context and networks in which anti-LGBTIQ+ influencers and hate groups operate. The role of these actors extends beyond endorsing hate crimes and creating and sharing hateful online content. Rather, hate is part of a deliberate political strategy to erode the progress made on minority rights worldwide.

It is well established that far-right groups such as neo-Nazis are operating in Australia with a goal of seeding hatred and rolling back the hard-won rights of our communities – with flow-on effects for the entire community. This has recently been recognised by the Legislative Assembly Committee on Law and Safety In NSW, in the report of its inquiry into right-wing extremism in the state:

*Right-wing extremism poses a threat to all NSW communities. Rooted in white supremacy and antisemitism, it poses a particular threat to Jewish communities and other ethnic and religious minorities, as well as LGBTQIA+ people and women. Right-wing extremism ultimately threatens public safety, social cohesion and liberal democracy in NSW.*

The rise of anti-LGBTQIA+ hate crimes in Australia is part of a trend occurring in many countries. Official figures from the US, UK and Europe show an increase in anti-LGBTQIA+ hate, particularly affecting trans people.<sup>1</sup> This trend has not emerged spontaneously: some have argued it is a result of deliberate efforts by a well-coordinated and well-resourced set of groups known as “anti-gender” or “anti-rights” actors.<sup>2</sup>

The “anti-rights” or “anti-gender” movement refers to a coordinated global network of organisations and individuals that seek to influence law and social norms in ways that roll back established human rights protections, including public support for these protections, with a focus on gender-related human rights issues such as reproductive rights and LGBTQIA+ rights. Such groups make wide use of misinformation and moral panic-style fearmongering. Notably, there is no single, unified movement. Rather, these terms describe a diverse set of actors with differing motivations, ideologies and methods, but often converging goals.

International anti-rights groups include – but are by no means limited to – the Alliance Defending Freedom International, Family Watch International, the International Organization for the Family, The Heritage Foundation, MassResistance and CitizenGO. This network includes groups from the US far right, the European right and Russia. These international actors generally work with local partners. In Australia, the anti-rights movement includes actors with varied ideologies, such as ultra-nationalists, ultra-conservatives and religious fundamentalists.<sup>3</sup> At the more extreme end of the spectrum are neo-Nazis, who promote white supremacy and antisemitism alongside promoting or directly engaging in violence and abuse of LGBTQIA+ people.

Other actors operate within mainstream policy and advocacy spaces, engaging in issues that are the subject of legitimate public debate and, in some cases, maintaining relationships with political stakeholders. While distinct from extremist or terrorist groups, some of the narratives advanced in these contexts may overlap with, or echo in more moderate terms, themes that also appear in more overtly hostile discourse.

It is important to note most of these are not single-issue organisations. Although transphobia is a common and prominent focus, they also work on issues like resisting First Nations rights, climate change and abortion

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<sup>1</sup> Guy Fiennes and Paula-Charlotte Matlach, ‘Investigation | Five-year overview of the online and offline anti-LGBTQ+ landscape’, *Institute for Strategic Dialogue* (online, 20 October 2025) <https://www.isdglobal.org/digital-dispatch/investigation-five-year-overview-of-the-online-and-offline-anti-lgbtq-landscape/>

<sup>2</sup> Equality Australia and Global Philanthropy Project, *Defending Equality: Why LGBTQIA+ rights matter for regional democracy and stability* (Report, 4 March 2026)18.

<sup>3</sup> International Women’s Development Agency, ‘What Is the Anti-Rights Movement?’ (Factsheet, 2026) <https://iwda.org.au/assets/files/What-Is-The-Anti-Rights-Movement.pdf>

access. In many cases, anti-rights actors use individual issues to work against social cohesion, human rights and democratic stability.<sup>4</sup>

Anti-rights actors use coordinated and consistent messaging, centred generally on fear, shame and moral panic – for example, rhetoric that claims LGBTIQ+ rights place children and women at risk, or that the nation or the ‘traditional family unit’ is at risk.<sup>5</sup>

The anti-rights movement is well-resourced. For example, in Europe alone, about US\$1.18 billion was spent on anti-gender activities between 2019 and 2023.<sup>6</sup> We are not aware of any attempt to measure the amount of funding mobilised in Australia to these ends.

### RECOMMENDATION

Fund research into the links between the international anti-rights movement and anti-LGBTIQ+ actors operating in Victoria, including funding flows.

## TOR 2: CURRENT STRATEGIES TO COUNTER ANTI-LGBTIQ+ HATE CRIMES

### A victim-centric approach to preventing and responding to hate crimes

Hate is a complex social problem. Effective responses must extend beyond punishment to include prevention strategies that address the discriminatory attitudes and beliefs underpinning hate speech and hate crime.

In this section, we recommend a suite of reforms, including enhancements to current measures already in place. These include strengthening victim supports, improving policing responses, expanding criminal law protections, introducing a positive duty to prevent vilification, enhancing the accessibility and effectiveness of personal safety intervention orders, and allowing for hate crime injunctions.

In the next section in response to Terms of Reference 3, we also outline additional measures aimed at preventing hate-based conduct before it escalates, including approaches that address underlying drivers and emerging patterns of harm.

Our recommendations are grounded in the need to provide victims with meaningful choice. Experiences of hate vary widely, as do individuals’ needs and preferences in responding to it. A flexible, multi-faceted framework is therefore essential to ensure responses are effective, proportionate and victim-centred.

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<sup>4</sup> Kurt Sengul and Barrie Shannon, ‘Mainstreaming LGBTIQ+ Hate: The Far Right’s Anti-Gender Countermovement in Australia’ (2025) *Australian Journal of Political Science* <https://doi.org/10.1080/10361146.2025.2599760>

<sup>5</sup> Kurt Sengul and Barrie Shannon, ‘Mainstreaming LGBTIQ+ Hate: The Far Right’s Anti-Gender Countermovement in Australia’ (2025) *Australian Journal of Political Science* <https://doi.org/10.1080/10361146.2025.2599760>

<sup>6</sup> ‘New Report Exposes Funding to Anti-rights Initiatives in Europe Rise to US\$1.18 billion’, *European Parliamentary Forum for Sexual & Reproductive Rights* (online, 26 June 2025) <https://www.epfweb.org/node/1152>.

## Specialist advice and wrap-around services and reporting pathways

The justice system and other services are complex and not easily accessible for many who are targets of hate. Support should be available to victims, regardless of their decision to report formally or not.

Victims also need specialist advice and support so they can make informed decisions about what to do. Multi-disciplinary support is necessary because obtaining legal advice alone does not ensure a victim has the capacity to follow through on that advice, and they may require significant additional support to do so.

Many victims of hate speech and hate crimes are reluctant to report to authorities. The barriers for LGBTIQ+ communities to report hate are well-documented and include:

- normalisation of hate incidents because of their prevalence, meaning that one incident may not stand out from the many that occur.
- lack of awareness of that some incidents amount to a crime or that there are reporting mechanisms available.
- fear of retaliation from the perpetrator once they are made aware of the report, or of consequences in terms of having identity or status exposed.
- lack of trust in authorities/institutions because of historical, and at times ongoing, mistreatment.
- accessibility issues including language and technology barriers.<sup>7</sup>

## Support services should be available through trusted and experienced organisations

Best practice support models include:

- resourcing existing, trusted services such as LGBTIQ+ community organisations, community legal centres, Aboriginal Community Controlled Organisations and Legal Aid Commissions to fulfil the role.<sup>8</sup>
- specialised, multi-disciplinary, holistic and coordinated service provision – not necessarily only providing initial support to the person accessing the service, but helping them to navigate the justice system and get the help they need.
- trauma-informed, safe, confidential, independent and exclusively focused on the needs of the person who has experienced the hate and is accessing the service.<sup>9</sup>
- accessibility – free, available remotely and include interpreter services where required.
- access to services not contingent on reporting a hate crime to police.

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<sup>7</sup> Human Rights Law Centre, *End the Hate: Responding to prejudice motivated speech and violence against the LGBTI community* (Report, 2018) 15 <https://www.hrlc.org.au/reports/end-the-hate/>.

<sup>8</sup> Australian Law Reform Commission, *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence* (Report No 143, 2025) 130

<sup>9</sup> p130 ALRC report

## Tailored, specialised support services get better outcomes

The benefits of tailored support services are:

- minimising trauma and helping victims to recover from the incident/s.
- reducing confusion and disempowerment for people who have experienced hate speech or a hate crime.
- increasing likelihood of reporting through formal channels so that the problem can be better understood.
- increasing engagement with the justice system and reducing the numbers of people experiencing hate crimes who withdraw from formal investigations and prosecutions due to feeling overwhelmed or isolated.
- reducing power imbalance between the person experiencing the hate crime and justice system professionals.<sup>10</sup>

Examples of existing Victorian specialist LGBTIQ+ community services – which could potentially be expanded through additional dedicated funding and expanding their existing remit to include specialist assistance to victims – include Q+ Law and other community legal centres, Switchboard and Thorne Harbour Health.

Relevant generalist support services in Victoria include:

- The Victim-Centred Restorative Justice Program. Restorative justice is an important part of the response and should be encouraged where appropriate. A key challenge is ensuring that victims understand this option is available and what it means – which could be addressed through a model like the Justice Navigator Initiative (see below); and
- The Victims of Crime Financial Assistance Scheme. For victims of LGBTIQ+ hate crimes it is particularly important that the “special circumstances” exemption from the requirement to report to police is operating well – for example, not all victims may be in a position to meet the current requirement of providing a statutory declaration to obtain an exemption.<sup>11</sup> The independent review currently underway is a timely opportunity to assess this. There is also scope to allow victims to make reports through medical professionals or support services instead of police, which would have the additional benefit of enhancing efforts to improve reporting pathways.

**Specialist Justice Navigators should be available to hate crime victims.** An example of a relevant model is the Justice Navigator initiative currently being piloted in Victoria to support victim survivors of sexual assault. Embedded in specialist sexual assault services, the Justice Navigators support victim survivors to understand and exercise their rights and help them navigate the support, compensation, recovery and justice options available. Under Victoria’s 10-year plan for ending family violence, service system navigators were to

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<sup>10</sup> ALRC report p132.

<sup>11</sup> *Victims of Crime (Financial Assistance Scheme) Act 2022* (Vic) s 31(2)

be highly skilled specialist workers who support people from crisis to recovery.<sup>12</sup> A similar model could be explored for anti-LGBTIQ+ hate crimes – noting that the closest equivalent for LGBTIQ+ people, Switchboard’s Rainbow Door service, is primarily a short-term helpline with a broader remit than just hate crimes.

### Many victims of hate speech and hate crimes are reluctant to report to authorities

Victims require support to make informed decisions about whether and how to report a hate crime, including multidisciplinary support, since legal advice alone does not ensure a victim has the capacity to follow through on that advice and they may require significant additional support to do so. Victims should also be able to report through alternative channels. In Victoria, existing alternative channels include Crime Stoppers Victoria (of which there is low awareness in the community) and using the Community Reporting Tool maintained by the Victorian Equal Opportunity and Human Rights Commission. The Community Reporting Tool requires further development if it is to be relied upon as a key alternative reporting pathway in Victoria, particularly through linking it to wrap-around support services. It is not specifically designed for anti-LGBTIQ+ hate crimes, but for all human rights concerns.

#### RECOMMENDATIONS

Provide specialist, wrap-around support to victims in line with best practice principles and ensure referral pathways are clear – including exploring a Justice Navigator model for anti-LGBTIQ+ hate crimes.

Fund LGBTIQ+ community organisations to scale up support for victims of anti-LGBTIQ+ hate crimes.

Assess the effectiveness of the Victim-Centred Restorative Justice Program and Victims of Crime Financial Assistance Scheme in meeting the needs of victims of anti-LGBTIQ+ hate crimes

Ensure community-based reporting pathways are linked to specialist wrap-around support to victims.

### Improving police responses

Improving hate crime laws is ineffectual if police responses remain inadequate. Improvements to police responses are required beyond simply providing more resources to police.

### A Hate Crimes Unit

**A central, specialist Hate Crimes Unit should be established in Victoria Police** to increase capacity to deal with these complex matters. Its role should be to directly conduct investigations and prosecutions and support colleagues across the police force to conduct others. While community engagement should form part of the role, the Unit should be empowered to act to enforce the law too. It should be able to receive online and in-person reports, investigate linked incidents, and incorporate intelligence from other sources to establish and monitor trends, as well as providing expert support to local police districts. A unit would also think critically about data collection – including a series of hate-crime specific questions in new incident reports to

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<sup>12</sup> Family Violence Reform Implementation Monitor, ‘Navigating the Service System’, *Monitoring Victoria’s Family Violence Reforms – Crisis Response to Recovery Model for Victim Survivors* (Web Page, 23 December 2022) <https://archive.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-crisis-response-recovery-model-victim-survivors/navigating-service-system>

ensure hate crimes are flagged at the initial stages of investigation is an example of a way that a unit could improve understanding within the police.

## Trauma-informed services and LGBTIQ+ Liaison Officers

**Aiming for trauma-informed services is critical** because the risk of re-traumatisation through reporting and engaging with the criminal justice system is so damaging and significantly reduces the number of people who will be willing to report.

**LGBTIQ+ liaison officers are beneficial, but the model needs to be improved.** Liaison officers are often police from our communities who are expected to take on the role in addition to all the rest of their usual work, at no additional remuneration. Nonetheless, their function is important: while not necessarily part of the specialist unit, but are police who can be the first point of contact at stations. These officers allow appointment times to be booked, rather than just having to walk into a station.

## Training for all police service members

**Training on anti-LGBTIQ+ hate crimes should be mandatory for all police service members, particularly in regional, rural and remote areas without dedicated local specialist liaison officers.** A specialist unit and/or liaison officers would be well-placed to train other police. We note that Victoria Police do have some dedicated LGBTIQ+ training in place and have taken steps over time to strengthen and expand their training programs. Good practice training includes:

- how to identify anti-LGBTIQ+ hate crimes and the circumstances in which an officer should engage with the specialist investigative unit
- the importance of cultural awareness and the use of appropriate and inclusive language
- trauma-informed communication and engagement with partners, families, friends and loved ones of victims in the specific context of the LGBTIQ+ community
- the role of conscious and unconscious bias and the potential impact of bias on investigations; and
- how data should be collected (for example, by using consistent codes for data integrity).

## Hate crimes scrutiny panels

We also recommend considering the implementation of hate crimes scrutiny panels.

**Hate crimes scrutiny panels are structures within a police service that provide oversight over designated crimes.** They consist of police members and members of the public, and as a group they meet regularly to review the policing response and offer suggestions for improvement, based on their life experience. Panels can, for example, walk through the steps taken to address a hate crime, opening police up to learnings and continuous improvement. Panels should have the following characteristics:

- Designed as an accountability mechanism as well as being a forum for police to be able to engage the community about hate crimes.
- Involve individuals who belong to communities at whom hate is directed.
- Be a forum for members to be briefed on responses to and investigations of hate crimes.
- Regular convening to facilitate follow-through.

The benefits of this type of panel include building trust between police and the affected communities, so that victims are more likely to report hate crimes and allowing cultural and operational obstacles that may be inhibiting effective law enforcement to be addressed.<sup>13</sup>

## Other policing good practice

Other good practice in policing includes:

- Requiring senior leaders to commit to promoting LGBTIQ+ inclusive practices within police services including by measuring staff satisfaction in those areas.
- Having a reliable, centralised reporting mechanism in each state, like the online reporting tool for sexual assault in NSW.<sup>14</sup>
- Ensuring databases can record sex and gender in a way that respects gender diversity.
- Ensuring databases can cross-reference and disaggregate data (so that multiple motivations can be recorded, multiple incidents against one victim can be linked etc).
- Allowing hate crimes to be reported at any station regardless of where the incident took place.
- Improving the coordination of policing responses across jurisdictions.

## RECOMMENDATIONS

Strengthen Victoria's policing response to anti-LGBTIQ+ hate crimes by:

(i) ensuring hate crimes and hate-related incidents are systematically and consistently identified and recorded and made available to centralised databases, and integrated other sources of intelligence and data to better identify trends and potential threats;

(ii) establishing a centralised, specialist Hate Crimes Unit, whose remit includes leading investigations and prosecutions of hate crimes and hate-related incidents and supporting other officers with investigations and prosecutions;

(iii) establishing a Hate Crimes Scrutiny Panel based on the United Kingdom model that serves as an accountability mechanism and community engagement forum and has the appropriate remit to enable Victoria Police to implement improvements in response to feedback;

(iv) introduce measures to increase the cultural capability of officers to appropriately deal with hate crimes and make their responses more trauma-informed;

(v) independently evaluating the effectiveness of Victoria Police's LGBTIQ+ awareness training, including gathering evidence needed for successful prosecutions; and

(vi) improving the coordination of policing responses among jurisdictions.

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<sup>13</sup> For more discussion of the benefits, see the report of the Legal Affairs and Safety Committee, *Report into Serious Vilification and Hate Crimes*, 2022, 50.

<sup>14</sup> See 'Sexual assault reporting option', *NSW Police Force Community Portal* (Web page) [https://portal.police.nsw.gov.au/adultsexualassault/s/sexualassaultreportingoption?language=en\\_US](https://portal.police.nsw.gov.au/adultsexualassault/s/sexualassaultreportingoption?language=en_US)

## Aggravated offences

We welcomed the significant changes to criminal and civil law under the *Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act 2025*, which include LGBTIQ+ people for the first time. The criminal laws protecting people from serious hate speech commenced last year, and the civil laws against vilification commenced on 15 April. We do not make specific recommendations in relation to these laws, since time is needed to assess their impact. However, more could be done to address hate crimes that are motivated by anti-LGBTIQ+ hate.

**We suggest introducing a ‘circumstances of aggravation’ provision for hate crimes**, where a higher sentence is applied where a hate motivation can be demonstrated in a prescribed list of base offences. To avoid overreach, aggravating factors should only be attached to specific base offences that are prescribed in the legislation, i.e. not every offence should have the aggravating factor applied.

The base offences should include:

- Threats
- Stalking
- Going armed to cause fear
- Assaults
- Sexual assaults
- Property damage
- Robberies.

## Demonstration of hate motivation

The provision should incorporate that hate motivation can be found when the offender *demonstrated or expressed hatred for or prejudice against a group of people to which the offender believed the victim belonged*, as opposed to requiring prosecutors to show a person’s internal motivation.<sup>15</sup> Demonstration of hatred can include, for example, what is said during the course of the crime, what is admitted to police, material they viewed or produced in the lead up to the crime (e.g. manifestos, websites, social media). Overseas jurisdictions that use a demonstration test show a higher number of successful prosecutions than those that use a motivation test.<sup>16</sup>

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<sup>15</sup> While applying to aggravated sentencing, not offences, wording similar to Tasmania or new NSW laws could be applied here. Crimes Legislation Amendment (Hate Crimes) Bill 2026 (NSW) cl 1; see *Crimes (Sentencing Procedure) Act 1999* (NSW) s 21A; *Sentencing Act 1997* (Tas) section 11B.

<sup>16</sup> In England and Wales over 11,000 sexual orientation hate crimes were officially recorded between 2017 and 2018, resulting in 1,436 completed prosecutions, with 781 cases ending in a conviction where the hate crime sentence enhancement was applied. By contrast, in Canada police recorded 195 anti-LGBT hate crimes, which amounts to just 1.5% of the total number of anti-LGBT crimes recorded in England and Wales, despite the population of Canada being over half the size of the UK’s -

Kay Goodall and Mark Walters, *Legislating to Address Hate Crimes against the LGBT Community in the Commonwealth* (Report, 5 August 2019) <https://www.humandignitytrust.org/wp-content/uploads/resources/Legislating-to-Address-Hate-Crimes-against-the-LGBT-Community-in-the-Commonwealth-Final.pdf>.

## Benefits of the aggravated offences approach

The key benefits of the aggravated offences approach are:

- **no need for completely new offences** - recognising demonstrations of hate or hate motivations behind *existing* criminal offences, without the need to create new standalone offences.
- **familiarity for police and prosecutors** - incorporating a circumstance of aggravation allows the hate motivation to be reflected in the charge without requiring new or unfamiliar offences – by contrast, police and prosecutors are less likely to understand and prosecute standalone hate offences.
- **better data and early recognition** - including the hate element at the charging stage ensures that hate crimes are properly recorded and visible from the outset - this helps build a more accurate dataset of hate-based offending.
- **improved victim recognition and justice** - for many victims, the harm lies not only in the conduct itself, but in the sense of being targeted for who they are - when this is ignored or the offence is treated as a non-aggravated version, it compounds the trauma and undermines trust in the justice system.
- **reduced likelihood of prosecution failing if hate not proven** - If the aggravating factor is not proven, the person can still be found guilty of the non-aggravated base offence. This is in contrast to the standalone offences approach, where if the hatred element is not made out, the whole prosecution fails.

## Distinction between aggravated offences and aggravated sentencing factors

**Aggravated offences are distinct from introducing hate as an aggravated sentencing factor**, when a person has been convicted of a criminal offence, and at sentencing the decision-maker moves the penalty towards the upper threshold because the crime was committed as a result of hatred. The latter is already in place in Victoria under Section 5(2) (daaa) of the *Sentencing Act 1991*.

The aggravated sentencing provision means where the hate element is not captured at the charging stage, courts can still recognise it at sentencing in line with Section 5(2) (daaa).

It should be made clear in the legislative framework that double punishment is to be avoided. The sentencing consideration should operate as a safeguard to ensure that hate motivation is not overlooked, rather than resulting in cumulative punishment where an aggravated offence has already been established. Our preference is that a hate motivation is identified and charged as an aggravated offence from the outset.

### RECOMMENDATION

Introduce a new provision in the *Crimes Act 1958* for hate-motivated aggravated offences, including:

- (i) a prescribed list of base offences reflecting the hate-motivated offences most often committed against LGBTIQ+ people; and
- (ii) an aggravating circumstance for the base offences that the perpetrator was wholly or partly motivated by, or demonstrated hostility, hatred, or other relevant emotions in respect of a victim's protected attribute/s.

## Sentencing guidelines

Section 5(2) (daaa) of the *Sentencing Act 1991* allows for consideration of whether an offence was ‘motivated (wholly or partly) by hatred for or prejudice against a group of people with common characteristics with which the victim was associated or with which the offender believed the victim was associated’. This wording is much less clear than in other jurisdictions that list a group of attributes that are in need of protection. If there is concern about narrowing the scope, it could at least be a non-exhaustive list to help guide the court.

Last year, Tasmania amended its sentencing laws and incorporated a formulation based on UK law,<sup>17</sup> which means that, unlike in Victoria, the motivation element can be met if the offender demonstrated, or expressed, hostility, malice or ill-will in respect of one of the protected characteristics during or immediately around the time of the offence. A Bill before NSW parliament (at the time of writing) will also adopt this approach.<sup>18</sup>

We support introducing a similar amendment to Victoria’s *Sentencing Act 1991*. This would let courts treat the demonstration or expression of hatred or prejudice as sufficient, rather than requiring the offender’s inner motivation to be proven – which can be difficult to prove.

In Victoria, a finding by a court in the course of sentencing that the offence was hate-motivated or that the offender demonstrated hate does not form part of the criminal record. Scottish hate crimes legislation<sup>19</sup> requires a court to record on the conviction that an offence was aggravated by prejudice and on what basis (i.e. by protected attribute). This has some benefits:

- The fact of the aggravation is on the record, rather than buried in sentencing remarks.
- It may be relied upon in later proceedings, e.g. where there is reoffending, it can show a pattern of behaviour.
- Contributes to data on hate crime prevalence and patterns.

While 2021 Legislative Assembly Legal and Social Issues Committee *Inquiry into anti-vilification* discussed some of the challenges in relation to sentencing for hate crimes, it did not specifically discuss our recommendations below relating to the demonstration of hate motivation and updates to the *Criminal Procedure Act 2009*.

### RECOMMENDATIONS

Update section 5 of the *Sentencing Act 1991* to:

(i) clarify that ‘common characteristics’ includes (but is not limited to) the protected attributes in section 195M of the *Crimes Act 1958*; and

(ii) include an additional provision that an offence is taken to be motivated by hatred or prejudice when there is demonstration or expression of hostility, hatred, or other relevant emotions before, during, and after the incident.

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<sup>17</sup> *Sentencing Act 1997* (Tas) s 11B.

<sup>18</sup> Crimes Legislation Amendment (Hate Crimes) Bill 2026 (NSW) 2.

<sup>19</sup> Hate Crime and Public Order (Scotland) Act 2021 s 6.

Amend the *Criminal Procedure Act 2009* to require that a criminal record must contain, if applicable, that the offence was motivated by hatred or prejudice and the type of hatred or prejudice by reference to the ‘common characteristics’.

## A positive duty to prevent vilification

Currently, most jurisdictions in Australia protect people from discrimination and vilification via a complaint mechanism, where the onus is on the victim to take steps to rectify a breach of the law. By contrast, a positive duty is an obligation on a person or organisation (the **duty holder**) to take proactive steps to prevent discrimination, vilification and hate before it happens. Fulfilling a positive duty involves proactive steps such as risk assessments, prevention planning and creating clear and safe reporting mechanisms.

Victoria’s *Equal Opportunity Act 2010* includes a positive duty to prevent discrimination. However, there is no positive duty to prevent vilification in Victoria, even though the 2021 Legislative Assembly Legal and Social Issues Committee *Inquiry into anti-vilification* recommended introducing one.<sup>20</sup>

The current positive duty should be extended to cover vilification.

## Benefits of a positive duty

The benefits of a positive duty include:

- reducing the burden on victims to make a complaint to address or stop a specific incident.
- addressing the causes of discrimination/vilification more effectively because duty holders are required to change discriminatory behaviours proactively rather than merely waiting for complaints to be brought by individuals.
- improved understanding of the impact of discrimination/vilification and help to change prejudiced views.
- helping duty holders to avoid the costs of unlawful conduct including complaints, reduced productivity and reputational damage.<sup>21</sup>
- ensuring that platforms such as X and Facebook would have more concrete obligations to moderate and remove vilifying content, which is a common concern for LGBTIQ+ communities.

At the same time as expanding the positive duty, the Victorian Equal Opportunity and Human Rights Commission (**the Commission**) should be vested with all powers needed to act to address situations where duty holders fail to meet the standard.

For the duty to be meaningful and enforceable, several elements are critical:

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<sup>20</sup> Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Anti-Vilification Protections* (Report, March 2021) 142.

<sup>21</sup> New South Wales Law Reform Commission, *Review of the Anti-Discrimination Act 1977 (NSW): Unlawful conduct* (Consultation Paper No 24, May 2025) 236.

- The ability to develop binding or authoritative practice guidelines, particularly tailored to relevant settings e.g. how social media platforms are to comply, to clarify what the duty requires in practice.
- Adequate resourcing for both duty holders and the Commission to support implementation, education and monitoring.
- An ability for the Commission to conduct an own-motion investigation based on a reasonable suspicion of a breach of the positive duty.
- Clear powers for the Commission to review compliance, on both a voluntary and compulsory basis.
- The ability for the Commission to report publicly on compliance activities and outcomes, including steps taken by organisations or individuals to meet the duty.

### RECOMMENDATION

Establish an enforceable positive duty for duty-holders to take reasonable and proportionate measures to eliminate vilification by amending section 15 of the *Equal Opportunity Act 2010* to include vilification within the scope of the existing duty, and ensure that the VEOHRC has necessary powers to conduct a regulatory role in this space.

### Personal safety intervention orders

Many community members experiencing vilification tell us that more than anything else, they just want it to stop. While there are laws across the country to prevent harassing behaviours which can include hate-motivated conduct, there is inconsistency between the laws and enforcement is complex.

Examples of this kind of harmful conduct affecting LGBTIQ+ communities can include targeted online hate, often combined with doxxing, deadnaming and ‘pile ons’, stalking behaviours from strangers involving vilifying speech, or repeated harassment by neighbours. Issues arising in a neighbourhood setting can be particularly harmful, and in the more extreme cases leading to people having to choose between ongoing abuse or homelessness.

Under the *Personal Safety Intervention Orders Act 2010* (Vic), a court can make an intervention order if satisfied that the respondent has committed prohibited behaviour including harassment, and it is likely to be continuing conduct. Harassment means ‘a course of conduct by a person towards another person that is demeaning, derogatory or intimidating and includes such conduct that is carried on by or through a third person.’ (s7). The law includes an example of ‘harassment’ that could trigger an intervention order, where a person makes derogatory taunts to another person, including racial taunts or taunts about that person’s sexual orientation or gender identity.<sup>22</sup>

One of the challenges with personal safety intervention orders is that, unlike domestic or family violence orders, they are not as easily enforceable out of the state. This is an issue when we know hate often crosses state borders, especially when it involves ongoing online harassment where victims and perpetrators could be anywhere in the world.

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<sup>22</sup> *Personal Safety Intervention Orders Act 2008* (Vic) section 7 defines harassment and gives this example.

Under the Victorian law now, a person could register an interstate order from corresponding laws in other jurisdictions, if the perpetrator is somewhere in Australia.<sup>23</sup> Inconsistencies between the relatively broad Victorian scheme and other corresponding laws will mean coverage is patchy.

By contrast, DVOs are *automatically* enforceable in every state and territory without having to register them due to changes in 2017 under the National Domestic Violence Order Scheme.

We suggest working with other states and territories and the federal government to harmonise personal safety orders, and to create an enforcement scheme similar to the National Domestic Violence Order Scheme.

### Hate crime injunctions

The state of Vermont in the United States has a hate-motivated crime injunction which can be applied for by a victim whether or not the perpetrator has been charged with a crime. While they are civil orders, they are similarly enforced by police if a breach occurs.<sup>24</sup> An injunction order requires the offender not to harass or contact the victim and not to commit further hate crimes against a victim or anyone else.

Creating an injunction scheme would bolster existing criminal law responses including recent changes to the law made through the *Justice Legislation (Anti-vilification and Social Cohesion Act) 2025* which already make it a criminal offence to publicly incite hatred or threaten physical harm or property damage based on an attribute.<sup>25</sup>

The benefit of injunctions as opposed to criminal prosecutions is that they do not lead to criminalisation *unless* the perpetrator deliberately breaches the order in place. It means that victims can choose either the pathway of going to the police, or seeking a civil injunction, that will later be enforced by police if required.

### RECOMMENDATION

Work with other governments to harmonise harassment personal safety intervention order laws and to create an enforcement scheme which makes it unnecessary to register inter-state orders.

Create hate-crime injunctions applying to the conduct already prohibited in section 195N and 195O of the Crimes Act 1958.

## TOR 3: CURRENT ANTI-LGBTIQ+ HATE CRIME PREVENTION INITIATIVES

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<sup>23</sup> *Personal Safety Intervention Orders Act 2008* (Vic) section 4. See also Regulations 6 and 7 of the Personal Safety Intervention Orders Regulations 2011 (Vic) prescribe the relevant interstate corresponding laws.

<sup>24</sup> For more information, see <https://legislature.vermont.gov/statutes/fullchapter/13/033>.

<sup>25</sup> Section 195N and 195O. <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://content.legislation.vic.gov.au/sites/default/files/2025-04/25-011aa-authorized.pdf>

## A hate prevention program

Hate crimes are the tip of the iceberg. They are the most extreme of the many manifestations of prejudice LGBTIQ+ people experience in their everyday lives. Even less visible is the extent of anti-LGBTIQ+ beliefs that many people harbour without engaging in these behaviours. Any effort to prevent hate crimes must address the underlying causes.

For this reason, a program to prevent hate must be part of the solution. It should address prejudice and discrimination, including specifically targeting the factors that cause individuals to translate their beliefs into behaviours like violence and harassment. A hate prevention program aligns well with Victoria's positive duty to prevent discrimination and could include measures to support organisations to implement the positive duty obligation.

Such a program must be designed carefully. Evidence does not show that broad interventions like awareness raising and national advocacy campaigns are effective, particularly if they are delivered as standalone interventions without more targeted complementary programs. A prevention program should have the following elements:

- Evidence-based – using an approach that has been shown to change behaviour and beliefs, and including investment in social and other research to understand why hate happens
- Designed with LGBTIQ+ community input
- Medium to long-term goals rather than expecting short-term gains
- Include evaluation of the campaign from the outset
- Target interventions to specific cohorts and settings e.g. young people in schools.

There is very little high-quality evidence of effective approaches to preventing hate crimes and reducing discrimination against LGBTIQ+ people, but lessons can be taken and adapted from related areas. These include, for example, the work of Respect Victoria on primary prevention of violence against women, as well as VEOHRC's work in response to the 2021 Victorian inquiry into anti-vilification protections, which called for ongoing research on the drivers of vilification and prejudice and on effective prevention strategies.

## Deradicalisation programs

Deradicalisation and rehabilitation programs are critical in combatting extremism that manifests in hatred of LGBTIQ+ people. We support the continued funding and expansion of programs as a preventative response, particularly in the context of any proposed expansion of criminal offences. We note the important role of Victoria's Countering Violent Extremism programs, which is part of the federal Step Together program. It is essential that these programs be properly evaluated for effectiveness and their continued relevance to the changing context, particularly the rise in far-right ideology and its role in radicalisation.

In Australia, there are no dedicated, evidence-based programs targeting the underlying drivers of hate-motivated offending, aimed at rehabilitating offenders and preventing re-offending. As a result, individuals are often processed through the criminal justice system and released from custody with the same attitudes, beliefs and biases that contributed to their offending in the first place. This represents a missed opportunity for prevention.

Hate crime is not only about the act itself, but the underlying prejudice that drives it. Without interventions that directly engage with and challenge these beliefs, there is a heightened risk of reoffending and ongoing harm to targeted communities.

Research commissioned by the Equality and Human Rights Commission Scotland<sup>26</sup> highlights the need for structured rehabilitation approaches that explicitly address prejudice, promote understanding, and reduce bias among offenders. This work emphasises that criminal justice responses should not be limited to punishment, but should also include efforts to support behavioural change and address underlying prejudice – not only the prejudice held by offenders, but that of the communities to which they belong and which shape their attitudes.

The absence of rehabilitation programs leaves a critical gap in the overall response to hate crime. Without a focus on rehabilitation, the system risks entrenching cycles of harm, rather than reducing them. Developing and embedding targeted rehabilitation programs should therefore be a key priority in any comprehensive hate crime framework.

### A coordinated response to preventing hate crimes

We support development of an overarching policy framework to guide prevention of hate crimes. This will enable the requisite coordination of prevention actions across portfolios. It is important that the development and implementation of this framework be overseen by LGBTIQ+ community stakeholders and relevant experts.

#### RECOMMENDATIONS

Fund a program designed to reduce prejudice and discriminatory attitudes towards LGBTIQ+ people, including strengthening the evidence base for effective approaches.

Establish a statewide strategy or action plan to prevent anti-LGBTIQ+ hate crimes, including evidence-based actions to prevent hate and expanded efforts to de-radicalise and rehabilitate individuals at risk of perpetrating anti-LGBTIQ+ hate crimes.

Create an oversight mechanism for the strategy or action plan with representation from community organisations, justice and legal services, education and health sectors, and academic experts.

Ensure the Countering Violent Extremism programs are evidence-based and remains responsive to the shifting context.

Develop and implement evidence-based rehabilitation programs for hate crime offenders in Victoria, focused on addressing underlying prejudicial attitudes, reducing the risk of reoffending, and embedding these interventions within sentencing, corrections, and post-release supervision frameworks.

## TOR 4: EXISTING PUBLIC AND ONLINE SAFETY INITIATIVES

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<sup>26</sup> Paul Iganski et al, *Rehabilitation of Hate Crime Offenders* (Research Report, Equality and Human Rights Commission (Scotland), Spring 2011).

## TOR 5: ROLE AND RESPONSIBILITIES OF DIGITAL PLATFORM OWNERS

### Online safety

In our view, measures to strengthen online safety and regulate social media and digital platform owners are primarily a Commonwealth responsibility. We are not sure there is benefit in creating separate state-based schemes to address online safety, since the conduct crosses state borders frequently.

Currently, people are protected from online hate speech that meets a high threshold through complaints about cyber-abuse to the e-Safety Commissioner (**e-Safety**) or making a criminal complaint about using a carriage service to menace, harass or cause offence under s 474.17 *Criminal Code 1995* (Cth). Some conduct may also meet the threshold for civil or criminal vilification under Victorian law.

## TOR 6: ANTI-LGBTIQ+ HATE CRIMES DATA AUSTRALIA-WIDE

## TOR 7: IMPACTS ON DIVERSE LGBTIQ+ COMMUNITIES

In this section we summarise the available data on anti-LGBTIQ+ hate crimes in Australia, including Victoria-specific data to the extent possible. This data shows that anti-LGBTIQ+ hate crimes, abuse and harassment are growing more frequent and that Victorian trends are similar to the national averages. Online hate speech is a particularly pervasive issue. Trans people are particularly affected. While there is unfortunately limited data available on diverse LGBTIQ+ communities, the available data suggests that communities experiencing intersectional marginalisation experience harassment, abuse and discrimination at higher rates.

Victoria's LGBTIQ+ strategy, *Pride in our future*, includes work to improve LGBTIQ+ data collection. This may provide an opportunity for Victoria to strengthen the availability of data on anti-LGBTIQ+ hate.

### Extent and impact of hatred on LGBTIQ+ communities are significant and increasing

In 2020, a national survey of 6,835 LGBTQ people conducted by the Australian Research Centre in Sex, Health and Society (**Private Lives 3**). Analysis of the Victorian data revealed the following experiences in the year leading up to the survey:

- 32.7% – verbal abuse (including hateful or obscene phone calls)
- 22.6% – harassment such as being spat at and offensive gestures
- 21.3% – written threats of abuse via emails, social media
- 14.0% – threats of physical violence, physical attack or assault without a weapon

- 11.3% – receiving written threats of abuse in other ways
- 4.0% and 4.0% respectively – deliberate damage to property or vandalism of a house and/or car
- 3.4% – physical attack or assault with a weapon (knife, bottle, stones).<sup>27</sup>

The Victorian figures are very similar to the national figures. When compared with the 2012 national Private Lives 2 survey, the 2020 results suggest that the incidence of violence and harassment is increasing over time.

Online hate speech is a particularly pervasive problem. According to eSafety, the LGBTIQ+ community experiences online hate speech at more than twice the rate of the general population in Australia.<sup>28</sup> Harassment on dating apps is markedly higher for LGBTIQ+ people (63.4%) compared with the general population (43.4%).<sup>29</sup> Research commissioned by eSafety in 2021 found that LGBTIQ+ teens had experienced hate speech at twice the national average, and even more concerningly 1 in 4 had been threatened with physical harm.<sup>30</sup>

## Trans people are particularly targeted

A 2023 survey of over 3,000 trans people (**Fuelling Hate**) found that since 2020:

- 85% of respondents had seen significantly more online anti-trans hate
- 34% had experienced more in-person anti-trans abuse, harassment or vilification
- 16% had experienced anti-trans violence
- 1 in 3 had seen anti-trans violence.<sup>31</sup>

In a longitudinal study of 807 trans people (**TRANSform**), survey respondents reported extensive exposure to anti-trans speech:

- 72.1% to anti-trans rhetoric online multiple times each week
- 68.9% to international anti-trans legislation and violence (e.g. news reports about violent hate crimes against trans people)
- 58.2% to anti-trans rhetoric in the news media
- 37.6% to anti-trans rhetoric by Australian politicians and other high-profile individuals.

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<sup>27</sup> Adam O Hill et al, *Private Lives 3: The Health and Wellbeing of LGBTQ People in Victoria: Victoria Summary Report* (ARCSHS Monograph Series No 130, Australian Research Centre in Sex, Health and Society, La Trobe University, 2021) 3.

<sup>28</sup> eSafety Commissioner (Cth), 'Fighting the tide: Encounters with online hate among targeted groups' (Report, February 2025) 19; see also 'Online Hate and Discrimination', eSafety Commissioner (Web Page, 14 June 2023) <https://www.esafety.gov.au/lgbtiq/learning-lounge/dealing-with-onlineabuse/online-hate-discrimination>.

<sup>29</sup> Kerrie Albury et al, 'Safety, Risk and Wellbeing on Dating Apps: Final Report' (Swinburne University of Technology, 2019).

<sup>30</sup> eSafety Commissioner, *Tipping the balance: LGBTIQ+ teens' experiences negotiating connection, self-expression and harm online* (Aussie Kids Online, June 2024) 12.

<sup>31</sup> Hiero Badge et al, *Fuelling Hate: Abuse, harassment, vilification and violence against trans people in Australia* (Trans Justice Project and Victorian Pride Lobby, 2023) <https://transjustice.org.au/wp-content/uploads/2023/08/Fuelling-Hate-Anti-Trans-Abuse-Harassment-and-Vilification-WEB-SINGLES-1-1.pdf>.

Analysis of the TRANSform data found that higher exposure to anti-trans public rhetoric, policies and violence is associated with a higher risk of adverse mental health outcomes.<sup>32</sup>

Research from eSafety found that among trans children:

- 81% had experienced cyberbullying
- 88% had seen online hate at some point
- 75% had seen online hate in the last 12 months
- 38% had experienced non-consensual tracking, monitoring or harassment, and
- 20% experienced it in the past 12 months<sup>33</sup>

## Hate crimes against LGBTIQ+ communities experiencing intersectional marginalisation

While data about hate crimes specifically is difficult to locate, **available data suggests that communities experiencing intersectional marginalisation experience harassment, abuse and discrimination at higher rates.** In the following examples, we do not intentionally exclude any particular communities, but are guided by what data is available. Examples of relevant evidence include:

- 52.7% of young LGBTIQ+ people with disability reported verbal harassment due to their sexuality or gender identity in the previous 12 months, compared to 34.7% of those without disability.<sup>34</sup>
- Among adults with disability, 34.8% of participants categorised by the Disability Flag with mild disability, 41.6% of those categorised with moderate disability and 58.1% of those categorised with severe disability reported experiencing verbal abuse due to their sexual orientation or gender in the past 12 months. This compared to 31.7% of those without disability.<sup>35</sup>
- Research has suggested the need to investigate compounding risk of suicide-related behaviour among Aboriginal and Torres Strait Islander LGBTIQ+ people and Sistergirls and Brotherboys (terms used by some Aboriginal and Torres Strait Islanders people, and which refer exclusively to Aboriginal and Torres Strait Islander women and men who are transgender).<sup>36</sup>

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<sup>32</sup> Sav Zwickl, et al, 'Exposure to anti-trans rhetoric, policies, and violence: associations with mental health outcomes in Australian trans and gender diverse communities', 21 July 2025, accessed 3 December 2025.

<sup>33</sup> *How common is cyberbullying among children in Australia?* [website], eSafety Commissioner, 27 June 2025, accessed 12 November 2025; *How common are experiences of seeing online hate among children in Australia?* [website], eSafety Commissioner, 23 July 2025, accessed 12 November 2025; eSafety Commissioner, 'Digital use and risk: Online platform engagement among children aged 10 to 15', July 2025: 17; 29.

<sup>34</sup> Adam O Hill et al, *Violence, Abuse, Neglect and Exploitation of LGBTQA+ People with Disability: A Secondary Analysis of Data from Two National Surveys* (Research Report, Australian Research Centre in Sex, Health and Society, La Trobe University, November 2022) 4.

<sup>35</sup> Adam O Hill et al, *Violence, Abuse, Neglect and Exploitation of LGBTQA+ People with Disability: A Secondary Analysis of Data from Two National Surveys* (Research Report, Australian Research Centre in Sex, Health and Society, La Trobe University, November 2022) 4.

<sup>36</sup> Madi Day et al, *Aboriginal and Torres Strait Islander LGBTIQIASB+ People and Mental Health and Wellbeing* (Report No IMH 15, Australian Institute of Health and Welfare, 2022) vi.

## We need more reliable data on anti-LGBTIQA+ hate crimes

Robust and reliable data on hate directed at LGBTIQA+ people is very limited in Australia. Collecting and maintaining reliable longitudinal data and statistics on hate-related incidents through surveys such as Private Lives is one essential element to ensure solid policy formation and appropriate resource allocation in countering hate. A key advantage of a survey-based approach is that they allow for measurement of the statistical relationship between hate-related incidents and other variables, such as demography and relevant experiences that do not qualify as hate incidents, like discrimination.

The Australian Institute of Criminology recently launched the National Hate Crime Database.<sup>37</sup> It relies only on police data, which is a good start. However, it needs further development to be able to create a full picture of hatred against LGBTIQA+ people, particularly because – as discussed above – not all incidents are reported to police or meet the criminal threshold.

There are online registers to report Islamophobia<sup>38</sup> or antisemitism.<sup>39</sup> These types of registers could be used as potential models for implementation of a broader (national) hate-related incident database for LGBTIQA+ people. Importantly, a register needs to be funded appropriately.

An online register also needs to be more than simply a data collection point—data collection must be linked to wraparound support for victims, as discussed in our response to questions 4 and 5. Simply extracting data from victims without offering support can be disempowering and re-traumatising and should be avoided.<sup>40</sup>

### RECOMMENDATIONS

Advocate to the Commonwealth for ongoing development and expansion of the National Hate Crimes Database.

Provide consistent ongoing funding for the Private Lives survey conducted through La Trobe University.

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<sup>37</sup> Australian Institute of Criminology, 'National Hate Crimes Database' (Web Page) <https://www.aic.gov.au/statistics/national-hate-crimes-database>.

<sup>38</sup> Islamophobia Register Australia (Web Page) <https://islamophobia.com.au/>

<sup>39</sup> Executive Council of Australian Jewry, 'Antisemitism Reporting Hub' (Web Page) <https://www.ecaj.org.au/report/>

<sup>40</sup> OSCE Office for Democratic Institutions and Human Rights, *Hate Crime Data Collection and Monitoring: A Practical Guide* (Guide, 29 September 2014) 1.