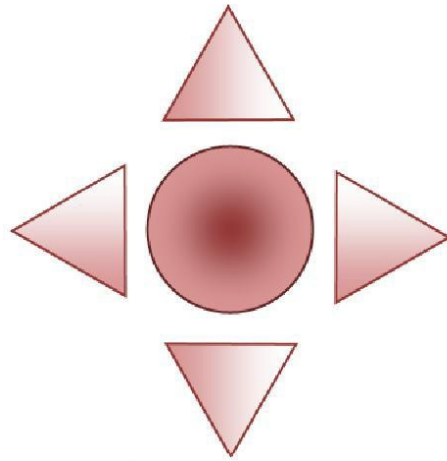




Naturist
Action
Group

Submission to the
Law Commission consultation 250
on
Hate crime laws

December 2020

The **Naturist Action Group** (NAG) was founded in 2010 specifically to campaign for the acceptance of naturism in the UK. At that time BN was operating as a national body of member clubs whose activities predominantly took place in enclosed spaces around the UK, with the exception of about five ‘beach days’ annually. There were also three naturist rambling groups organising footpath walks.

As a campaigning body NAG has promoted public naturism, as complementary to those naturist activities held ‘behind fences and closed doors’. In doing so, we have engaged with a number of local authorities, national bodies, government, and the media.

We note that this consultation relates to the law in England Wales. This submission has been compiled from information and comments provided by many naturist supporters of NAG in the past two months. The people involved in helping NAG are naturists and not lawyers. We are aware that other naturists and naturist bodies are likely to make submissions on nudity and naturism during the period of this consultation. We feel that NAG is likely to have reached some naturists in the UK who may not have been reached by others.

We are happy for this submission and its contents to be publicly available. I can be contacted at john.paine@naturistactiongroup.co.uk

John Paine Chair

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Section 1. Who we are

1. Naturist Action Group (NAG) is a campaigning body which promotes the acceptance of naturism as a philosophy and healthy lifestyle within the UK. As an internet-based organisation NAG provides a platform for those wishing to campaign on naturist issues.
2. Many UK naturists support and work with NAG on projects which give opportunities to promote naturism. NAG is the trading name of Naturists Ltd.

Our Definitions

3. We define naturism as the practice of undertaking activities naked, either socially or solo, that are more usually undertaken either clothed or wearing a swimming costume.
 - i. Naturism can take place either indoors or outdoors, it is a philosophical belief.
 - ii. A naturist is a person who practises naturism. "I am a runner because I run, I am a naturist because I do things naked."

Our Aims and Objectives

4. The acceptance of naturism as an alternative lifestyle – through dialogue and, when deemed necessary, direct action. In the UK outdoor nudity is not automatically illegal.
5. The promotion of naturism as a philosophical belief and lifestyle to the general public and various national and local authorities.

Working with others

6. The Naturist Action Group counts many individual naturists amongst its supporters. For over 10 years we have held campaigning events around the UK, educating the public, speaking with politicians at local and national level.
7. NAG works with many other UK naturist groups and bodies. There are also equivalent groups to NAG in countries worldwide. We have links with many of them, and also with individual naturists, in several countries in Europe, Australia, Canada, New Zealand, Thailand, USA.
8. We are part of an international movement in which naturists around the world share a naturist philosophy. That includes naturism being nude, but definitely not sexual, activities. The naturist movement works together through a co-ordinating body, the International Federation of Naturists (INF). Our own website is www.naturistactiongroup.co.uk

Relevant specific actions by NAG

9. In 2011 we presented a response to the Home Office document "Consultation on police powers to promote and maintain Public Order."
10. In 2013, our discussions with national agencies over the correct application of the law, led to the Crown Prosecution Service publishing "Nudity in Public Places - Guidance on handling cases of Naturism" <https://www.cps.gov.uk/legal-guidance/nudity-public-guidance-handling-cases-naturism>.
11. In 2017 we made a submission to the BBFC consultation on Draft Guidance on Pornography (Commercial Basis) Regulations 2017 and Draft Guidance on Ancillary Service providers. Our concern was that pornographers create an erroneous public impression that naturism automatically equates with sexual activity.
12. In 2018 The College of Policing published "Public nudity advice and decision aid"

<http://library.college.police.uk/docs/nudity.pdf>. This followed NAG consultations with all of England & Wales' Chief Constables, Police & Crime Commissioners and The College of Policing over the correct application of the law. Together with the CPS document this national publication authoritatively confirms that peaceful, non-sexual nudity in public places is legal.

13. In 2019 NAG discussions with the City of London over several years resulted in their acceptance that naturism on Hampstead Heath, which they manage, is legal. NAG has also held quiet naturist picnics in other parks.
14. NAG volunteers monitor the press & media and consult with journalists and editors when misinformation regarding naturism is encountered. In this respect we have also produced Guidelines for newspaper editors, which are provided to them when we discuss an issue with them.
15. NAG works with university based social psychology departments in researching the benefits and effects of naturism on people, including children, and attitudes towards nudity by wider society.
16. Studies have shown no harmful effects of innocent nudity, and a range of psychological benefits including improved body acceptance, social integration and general happiness.

Section 2. Our comments relating to the Law

Commission consultation paper

17. In this Section we present views on statements in the consultation paper and argue, below at 2b. Philosophical Belief, that naturism is in fact a philosophical belief. Later, in Section 3, we comment on some of the 62 Questions you pose. We provide some examples of action taken against naturists in our Appendix 2.
18. We note your terms of reference and that this consultation applies to the law of England and Wales. We feel that there is scope for additional groups to be considered under your question *Who should these laws protect?* We believe that naturists merit inclusion in the additional groups you are considering. You have mentioned at 1.19 (page 12) that we are not the only group wishing to be covered by hate crime law.
19. We are aware that the Equalities Act 2010 has a wider range of nine protected characteristics. We shall attempt to persuade you that naturism should be accepted as a category, as an alternative subculture and as a philosophical belief in any reform of hate crime law and whom it should protect.

2a. Demonstration of hostility

20. You mention, at 1.11 (page 10) and in Chapter 15 that you consider whether the definition of hate crime should be expanded to include offences where the offender is motivated by prejudice towards a protected characteristic. You discuss the less frequently recorded crimes against disabled people, because demonstrations of overt hostility towards those with disabilities appear to be less common than, for example racist or homophobic abuse.
21. We accept your view that this does not mean that crimes against disabled people are not motivated by prejudice towards their disability. We suggest that the same factors apply in actions of hostility towards people known to be naturists. Naturists who may be intimidated by hostile actions shown towards them do not always report such actions. Naturists are more careful, and they are more careful because they live in fear of ridicule, harassment or violence. They may feel that to report these actions makes them vulnerable to further adverse actions.
22. We agree with your statement at 12.34 (page 237) that women are disproportionately the victims of certain crimes and criminal contexts based on their gender. We recognise that gender-related crimes against women are very prevalent in society, albeit now becoming less publicly acceptable. You also mention at 12.57 (page 244) the feeling amongst male perpetrators that there is widespread impunity with regard to such behaviours. In no way do we wish to imply that hostility demonstrated towards naturists is in the same category as crimes against women based on gender. However, we do feel that many hostile actions against naturists occur because of a similar perceived widespread impunity.
23. We suggest that your comments on the two limbs of the hostility test, at 15.1 (page 349) can equally apply to actions of hostility towards naturists. The motivation limb will be satisfied by proof that the offence was motivated by hostility. The demonstration limb will be satisfied by proof that the defendant demonstrated hostility at the time of committing the offence, or immediately before or after doing so.
24. You give in 14.2 (page 307) three criteria (1) Demonstrable need: evidence that criminal targeting based on prejudice or hostility towards the group is prevalent, (2) Additional Harm: evidence that criminal targeting based on hostility or prejudice towards the characteristic causes additional harm to the victim, members of the targeted group, and society more widely, (3) Suitability: protection of the characteristic would fit logically within the broader offences and sentencing framework, prove workable in practice, and represent an efficient use of resources.
25. On (1) Demonstrable need: there is evidence that actions against naturists are growing and

are escalating in severity. As we have mentioned naturists are reluctant to report such actions, and that is why we feel that police statistics may not reflect the true picture. Each hostile action is serious to those who do suffer it, and we feel that demonstrable need should be judged qualitatively and not quantitatively. We recognise that a Demonstrable Need concept is likely to be required and that relevant criteria for this may be helpful.

26. On (2) Additional Harm: we feel that all factors mentioned are happening and impact on the groups mentioned.
27. On (3) Suitability: we feel that as hate actions are growing in number, and a review of hate crime law is now under way, it is timely to include naturism. Below in 2e. Hate actions against naturists we mention how some police forces do currently view, and record statistics of, hate actions against naturists as hate crime.

2b. Why naturism should be a protected characteristic

28. We feel that deterrence of hate crime is a good strategy, but this has to be backed up by sanctions. There have been numerous instances of prejudice and hate actions against naturists and we give examples in our Appendix 2. One of our key objectives is to promote a better understanding of naturism, as mentioned in Section 1. above. Having already spent 10 years doing that we recognise that the process of changing the views and attitudes of the general public is something which takes time, maybe over a generation.
29. We do not see any sign of a quick change happening to the prevalent prejudice and hostile actions, in fact they appear to be escalating. In addition to our work, seeking academic research regarding nudity and children, and in demonstrating that peaceful naturism is not wrong or harmful, we feel that inclusion of naturism into the legal framework of what is unacceptable behaviour, would greatly assist public understanding.
30. In your Chapter 3: Rationales for hate crime and hate speech laws you give four key arguments for punishing hate crimes at 3.11 (page 54). We agree that hate crime causes harm to a wider range of people than solely victim recipients. Hate crime is an intrinsic wrongdoing, offenders are culpable, and punishment sends out a message denouncing hate crime as wrong. We would argue that this is a valid reason for naturism to be included in the protected characteristics.
31. We agree with the comments made by BN at 14.183 (page 343) that naturists are abused because of their philosophical belief, evidenced by the abuse they receive when they are seen naked or where people know they are naturist.
32. Naturists are often misguidedly stigmatised in society as being child sex offenders. This is because of the inclusion of children in family naturist activities. Some of the abuse naturists experience is motivated by an unsupported assumption that their naturist activities harm, and are not in the best interests of, the children involved. We agree with comments by BN at 14.184 (page 344) in that respect.
33. It is our contention that sight of the naked human body is not in itself harmful. On the contrary we believe that it is attitudes in society, both towards the shape and look of the human body, also that nakedness is shameful, which are actually the harmful psychological factors as children grow up. Everyone is born naked. Parental expectations lead to children wearing clothes, partly through comfort and partly because of cultural attitudes in society as a whole.
34. We know that young children happily play with each other naked. It is as they get older that children perceive a negative attitude towards nudity, often influenced by the attitudes expressed by non-naturist parents and adults. We have recognised for several years that there is an erroneous belief in the minds of many people that seeing the naked body is harmful to children. That is why we have been in discussion with academics for developing research into Nudity and Children.

35. We agree with BN that naturism falls within the definition of a philosophical belief under the Equality Act 2010 at 14.201 (page 346). We expand on that in 2b. below and in our Appendix 1. We also agree with your comment that the threat of online abuse and hijacking, as highlighted by BN, could have the secondary impact of preventing naturists from holding public events.
36. We agree with your comment at 10.9 (page 180) that most basic elements of almost all hate crime schemes is reliance on the categorisation of groups of people who share common characteristics. We also agree with your comment that the harm caused by the crime is not limited to the affected individual, but impacts more broadly on people who share the characteristic to which the offender's hostility was directed, and the wider community to which the victims belong
37. We would suggest that if naturism does not meet the requirement to be stated, by definition, as a new characteristic then it should be in a more open-ended 'residual category'. We note that New Zealand, New South Wales in Australia, and Canada, all have residual categories in their hate crime provisions.
38. You quote at 14.68 (page 320) the Sophie Lancaster Foundation definition of "alternative subculture" as: *Alternative Subculture means a discernible group that is characterized by a strong sense of collective identity and a set of group-specific values and tastes that typically centre on distinctive style/clothing, make-up, body art and music preferences. Those involved usually stand out in the sense their distinctiveness is discernible both to fellow participants and to those outside the group.* We would suggest that naturism is such an alternative culture
39. We feel there is merit by just referring to "a group of people with common characteristics", used in some jurisdictions. As you state at 10.10 (page 180) it is flexible enough to adapt to a wide array of prejudice-based hostility and avoids creating "hierarchies of hate" amongst different groups. It is our belief that hate crime protection should cover all protected characteristics and that within these "alternative sub-cultures" be classed a protected characteristic.

2c. Philosophical belief

40. At 11.46 (page 219) you comment on whether hate crime law – for consistency with equality and human rights law – should extend to groups who share common beliefs that are non-religious philosophical beliefs. We believe that people who practice any belief, religious or non-religious, which is of itself not hateful towards others, should be protected within the hate crime laws.
41. We agree with your statement regarding Philosophical belief (page 5) and your comment that a philosophical belief is worthy of respect in a democratic society. We believe that naturism is compatible with human dignity and is not in conflict with the fundamental rights of others. In our view naturism can be regarded as both an Alternative Subculture and a Philosophical Belief.
42. As you rightly say a simplistic definition of naturism is the practice of going without clothes. Living naked full-time is as pure an expression of nudism as you are likely to find. Naturism has been around since at least the 4th-century BC, when in India there were the naked gymnosophists. In ancient Greece a number of activities, such as athletic sports, were performed naked in public and the nudity was publicly accepted. In 17th-century Britain some of the early Quakers ran down the street naked as a protest against rigid social hierarchies and restrictions on how they could worship. Naked swimming at the Hampstead Heath Ponds, by both sexes, was a feature from the 18c right up to the 1970's. In all cases mentioned here the people weren't simply naked without any explanation.
43. Today naturism is not just nudity, there is a philosophical belief underpinning it. For the gymnosophists it was backed up by a fully formed philosophical rationale about avoiding worldly comforts and distractions. Throughout the ages naturism, in whatever way it has been

termed, has been, and is today, part of a carefully developed outlook on life. We have given the NAG definition earlier on page 3 of this submission.

44. We have included as part of this submission our Appendix 1. The philosophy of naturism, a specialist paper which has just been completed in time for this consultation. It states that naturism rests on a highly distinctive set of ethical principles and quotes philosopher Bertrand Russell's advocacy for naturism in 1929.
45. We agree with British Naturism that classification of naturism should be as a secular belief. It is our view that naturism should also be regarded as an alternative lifestyle. We feel that the law should treat hostility directed at naturists as a hate crime. Sadly, incidents of hostility towards naturists are growing in frequency and severity. A number of examples are given in our Submission Appendix 2.
46. We give some parallels with other belief systems. Not all people who hold a religious belief show outward characteristics of their belief. For some their appearance and apparel may clearly do so, such as devout Muslims. Not all Jews would be clearly identifiable from their appearance.
47. A person might be a devout Roman Catholic AND wear an obvious cross necklace. Or they might be a devout Roman Catholic but wear no cross. Or they might be an atheist but choose to wear a cross necklace. If someone were to be beaten up simply for wearing a cross it would be treated as a hate crime; it would be irrelevant what the cross-wearer's underlying beliefs were. It would not require a theological examination of them in court.
48. Many potential hate victims would not necessarily display their belief characteristics so would not receive a backlash from members of the public. Not all philosophies need to be underpinned by belief in a supreme deity. Veganism and Humanism are not religious characteristics. Adherents would not normally be targeted if their appearance or actions do not reveal their belief characteristics. You would not be able to identify a vegan or humanist by their visual appearance. People of those beliefs would not normally be targeted if their appearance does not reveal their characteristics. Conversely, a naturist would immediately be seen naked and could therefore immediately be targeted due to visual characteristics.
49. We agree with BN at 14.183 (page 343), that naturists are abused because of their philosophical belief. We would argue that there is only one main difference between a religious belief and a non-religious belief: a deity. A naturist is likely to have an equal commitment and dedication to his/her philosophical belief as would a devout church attender have to her/his religion. Furthermore, that belief and dedication are equally as powerful, in that they have a very strong impact on the person's life.
50. A committed naturist will consider naturism to be an integral part of everyday life. They take every opportunity to do things unclothed, indoors, outdoors, in sports activities. Further, for really dedicated naturists it would not be possible for them to live any other way. To these naturists the philosophical belief is deeply engrained and incorporated into their lifestyle. They consider this lifestyle to fall within the definition of a philosophical belief.
51. If someone were beaten up because they were naked and minding their own business, say sunbathing by a quiet stretch of river, we would want that to be a hate crime irrespective of whether they had much contact with the core of naturist beliefs, philosophy and community. In such a case the person recognises the benefits from being naked in the open air.
52. It is our view that it would be consistent with the Equality Act 2010 for naturism to be seen as a philosophical belief and recognised in hate crime legislation.
53. A fundamental aim of NAG is to educate people about the benefits of naturism to the individual and to families. There is no easy way to persuade those people who fundamentally disagree with the naturist philosophical belief, to the point that they perpetrate hate actions against naturists. We believe that if a change in the hate crime law indicated naturism is an

accepted philosophy, or an alternative lifestyle, then it would raise public awareness that hate actions against naturists are not acceptable.

54. We agree with the specific use of criteria to identify people who would be able to consider naturism a philosophical belief. You refer, at 14.166 (page 339) that there is currently no civil case law to determine whether “naturism” falls within the definition of a philosophical belief under the Equality Act 2010. We believe that this fact does need to be legally established.

2d. Lack of understanding of naturism

55. There is an erroneous belief that naturist activities only take place behind closed doors, at home and in private gardens, in one of the 100 naturist clubs, or in a venue such as a leisure centre as an activity closed to the general public. The reality is that a lot of naturist activity also takes place in many open space settings, parks, public footpaths, naturist walking in woodland and parkland, open moorland, naked swimming in ponds, lakes, rivers, on beaches. This is by individual naturists or in organised groups.
56. We agree that there is a significant lack of understanding and misconception about the naturist lifestyle at 14.184 (page 344). Naturists are therefore open to attack and to being targeted more frequently by people intent on venting their own bigotry against naturism. We suggest that there are similarities with the motivations behind the, albeit very extreme, case of the murder of Sophie Lancaster just for being a Goth.
57. Some of the abuse experienced by naturists is motivated by a misguided assumption that their activities harmed, and were not in the best interests of, children involved in naturist activities. A fundamental aim of NAG is to educate people about the benefits of naturism to the individual and to families. There is no easy way to persuade people who fundamentally disagree with the naturist philosophical belief, to the point that they perpetrate hate actions against naturists. We believe that if a change in the law indicated that naturism is an accepted philosophy then it would raise awareness that such hate actions are not acceptable.
58. Naturism is not illegal. This is recognised in both the CPS “Nudity in Public Places - Guidance on handling cases of Naturism” and in the College of Policing briefing note “Public nudity advice and decision aid”. To make the general public aware of this fact, naturists are involved in many public demonstrations which take place across the UK throughout the year. Internationally the World Naked Bike Rides in many countries are very public demonstrations of nudity, including annual rides on the streets of many British cities.
59. There are Naturist Rambling Groups which organise walks on country footpaths in various parts of the country. Shabden Leisure Club is a smaller naturist group with several hundred members which also organises activities, mainly in the south of England. A separate group called Naturist Women organises naturist events which are exclusively for women. Their very successful multi-activity events take place in suitable indoor locations, with trips to naturist beaches in summer months.
60. NAG itself does not organise communal events. As part of its campaigning work, to get naturism more widely accepted, NAG does organise naturist picnics in parks and open spaces, and opportunities for NAG supporters to hold naturist meetings in pubs to plan future activities. NAG also continues to identify more open space locations suitable for naturist activities. NAG is developing a range of public activities in 2021 to provide a better understanding of naturism.
61. Numerous local coastal naturist groups identify and use beaches. In addition to finding new beaches suitable for naturist use these groups are protective of that naturist use. They actively take steps to deter people who want to use these locations for outdoor sexual activity.
62. BN will be able to provide examples of naturist activities which they organise in many settings. Throughout the UK these include outdoors sunbathing, sports, outdoor public venues and gardens; indoors in restaurants and the like, in clubhouses, in leisure facilities and swimming

pools. BN has for several years also organised naturist beach days and lake swimming activities.

63. Despite the advent, in summer of 2018, of the College of Policing “Public nudity advice and decision aid” many frontline police officers appear to be unaware of its content. There have been frequent instances where police officers show ignorance of the law on nudity. This has led to significant erroneous actions against naturists and inappropriate press statements. NAG is currently exploring the best way to raise this issue with Chief Constables.

2e. Hate actions against naturists

64. Hate actions can take many forms. In 2.114 (page 50) you refer to hate speech and by extension written matter, broadcasts and the use of words in public. We feel that words used must be, as in the English racial hatred offence, “threatening, abusive or insulting”. There is merit in the New Zealand approach which you indicate, insofar as it draws a distinction between intentional hate speech and expression “likely to” excite hostility or bring a group into contempt.
65. There have been instances of missiles, such as eggs, thrown at naturists. In our view such actions against naturists should be covered in the current review of hate crime law. We would suggest that there are parallels with the Football (Offences) Act 1991 which deals with gestures and missile throwing.
66. We agree with your comment at 1.33 (page 15) that the law recognises that a person may not use their right to freedom of expression, for example, to abuse someone, or to target insults at a person to cause harassment, alarm or distress, or to send them grossly offensive communications.
67. We contend that naturists do not intend to cause alarm or distress during the course of their normal activities. Naturists know that such intentions are liable to prosecution under Section 66 of the Sexual Offences Act 2003. We believe that others should not misuse their right to freedom of expression in any actions they may take against naturists.
68. Currently most police forces do not systematically record an incident as hate crime unless it involves one of the five protected characteristics: Disability, Race, Religion, Sexual orientation, Transgender. Prejudice and hatred against naturists do not currently fall into one of these categories.
69. You mention at 8.45 (page 162) that in Merseyside, crimes against sex workers have been recorded as hate crimes since 2006. You also say at 14.67 (page 320) that the Sophie Lancaster Foundation reports that 12 UK police forces are treating and recording hostile actions taken against members of alternative subcultures as hate crime. You point out at 14.66 (page 320) that Greater Manchester Police started doing this in 2013 after the judge in the Sophie Lancaster murder case stated that he would treat the murder as equivalent to a hate crime. You mention at 1.21 (page 13) that this approach by the judge was later upheld in the Court of Appeal.
70. In our discussions with Surrey Police in September 2020 we found that they also have started to record a wider category of offences as hate crimes. We would like to see this practise extended universally to all police forces across the whole country. At 14.67 (page 320) you mention that the Sophie Lancaster Foundation continues to campaign for the law in England and Wales to recognise alternative subcultures as a hate crime category. We share that objective.
71. We agree with your comment at 9.10 (page 171) that a consistent approach would make hate crime laws both clearer and fairer. We feel, however, that any changes must take account of the different types of hate experiences of people within the different characteristics.
72. You refer to the work of Canadian academic Barbara Perry at 10.29 (page 184) who has

conceptualised hate crime as a display of bigotry and power from a majority group towards a minority group. We contend that hate action against naturists can arise from bigotry and the very fact that others choose to define them by the characteristic of being a naturist.

73. We believe that the lack of a legal definition of 'hostility' allows courts to decide this in an individual case. You mention that the phrase "malice or ill-will" is used in place of the term "hostility" in Scotland 15.16 (page 352). We believe this could have merit in English law. The proof of an offence through the objective "demonstration" of hostility 15.17 (page 352) gives courts power to decide on the evidence provided in a specific case.
74. You comment at 14.172 (page 341) that BN has reported an increase in hate actions against naturists. We have also received increasing numbers of such reports. The actions against humanists, cited at 14.173 (page 341) are disturbing. In the case of naturism, hate action creates a vicious circle where naturists are reluctant to report such actions against them because they are not recorded as hate crime. We believe that accepting and recording hate action against naturists as hate crime would break this vicious circle. We also believe that including naturists in hate crime legislation would act as an effective deterrent.
75. We provide examples of specific incidents in Appendix 2. Examples of 'hate' action against naturists. Our list has developed from reports given to NAG by naturists from around England. There will be many other incidents which have not been reported to NAG. It is likely that BN will also provide examples.

Section 3. Comments on the Consultation Questions

76. The list of 62 Consultation Questions Is comprehensive. As naturists we do not have any legal expertise. Our concern is that any new hate crime laws should include naturists as a category. Below we have responded to those Consultation Questions which we feel are relevant to this Submission.
77. **Consultation Question 1:** *We provisionally propose that a single "Hate Crime Act" be used to bring together the various reforms to hate crime laws proposed in this paper.*
78. We agree with that concept.
79. **Consultation Question 2:** *We provisionally propose that the law should continue to specify protected characteristics for the purposes of hate crime laws. Do consultees agree?*
80. We agree with that concept. It may be appropriate for a list ending with "or any other" to be created, as in The Human Rights Act. There is a strong argument that hate crime characteristics should match those in the Equality Act (e.g. Religion or Belief).
81. **Consultation Question 3:** *We provisionally propose that the criteria to determine whether a characteristic is included in hate crime laws should be:*
- (1) *Demonstrable need: evidence that crime based on hostility or prejudice towards the group is prevalent.*
 - (2) *Additional Harm: there is evidence that criminal targeting based on hostility or prejudice towards the characteristic causes additional harm to the victim, members of the targeted group, and society more widely.*
 - (3) *Suitability: protection of the characteristic would fit logically within the broader offences and sentencing framework, prove workable in practice, represent an efficient use of criminal justice resources, and is consistent with the rights of others.*
82. We agree with that concept. However, at (1) the 'prevalence' of hate incidents in a specific location may not be high but the negative attitudes displayed may fit into a view prevalent over the wider society. In our view Naturism should be included as a characteristic and police forces should systematically record an incident of hostile action against naturists as hate crime.
83. For (2) Additional Harm: it should be borne in mind that if a legitimate naturist, or group of naturists, is targeted this may scare off other naturists. Many naturists modify their behaviour to avoid hate attacks, and we know of naturists who deliberately hide their naturist activities from others for fear of adverse impact.
84. **Consultation Question 18:** *We invite consultees' views on whether "alternative subcultures" should be recognised as a hate crime category.*
85. We agree with that concept. We believe that "Alternative Subcultures" should be recognised as a hate crime category. There are numerous examples going back into history of Alternative Subcultures, which do not fall neatly into any other protected characteristic, which have attracted aggression simply because they were a different sub-culture to that of the aggressor. The Mods & Rockers fights of the 1950/60s are an example, and more recently the murder of Sophie Lancaster in 2007 who was killed simply because she dressed as a 'goth'. A sub-culture is often characterised by its appearance and this can act as a trigger for hate. Clothing, hair style, make-up, and even nudity can do this without any other form of communication.
86. To attempt to list sub-cultures which may be subjected to hate crime would not be possible, and might exclude future phenomena, so we recommend that the general category of "Alternative Subcultures" be included as a protected characteristic, and the Courts can decide on a case-by-case basis whether a particular sub-culture qualifies as part of this general protection.

87. **Consultation Question 20:** *We invite consultees' views on whether "philosophical beliefs" should be recognised as a hate crime category.*
88. We believe that "philosophical beliefs" should be recognised as a hate crime category. A philosophical belief is not far removed in practical application from a religious belief in that it regulates behaviour, and in so far as that behaviour is legal and not harmful to others it should be allowed and protected
89. Freedom of belief is a basic human right which is enshrined in the 1948 United Nations Declaration of Human Rights (Article 18), which states "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his [her] choice." This right has been enshrined in legislation throughout the free world. To include protection of freedom of belief by including it in discussion on hate crime is entirely consistent with this fundamental tenet of a free society.
90. **Consultation Question 22:** *We provisionally propose that the current legal position – where the commission of a hate crime can be satisfied through proof of "demonstration" of hostility towards a relevant characteristic of the victim – be maintained. Do consultees agree?*
91. We agree that "demonstration" of hostility towards a victim's relevant characteristic should be the basis for determination, as justice should be evidence based and 'demonstration' of a hostility is the only objective evidence on which a Court can rely. To do otherwise would introduce speculation and opinion as a basis for determination of cases. That could introduce a systematic bias in favour of the prosecution, as an unsupported assertion of hate would become evidence and could not be challenged.
92. **Consultation Question 47:** *We provisionally propose that there should be a single threshold to determine whether words or behaviour are covered by the "likely to" limb of the stirring up offences, applying to all protected characteristics. If so, would consultees favour applying a single threshold of "threatening or abusive" but not "insulting" words to prosecutions brought under the "likely to" limb?*
93. We agree that, in the nature of general freedom of free speech, the exclusion of "insulting" is right. We are mindful that the drafting of any law is critical, to avoid inappropriate interpretation of it and unintended use.
94. **Consultation Question 62:** *We invite consultees' views on whether they would support the introduction of a Hate Crime Commissioner.*
95. We agree that a properly resourced Office of Hate Crime Commissioner should be introduced. Drafting of Terms of Reference and powers would be important. It is our view that the primary function be to take actions to reduce the incidence of hate crime. To avoid duplication of functions, and costs, it may be appropriate to move some responsibilities, and resources, for work undertaken by other government departments, into the new Office of Hate Crime Commissioner. With any significant change to the legal status quo comes a need for people to be persuaded to adapt their thinking. We feel that legislation is likely to be more effective if there is a proper oversight on how it is used, with ability and powers to promote change in cultural attitudes if necessary.
96. It is our belief that the proposed Office of Hate Crime Commissioner should be accountable to Parliament for its work. It should be a reference point for information on hate crime, have an education function, and powers of sanction in cases where significant breach of hate crime laws occur.

Appendix 1. The philosophy of naturism

A short summary written for submission to the Law Commission
Nick Mayhew-Smith, November 2020

97. Naturism is a belief that emerged in Europe around the turn of the 20th century, a way of life that rests on a short but clear set of principles and practices. It is most simply characterised as the practice of non-sexual social nudity, an essential core that has not changed over the past 120 years. It is a philosophy that is more practised than preached about, a belief that is primarily expressed in a physical way. Even so, it rests on a few fundamental tenets which provide the ethical basis for a recognisable and distinctive philosophical belief.
98. Outdoor nudity is nothing new in human history, and has been commonly depicted since the earliest cultural records began, including nudity for swimming and for athletics. Individuals, groups and movements have practised nudity over the centuries for a wide variety of philosophical, moral, practical and religious reasons. During Classical times the Greek writer Plutarch records that Alexander the Great encountered a group of naked 'Gymnosophists' in India during the 4th century BC.¹ An elitist community of philosophers, the Gymnosophists espoused permanent nudity alongside other ascetic disciplines such as vegetarianism, their nudism a rejection of worldly distractions and concerns.
99. Naturism is a relatively modern variation of such nudist cultures, and has its own philosophical and ethical principles. Arising in Germany at the start of the 20th century, the early naturist movement argued that communal nudity promotes a genuinely moral bonding between fellow humans, demonstrating that naturists have rational control over their impulses and instincts, which in turn allows for a relaxed and equal mingling of the sexes.² Its core beliefs remain unchanged, particularly the belief that non-sexual social nudity is suitable for participation by anyone – regardless of sex, age, class or any other precondition – subject to their observance of its traditional emphasis on non-sexual and non-judgemental shared nakedness. Externally determined restrictions on the individuals or families able to participate in naturism is therefore a fundamental curtailment of the naturist philosophy and way of life.
100. Naturism is also a belief that has attracted persecution. The early German naturist movement was suppressed following the rise to power of the Nazi party, a directive of March 3 1933 by Hermann Göring declaring "the naked culture movement" to be a danger to healthy German morality, banning public nudist events and instructing municipal swimming pools and owners of private woodland to prohibit naturist use.³ A much modified form of nudism as an elitist and strictly limited practice, ostensibly promoting eugenicist principles, was eventually allowed by the Nazis, but failed to attract mass participation and has never been a strand of the actual naturist movement before or since.
101. Although the literature about naturism in Britain is far smaller than that relating to naturism in continental Europe, the British movement has also been studied as a philosophical belief in an academic context.⁴ As studies demonstrate, British naturism was directly inspired by the German movement, and remains a fully integrated part of the same international community, espousing identical values and practices.
102. Naturism in Britain came to prominence in 1930 when a small number of pioneering naturists were physically attacked, reflecting immediate opposition to this newly introduced philosophy.

¹ Plutarch, *Life of Alexander*, 'The parallel lives', 64-65

² Williams, John Alexander *Turning to Nature in Germany: Hiking, Nudism, and Conservation, 1900–1940* (Stanford: Stanford University Press, 2007), especially chapter 1 'The body demands its rights: the workers' nudist movement' pp 23-65

³ *Ibid.* p 53

⁴ Pollen, Annabella 'Utopian Bodies and Anti-fashion Futures: The Dress Theories and Practices of English Interwar Nudists' *Utopian Studies* Vol. 28, No. 3, 2017, pp. 451-481.

A group of angry protestors tried to prevent 40 naturists from sunbathing naked on private land beside the Welsh Harp reservoir in north London, in June 1930. The conflict was immediately dubbed the 'sun bathing war' by the national media, which wrote about it extensively. There were 12 women among these 40 naturists, two of whom refused to get dressed, leading to physical assault by the protestors.⁵

103. According to press reports at the time, one of the main objections from the protestors was that children might be able to see the naturists, although their sunbathing spot was not visible from any public paths or roads.⁶
104. Naturism has continued to be practised in the face of hostility and ridicule, and its adherents continue to stress the same fundamental values that characterised it from the outset. Before naturism began to be practised as a mass-movement in Germany, a small group of British pioneers in colonial India attempted to establish a society called the Fellowship of the Naked Trust in 1891. One surviving letter written by founder Charles Crawford set out three principles for nude socialising, all of which would still be recognised by naturists today.⁷ As he wrote, the benefits of communal and outdoor nudity are:
- i. **physical:** because nudity is more comfortable than clothing and because it is good for the whole body to be in fresh air;
 - ii. **moral:** because body shame is false and harmful both to self-image and to attitudes towards members of the opposite sex;
 - iii. **aesthetic:** because the human body is naturally a noble and beautiful creation.
105. An 'official' definition of naturism was adopted by the naturist community in France in 1974, which phrases recognisably similar principles of shared nudity and exposure to the natural elements in terms of respect. It states:
- Naturism is a way of life in harmony with nature characterised by the practice of communal nudity with the intention of encouraging self-respect, respect for others and for the environment.*⁸
106. Naturism, in other words, is a positive moral choice that has a number of benefits. In terms of a philosophical belief, this can be classified as a consequentialist ethical system: naturism is justified on account of the beneficial consequences of going naked. Accordingly, the outcome of naturist conduct is intrinsically linked to the context in which outdoor and communal nudity is experienced, focusing on its application and practice in situations which have associated benefits. A more specific way of categorising this argument in favour of naturism would be as a utilitarian belief. Utilitarianism is a subset of consequentialist ethics, a belief system that promotes actions which maximise happiness and well-being for as many people as possible. Nudity is not an end in itself, but a means to an end, according to such a formulation.
107. A very clear example of such a consequentialist ethical argument in favour of naturism was expounded by the philosopher Bertrand Russell in a book written in 1929. As can be seen, he focuses on the context in which naturism is practised and the consequential benefits:
108. There are also many important grounds of health in favour of nudity in suitable circumstances, such as out-of-doors in sunny weather. Sunshine on the bare skin has an exceedingly health-giving effect. Moreover anyone who has watched children running about in the open-air without their clothes must have been struck by the fact that they hold themselves much better and move more freely and more gracefully than when they are dressed. The same thing is true of grown-up people. The proper place for nudity is out-of-doors in the sunshine and in the water. If our conventions allowed of this, it would soon cease to make any sexual appeal; we should all hold ourselves better, we should be healthier from the contact of air and sun with

⁵ Clapham, Adam and Constable, Robin *As Nature Intended* (Los Angeles: Elysium Growth Press, 1986), pp 42-45.

⁶ 'Sun Bathers Assaulted,' *The Sunday Times*, June 29, 1930, p18 [attached]

⁷ Santos, Jacob David, 'To the Frustration of Many a Birdwatcher: The Rise and Development of Naturism in Great Britain' *History and Classics Dissertations and Masters Theses*, 2018, Providence College, Rhode Island, US, pp 48-49

⁸ International Naturist Federation home page, accessed November 7 2020, <https://inf-fni.org>

the skin, and our standards of beauty would more nearly coincide with standards of health, since they would concern themselves with the body and its carriage, not only with the face. In this respect the practice of the Greeks was to be commended.⁹

109. Bertrand Russell's advocacy of communal and outdoor nudity in 1929 was written independently of the formal naturist movement. Yet it shows remarkable consistency with the other two overt statements in support of naturist belief listed above, the founding principles of the Fellowship of the Naked Trust in 1891 and the International Naturist Federation's definition of naturism in 1974. All three of these independent philosophical arguments focus on the consequences of social and outdoor nudity, promoting the same three principles of its physical, moral and aesthetic benefits. Naturism therefore rests on a highly distinctive set of ethical principles, which have endured unchanged through considerable opposition and misunderstanding, demonstrating the coherence and endurance of a robust and consistent philosophical belief.
110. It should be added that many naturists prefer simply to practise naturism without giving any thought to its conceptual or ethical underpinnings, stating simply that they enjoy spending time without clothes. In terms of systematic belief, such a naturist philosophy can be classified as a deontological ethical system, which means that its practitioners do not give much analytical thought to their belief in the general principle that nudity is simply a good for its own sake. A deontological approach to naturism is one that does not seek any justification or rationale for nudity, but rather believes that the over-arching principle that nudity is intrinsically good, regardless of context and consequences. Under such a philosophical outlook, an adherent of naturism would seek to demonstrate its universal truth by practising naturism in as many situations as possible. It is an equally valid and consistent philosophical belief, albeit one which is more likely to run into problems of harassment. It does also arise entirely from the centre of the naturist community and is entirely compatible with other naturist beliefs in terms of the practice of communal nudity. It simply puts higher value on the *principle* of nudity rather than the beneficial *consequences* of nudity.
111. In other words, some naturists believe nudity to be good for its own sake, others believe that it causes good. Naturism today has such different philosophical approaches and encompasses many different ways in which naturism can be practised, a broad and non-judgemental community. It is also easy for others with a casual interest in practising naturism to participate on an occasional basis. This is common to many belief systems, both philosophical and religious, and the casual practitioner is much less likely to put themselves in a situation where confrontation or discrimination is possible. However even a one-off visitor to a naturist beach is benefitting from and aligning with the commitment of the core naturist community, those who are motivated by their much stronger attachment to it. Without people who believe in naturism there would be no pressure to create, protect, promote and populate the communal naturist areas which others can dip into.
112. In conclusion it can be said that all naturists would recognise the arguments that naturism has physical, moral and aesthetic benefits along the lines outlined above. These benefits are commonly expressed in the community not as theoretical beliefs but in terms of the consequences of practising naturism. Any individual naturist might attach greater significance to one or two of these principles over and above the others, but they are accepted without controversy in any naturist setting or community. Yet the same principles concerning social nudity would prove highly controversial in almost any other context. This greatly clarifies the distinctive character of naturism as a consistent and enduring system of belief, one that is sufficiently differentiated from mainstream culture to require a degree of explanation and protection from misunderstanding.

⁹ Russell, Bertrand *Marriage and Morals* (London: Allen & Unwin, 1929) pp116-7

Naturist Action Group - Submission on Hate Crime

Appendix 2. Examples of 'hate' action against naturists

113. We submit the following illustrative examples of antagonistic incidents motivated by hatred towards naturists. It is from a longer list of examples given to us by NAG supporters. We believe that the list highlights the need for naturism to be incorporated into revised Hate Crime law. Naturism could be a Protected Characteristic, either in its own right or as a subset of Philosophical Belief/Alternative Subculture.
114. The incidents from around England and Wales are categorised according to the type of hostility:
- Verbal abuse
 - Threats of harm
 - Physical actions and missiles thrown
 - Publication of untrue or harmful information
 - Poor policing
 - Stirring up hatred
 - Secondary harm

Verbal abuse

115. **December 2018 Cleethorpes, Lincolnshire.** A naturist, who was fully dressed, heard his next door neighbour call him a "F***ing pervert" as the neighbour was entering his own property.
116. **August 2019 Sherwood Forest, Nottinghamshire.** Two male naturists were walking naked in Sherwood Forest when a family of four passed from behind on bicycles. The father was very abusive and told the naturists to 'go behind a bush and do that'. The man treated the naturists as if they were a couple of naked gay men looking for somewhere to be intimate. The naturists were not gay.
117. **July 2020 Cuckmere Haven, Seaford, East Sussex.** A naturist couple, male and female, had been bathing on the beach for 3 hours when a group of Muslim families walked past. Several of the male youths confronted the naturists about being naked. The naturists tried to explain that it was perfectly lawful but the youths, who were being verbally abusive, would not accept that it was legal. They insisted that it was indecent and that the naturists should get dressed. They behaved in an extremely confrontational manner. This incident caused great upset and distress for the naturists who had been using this beach for over 20 years without any problems.
118. **August 2020 Maidstone, Kent.** A group of three naturists were walking in Mereworth Woods when the male driver of a large vehicle got out of his vehicle and hurled angry verbal abuse at them for several minutes. His first words to the group were "What the f*** are you on ?" implying that the group were high on drugs. He then ordered them to get dressed at once and never return. He told them that they were on private land even though they were on a public footpath. He accused them of 'trying his patience' even though he would not allow them to speak. His tirade was littered with the 'F' word and they were given no opportunity to say anything to him. Even though they had now dressed, he threatened to report them to the police. The three were very unnerved by this man's behaviour.

Threats of harm

119. **August 2012 Botany Bay, Broadstairs, Kent.** A male naturist was leaving the beach after sunbathing naked when a man from behind started shouting. The man caught up with the naturist as he walked away and was yelling "put your pants on". The man called the naturist a

‘dirty pervert’ and a ‘paedo’. The naturist put his shorts on but the man continued his assault. He followed the naturist and slapped him on the side of the head then threatened to “kick his face in” if he was seen on the beach again. The man then followed the naturist along the beach and took photos of his face from very close range – within inches.

120. **April 2020 Chilwell Nottingham.** A male naturist answered his front door after hanging out some washing while naked. It was the next door neighbour who had seen the naturist in his garden and called to confront him about it. The neighbour threatened twice that he would put a bullet through the naturist’s head. He also made references to the naturist’s ‘maggot’. As he left, he told the naturist to put some clothes on. The naturist reported this incident to the police but they were very unhelpful and seemingly tried to avoid him.
121. **September 2020 Sherwood Forest, Nottinghamshire.** A group of four male naturists were walking in the forest. A male and female jogger ran past them but then the male turned round and came back towards them saying that what they were doing was illegal. He threatened to punch one of the naturists while using abusive language. He was stopped in his tracks as one of the other naturists used the camera on his phone and told him everything was being video recorded. The couple then ran off shouting abuse.

Physical actions and missiles thrown

122. **May 2012 Portsmouth WNB.** While the riders were passing a Public House, a male customer threw the contents of his beer glass over one of the riders. He then stood waving his arms and shouting "F***ing Perverts" at the passing riders who found it very upsetting. It later emerged that the man was inebriated but the police took no action against him.
123. **June 2017 Cardiff WNB.** The procession of cyclists arrived at a river where they had planned a swim. As a few of them got into the water, they were verbally abused by onlookers. Most of them returned from the water but the verbal abuse continued. One of the people in the water was threatened by a man threatening to hit him with a kayak paddle. The WNB procession of naked cyclists continued across a footbridge and was pelted with stones and pebbles from the river.
124. **July 2019 Clacton WNB.** A male member of the public hurled eggs and shouted obscenities at the participating riders. He was subsequently arrested and a prosecution, delayed by Covid-19, was under way in Essex during October 2020.
125. **July 2020 Cothelstone, Teesdale,** A group of four naturists were walking naked on public land and passing a farm yard when the female resident started ranting ‘Put some clothes on; this is a public footpath’ several times and sprayed the group with cold water from a hose pipe.
126. **August 2020 Macclesfield, Cheshire.** A lone naturist jogger was jogging naked in The Peak District when he was confronted by a man who physically blocked his path. The man chased the jogger back along the path while setting his dog on him and threatened to hit him with a piece of tree branch that the man was waving about. The naturist jogger reported this to the police and but they were very unhelpful and told him that he was ‘asking for it’.

Publication of untrue and harmful information

127. **November 2019 Country Park Woods, Didsbury, South Manchester.** A group of four naturists (two male and two female) were picking mushrooms while naked when a family of passer-bys started to take photos of them. The passer-bys subsequently reported the incident to the Manchester Evening News who ran a very negative article with a headline describing them as “Two naked ‘hippy’ couples” implying a sexual element. This caused extreme humiliation for the naturists – especially the females who are still very traumatised by it.
128. **August 2020 Macclesfield, Cheshire** A naturist jogger has been the focus of a very negative and humiliating Facebook campaign by Macclesfield Police claiming “naked Man Alert”. This

prompted the press to run stories saying that he was being 'hunted' by the police. When the naturist asked for the Facebook post to be removed, the police were aggressive and verbally abusive to him and said they would be able, if necessary, to find people who would state that they were harassed and distressed by him.

Poor policing

129. **Spring 2012 near Boughton, Notts.** A male naturist had walked naked about 9 miles through Sherwood Forest when he met two men fishing. The naturist put his wrap on before meeting the fishermen and had a pleasant chat with them. He walked away from them and through a field about 2 miles away from Ollerton. They saw him walking naked from a distance and informed the police. The police reaction was completely unacceptable and disproportional. They sent a helicopter and 5 police cars to find the naturist. When they found him they treated him like a criminal, handcuffing him, and a female police officer lifted his wrap to see that he was wearing nothing underneath it. She called him a dirty bas***d and told him he was 'going down'. He was arrested, locked up for 7 hours, photographed, DNA swabbed and fingerprinted and, after making his statement, released with an apology from the interviewing officer and told he had done nothing wrong. This caused the naturist a lot of unnecessary distress.
130. **September 2018 Cleethorpes, Lincolnshire.** Two police PCSO's visited a naturist's property due to a complaint from a neighbour about nudity. One of the police PCSO's called the naturist and his partner "perverts" as he left the property. The naturist was very dismayed by the police attitude.
131. **June 2019 Colwick Woods, Nottingham.** A male naturist had been seen regularly walking naked in local woodlands. As a result, he suffered several intimidating police visits to his home following countless complaints to the police by members of the public. In every case, the police had tried to pressure the naturist, telling him that he was breaking the law even though no laws were being broken. This demonstrated a hostile attitude by the police officers involved.

Stirring up hatred

132. **March 2019 Sandcastles Water Park, Blackpool.** A naturist was surrounded by a group of about eight so-called 'paedophile hunters' whilst trying to enter the Sand Castles naturist event at Blackpool. With no justification, they called him a paedophile and used foul language, surrounding him and holding camera phones in his face. Footage of the incident was put on Facebook and it was made to look as if he was a paedophile. He was fully dressed at the time and it was simply a naturist going to the Naturist Swim.
133. **June 2019 London WNR.** As the procession entered Whitehall, a group of people blocked the route shouting various insults at the riders. The verbal insults included 'paedophiles' and 'perverts' among other obscenities. The people, who were carrying Union Jack flags, were very aggressive and shouting about children seeing the riders. The police response to this action was quick and they dealt with the demonstrators in a commendable way.

Secondary Harm

134. **March 2019 Sandcastles Water Park, Blackpool.** Two grandparents, their daughter and three grandchildren were sworn at and called paedophiles whilst trying to enter the Sandcastles swimming complex at Blackpool. One of the 'paedophile hunters' stood in front of the grandmother and held a camera in her face calling her a paedophile and used other foul language. The whole family were filmed going into the Water Park causing the grandmother and her grandchildren, including a 6 year-old girl, much distress. Footage of the incident was put on the internet making it look as if these people were Paedophiles. This caused even greater distress and exposed the children to ridicule from other children who subsequently saw the footage on the internet.