



HATE | CRIMES | WORKING | GROUP

Terms of Reference for the Hate Crimes Working Group

As Adopted by a full members' meeting on 29 May 2018

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1. Background

In late 2009, a multidisciplinary group of organisations and individuals began to meet at the invitation of the Consortium for Refugees and Migrants South Africa (CoRMSA) to address the paucity of data on the prevalence, nature and psychological impact of hate crimes on individuals, communities and society. The group comprised of civil society organisations (CSOs) and other interested parties¹ who began to discuss the development of joint strategies to engage government structures relating to interventions which could effectively deal with prejudice-motivated crime. The initial focus was around monitoring hate crimes and this led to the development of a hate crimes monitoring form in partnership with the UNISA Centre for Applied Psychology, one of the founding members.

The primary strength of this working group was that the participants were drawn from a broad range of organisations working in sectors which focused on diverse categories, including race, religion, sexual orientation, gender expression, migrants / displaced groups, disability, health status, nationality and ethnicity, and hate crimes related to those categories. This range plethora of experience and input meant that the group was able to “join the dots” across a wide range of policy and legislation.

Over the course of several meetings in late 2009 and early 2010 this informal network was more formally established as the Hate Crimes Working Group (HCWG).

2. The Hate Crimes Working Group

The purpose of the HCWG is to provide members with a cooperative forum to develop joint strategies to engage government structures (for example, the departments of justice and policing) in order to explore how best to develop and implement interventions in order to address prejudice-related crime.

¹ Initial members included the Consortium for Refugees and Migrants in South Africa (CoRMSA), Centre for the Study of Violence and Reconciliation (CSV), UNISA Centre for Applied Psychology (UCAP), Jewish Board of Deputies, OUT LGBT Well-being, Amnesty International, The Scalabrini Centre, Lawyers for Human Rights, South African Human Rights Commission (SAHRC), Gay and Lesbian Memory in Action (GALA), Office of the High Commissioner of Human Rights (OHCHR) and Tshwaranang Legal Advocacy Centre (TLAC).

Part of this process of engaging government also involves the development of mechanisms to record and monitor levels of suspected hate crime within their respective sectors so as to be able to demonstrate the extent and nature of hate crimes in South Africa. In addition this information can be used by CSOs and government agencies for various purposes, including: the development of effective and targeted prevention strategies; reducing threatened levels of violence in particular circumstances; and strengthening the policing and criminal justice response through the accurate identification of trends, specific vulnerable communities or areas.

2.1 Goals

- To achieve broad recognition of the nature and prevalence of hate crimes and the need for hate crimes policy and legislation;
- To inform and develop advocacy efforts that contribute to ensuring government enacts and implements hate crimes policy and legislation to contribute to improved prevention and effectiveness of a criminal justice response.

2.2 Activities

- The production of agreed upon public statements relating to general hate crime issues or specific issues which affect a constituency of the HCWG, as appropriate.
- The facilitation of opportunities for members to explore possibilities for multi-lateral and bi-lateral collaboration and co-operation by sharing information.
- Identification of new and emerging issues around hate crimes which require the development of a national policy response.
- Co-operating with other relevant forums and groups to further the HCWG agenda.

3. Structure and Membership

The HCWG is an open and broad-based network of organisations and individuals at a national level. Membership is open to civil society organisations and individuals concerned with the impact of hate crimes in South Africa, from the perspective of the victims or from a legal, service provision, research-based, or advocacy perspective.

It is structured as follows:

Structure	Composition	Meetings
Steering Committee	Minimum of 5 and maximum of 10 full members who represent by the full members every two years and includes the chair(s) of any sub-committee(s) established. Members who are individuals may be co-opted to sit on the SC, but have no voting powers.	Bimonthly – every second month, which means six meetings a year (one of which is the AGM).
Full Members	Individuals and organisations active and working in matters relating to hate crimes who agree to HCWG values and for whom there are no objections from existing membership. Full voting rights.	Three times a year, when possible: one meeting in each of the first three quarters, plus the AGM in the last quarter.
Associate Members	Individuals and organisations whose work is not primarily around hate crime matters and who do not wish to attend all meetings and participate	AGM

	fully but who are interested in hate crime issues. No voting rights.	
Research Sub- Committee	Individuals and organisations participating in research projects endorsed / co-ordinated by HCWG steering committee.	As necessary, with a minimum of three meetings a year.
Other Sub- Committees	Established on an ad hoc basis.	As necessary.

Election of steering committee

The HCWG is coordinated by a steering committee (SC) elected by full members, and should be comprised of those able to play an active role in the organisation of the Working Group. The SC is elected to a two year term. All full members are welcome to put themselves forward to serve on the SC by writing a nominating letter setting out their wish to be elected and how they – or their organisation will bring value to the steering committee.

Election of the Steering Committee may take place at an AGM or may be done electronically before the AGM is held. Where an electronic vote is the method determined by the Steering Committee, this process must be open for a minimum of two weeks.

If a member of the SC misses more than two consecutive meetings the chair will contact the organisation they represent to seek a resolution satisfactory to the SC.

Decision-making

SC decisions are made by consensus whenever possible. When consensus cannot be reached, a vote will be called and a simple majority rule will apply. A quorum of 50% plus 1 of the total SC members is required for decisions to be valid. Any SC member has the right to insert a dissenting voice or opinion into the minutes of the meeting at which the decision is made, or at the first

meeting thereafter. For changes to the terms of reference (TOR), a two-thirds majority vote will be required. Where a tie occurs, the Chairperson will cast the deciding vote.

Press and public statements

Where it is required that public statements be made on behalf of the HCWG, the SC will determine the most appropriate spokesperson to make those statements on behalf of the group. The chair of the SC will act as a liaison point for media queries. Representation of the HCWG on other committees should be agreed via consultation with the SC.

Where possible, media and other official statements and documents on behalf of the HCWG will be circulated to all member organisations beforehand for comment. In these instances, all statements will be undersigned by all members, unless members object individually. In urgent cases members of the SC have a mandate to release press statements, give comment and appear in the media with the approval of at least 4 SC members.

4. Members of the Steering Committee

Chair

The SC must designate one of its members as chair. The chair shall preside at meetings of the SC, approve the provisional agenda prepared by the secretariat, represent the SC as required within the limits of the SC's mandate, receive invitations to attend meetings on behalf of the HCWG, delegate attendance to those meetings and carry out other functions that may be entrusted to him/her by the SC.

Deputy Chair

The SC must designate one of its members as deputy chairperson. The deputy chair shall preside at meetings of the SC in the absence of the chair and shall assist the chair in his/her functions.

In the absence of both the chair and deputy chair, the members present at a meeting must elect a person from among those attending to preside at that specific meeting.

Secretariat

The organisation to which the chair belongs provides the secretariat for all HCWG meetings. The secretariat will be responsible for:

- a. Preparing a draft agenda to be circulated seven (7) days before the meeting;
- b. Receipt of any reports required for meetings;
- c. Distribution of reports / documents to be read in preparation for the meetings;
- d. Preparation of minutes which are to be circulated seven (7) working days after meetings(circulated to attendees for input / corrections within 3 working days and then approved minutes to be circulated fully);
- e. Maintaining the attendance list to be circulated at each meeting;
- f. Meeting logistics

Minutes should record issues raised and note, in brief, the discussion which occurred as well as reflect the decision(s) taken in respect of that issue. Approved minutes shall be made available to all members of the HCWG.

5. Membership and application process

Applications for full or associate membership will be accepted on an ongoing basis and must be sent in writing to the secretariat, accompanied by the applicant's constitution, where one is available. The chair will send the prospective member a copy of the key HCWG documentation and request that they indicate that they operate in accordance with these.

Applying organisations and individuals shall qualify for membership of the HCWG if it is determined by the SC that the applicant's aims, policies and programmes are consistent with the ethos of the HCWG and the TOR.

The chair will circulate the request for membership to all SC members. The following actions may be taken:

- admit the applicant as a member (full or associate); or
- decline the application, and notify the organisation or individual in writing; or

- defer the application for a stated period which may include requesting additional information, and notify the organisation or individual in writing.

if no substantiated objections are raised by SC members within a 10 day period, the request shall be accepted and the organisation or individual will be added to the membership list.

Participation in HCWG does not prevent individual organisations from working on issues concerning prejudice-based crimes in their own capacity.

Organisations or individuals may terminate their membership if their beliefs, views and principles are irreconcilable with those expressed by the HCWG. They should do this in writing.

6. Removal of members

The HCWG is committed to accommodating difference and working through disputes to achieve broad consensus. However, the values and principles of the group are central to its existence and where a member violates these principles, the Steering Committee can take steps to protect the integrity of the group.

- Any full member who feels that another member has conducted themselves in a way which goes against the values and principles of the HCWG may lodge an application for suspension with the Chair or Deputy Chair.
- This application must set out the actions alleged to be in violation and annex to it any supporting evidence.
- Within 10 days of receiving the application, the Chair or Deputy Chair must call a special meeting of the Steering Committee to discuss the suspension of the member.
- At this meeting, the applicant will motivate for the suspension of the member and the member must be allowed to raise arguments in their defense.
- Members of the Steering Committee are permitted to ask questions of both parties relating to the suspension.
- Both parties will then be excused from the meeting for the Steering Committee to deliberate. Following deliberations, the Chair or Deputy Chair will put the question of

suspension to the Steering Committee which will support or oppose it on a simple majority vote.

- If there is a vote in favour of suspension, the Steering Committee must also discuss and vote on the date and conditions of suspension.
- The default suspension date is the same as the special meeting, but the Steering Committee may postpone suspension to allow the respondent to make necessary changes and align themselves with the principles and values of the working group. The decision on postponement is taken by a simple majority vote.
- If one or both of the parties are also Steering Committee members, they will be excluded from deliberations and voting.
- Both the applicant and the respondent will have the decision of the Steering Committee communicated to them in writing.

Removal

- Within 7 days of the date of suspension, a suspended party may provide the SC with written reasons why the suspension should be uplifted including how it will change the conduct which led to the suspension.
- If no written reasons are received within 7 days, the suspended party is deemed to have not contested the decision and is automatically removed from the HCWG.
- Within 5 days of a removal, the Chairperson must inform all members in writing about the removal and reasons for such removal.

Resolution of disputes

- Suspension and removal of a member should be avoided where possible. Applicants are welcome to withdraw their application in writing at any time. Such a withdrawal will nullify any suspension process.
- The Chair or Deputy Chair must make all efforts to see an amicable resolution reached in any matter before the SC, especially suspension and removal, taking into account the aims and values of the HCWG.

7. Acceptance of Terms of Reference

The Terms of Reference must be adopted by a simple majority of full members at an Annual General Meeting, and thereafter may be amended by a two-thirds majority vote of the SC.