

DEALING WITH HATE CRIME

A GUIDE FOR VICTIMS AND NGOS HELPING VICTIMS



Dealing with hate crime

What this guide covers

This is a guide to help victims of hate crime and Non Governmental Organisations that work with victims, to understand the victim's rights to justice, police and criminal justice agencies' obligations to take action, and to share NGO good practice in helping victims. It also covers how to deal with online hate speech on the main social media platforms. It will try to make the law easy to understand, and is meant as a simple guide that can be accessed quickly, rather than a detailed analysis of hate crime. There are some links at the end to more detailed reading. It uses law that is applicable in England and Wales, although the processes in Scotland and Northern Ireland are similar.

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What is hate crime?

Simply we might think of hate crime as an attack on an individual's identity. Someone's identity is the characteristics that make up who they are, for example their nationality, ethnic group or race, language, sexual orientation, religion or a disability.

The Organisation for Security and Cooperation in Europe (OSCE) - which has done much work on combating hate crime while working with governments, police forces and civil society organisations across a wider Europe than the EU - define hate crime as

“A criminal act motivated by a bias against a certain group”.

To qualify as a hate crime it has to meet two criteria: that it is a criminal offence, and it is committed with a bias motive. Firstly there had to have been an action that constituted an offence under the criminal law of the country. Secondly, that the criminal act was committed with a particular motive. This means that the perpetrator intentionally chose the target of the crime (one or more people) because of some protected characteristic shared by a group of people, such as race, religion, ethnicity, nationality, disability, gender identity, sexual orientation or other similar common factor.

The OSCE focuses on the motivation of the perpetrator of a hate crime. That he or she is motivated by prejudice (preconceived opinion or dislike that is not based on reason or actual experience), hostility (hostile behaviour, unfriendliness or opposition) or intolerance (unwillingness to accept views, beliefs or behaviour that differ from one's own) against an individual.

In the UK we now focus on the victim of a hate incident, and that person's (or any other person's) perception that the incident was motivated by prejudice or hate. The incident may or may not constitute a criminal offence.

We also recognise that by attacking an individual, a negative message is sent to a wider group of people who share the same characteristics. 'Hate', an intense dislike for someone, may only form a small part of the motive of the perpetrator. Bias, prejudice and hostility may be stronger motivators. Although we generally tend to use the term 'hate crime', there is a difference between a hate crime (a criminal offence), a hate incident (a non-criminal offence) and hate speech (may or may not constitute a criminal offence).

The Crown Prosecution Service, police and criminal justice agencies define hate crime as:

“A hate crime is any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic”.

The personal characteristics that are protected by UK law are:

- disability (for example deaf, blind, learning disability, physical disability, mental health)
- race or ethnicity (for example race, skin colour, nationality or ethnic group)
- religion or belief (for example anti-Semitism, Islamophobia, faith hate)
- sexual orientation (for example lesbian, gay, bisexual)
- transgender identity (for example transexual, transvestite, transgender).

Hate crime doesn't have to be directed against a person, but can be criminal damage of property, for example vandalism to a place of worship.

UK law in a nutshell

The law states that an offender found guilty of a hate crime will be given a harsher, 'aggravated' sentence by the court than would be given for a crime that had no hate, bias, prejudice or hostility. The Crime and Disorder Act 1998 plus the Crime and Security Act 2001 cover racially or religiously aggravated offences where the offender has been motivated by hostility or demonstrates hostility through an assault on a person, criminal damage to a property, harassment against a person or a public order offence.

In addition, the Public Order Act 1986 covers the specific hate crime offence of inciting racial or religious hatred, and the Football Offences Act 1991 covers racist chanting at or around football matches.

To a victim of a hate incident, or the NGO case worker helping that victim, it may not be clear whether the act constitutes a criminal offence. Therefore we often refer to these acts as hate incidents and leave it to the criminal justice system to determine whether a criminal act took place. The police therefore recommend that all incidents are reported to them



Hate crime in UK

Hate crime is increasing. In 2015/16 the police in England and Wales recorded 62,518 hate crimes, which was a 19% increase on the previous year. Of these, 49,419 were race hate crimes. However the number of incidents reported to the police is only a small percentage of actual incidents that took place. The Crime Survey for England and Wales suggests that there are around 225,000 incidents a year. Under-reporting of hate crime is a significant issue.



The effects of hate crime

Hate crime can have a strong emotional and psychological impact on a victim. The victim may experience post traumatic stress disorder, fear, anxiety, shock, depression and a loss of confidence in interacting with other people. The types of hate crimes include:

- verbal abuse
- harassment
- bullying
- online hate
- damage to property
- violent crime
- sexual assault or rape.

Half of hate crime incidents involve violence. Verbal abuse and harassment are the most common hate experienced by victims, but also the least likely to be reported to the police. Hate crime can also happen anywhere: for example in the street or a park, on public transport, in a public or private building, in the workplace or school/college/university, on printed materials and online through social media, messages/email and websites.



Barriers to reporting hate crime

The victim of a hate crime may not wish to report the incident to the police. There are several recognised barriers that can lead to the victim being reluctant to report a hate crime or a hate incident. It is important that these barriers are recognised and addressed to prevent an incident from escalating into something more serious. The most common barriers are:

- Feelings of embarrassment by the victim
- Fear of reprisals from the perpetrator
- Lack of trust in the police and the criminal justice system to treat them fairly and with respect
- Fear of going to court
- Cultural and community issues in getting the police involved
- Feelings of isolation and the victim fearing that they won't be believed
- Fears about being able to be understood because of a lack of language skills
- The victim may regard the incident as an everyday thing that they have to put up with
- Not wanting to "cause a fuss".

The collective aim of the police service is to make communities safer by tackling all forms of hate crime and building public confidence.

Reporting a hate crime

For action to be taken against the perpetrator of a hate crime, the incident needs to be reported to the police. This can be done by:

- phoning the police - 999 in emergencies only and 101 for non-urgent calls
- going in person to a police station
- online through the police's True Vision website http://www.report-it.org.uk/your_police_force or the Self-Evident mobile phone app (available on Apple and Android devices)
- via a support organisations such as Crime Stoppers 0800 555 111.

It is also possible to report the incident to a third party reporting site, often run by a Non Governmental Organisation. The data would not be automatically passed to the police and data that is shared would be anonymised. Although reporting to third party centres would not lead to an increase in prosecutions for hate crimes, it does help to understand trends, particularly from the many victims of hate crime who decide not to report the incident to police.

A NGO case worker can accompany the victim while they report the hate incident to the police or report it on their behalf.



Overview of the processes involved in a police investigation into hate crime:

From crime scene to trial

This describes the process from the scene of a crime all the way to trial.

A hate incident happens. The victim calls 999 (if an emergency) or 101 (if non-urgent). The police officer will record all the details of the incident and take statements from the victim and any witnesses. The information provided to the police officer could help bring a criminal to justice and prevent others becoming victims. During this initial investigation the police officer will:

- ensure the safety and well being of the victim
- preserve the crime scene for evidence, considering the opportunity to find forensic evidence
- check CCTV recordings of or near the crime scene
- speak to victims and witness and record their accounts (if necessary using Language Line or other interpreters from the scene)
- identify and question suspects - making an arrest or voluntary interview or holding an identity parade.

The victim and any witness statements will be written up or video recorded. The victim and witnesses will be asked to read and sign their statements confirming that what is written or recorded is a true account of what happened, and they will be advised that the statements/recordings may be used in court as evidence. The hate incident case is then passed to the Community Safety Unit (CSU) for further investigation. This is a branch of the Criminal Investigation Department (CID) that specialises in the investigation of hate crime and other serious risk based crimes such as domestic violence. CSU officers will obtain further evidence, address any concerns of the victim or witnesses about the criminal justice process (also considering whether any special measures are necessary to allow the victim/witness to speak in court), and build the case and discuss the

evidence with the prosecutor - the Crown Prosecution Service. The CSU officer will keep the victim updated about the investigation at least every 28 days and will inform the victim within 24 hours (but often sooner) of a charge being brought against the perpetrator.

Next, the Crown Prosecution Service (CPS) take over. They are responsible for charging a perpetrator and for prosecuting a case. They apply three tests to decide whether to prosecute: whether there is sufficient evidence to prove beyond reasonable doubt that an offence took place, that there is a realistic prospect of a conviction, and that it is in the public interest to bring the case before a court. The CPS will work with the police to get cases ready for court and will present the case in court.

The Witness Care Unit (a joint police/CPS unit) will maintain contact with victims and witnesses in the run up to the trial, and arrange a court familiarisation visit, if required, before the trial. Their aim is to minimise the stress on victims and witnesses of attending court.

Then the case comes to court. This may be a Magistrates' Court for less serious offences where three magistrates will decide on the case without a jury, or a Crown Court for more serious cases in which there will be a Judge and a jury. Victims and witnesses will have a separate waiting room to the perpetrator where the CPS prosecutor will review their statements. The victim and witnesses will be called to give evidence in the court room from the witness box after taking an oath, and will be questioned by the prosecutor and cross examined by the defendant's lawyer.

The Witness Care Unit will update the victim on the outcome of the trial within 24 hours of it ending and any sentence passed.

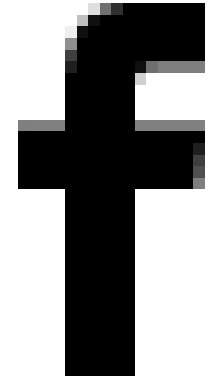
Online hate

Online hate is unfortunately a growing problem. This can be in words written online on social media posts or emails or website pages, or it can be pictures, videos or music. When assessing whether to prosecute an online hate incident, the CPS will use the same three tests (sufficient evidence, realistic prospect of a conviction and whether it is in the public interest to prosecute). As much online hate is hate speech, the balance is between the freedom of someone to express something and the injury caused to the victim. Many websites that promote hate are located on servers in other countries where prosecution would be near impossible. The perpetrator may also be located in another country, hiding behind a false name or avatar. However the police will take seriously all online hate incidents in which the perpetrator has threatened violence or has incited others to use violence or hatred against a person because of their personal characteristics.

Even if the Crown Prosecution Service decide not to charge a perpetrator, there is still much that the victim or a NGO case worker on their behalf can do to limit the harm caused and stop the perpetrator repeating their online hate. Facebook, Twitter, YouTube and Microsoft agreed a code of conduct on countering illegal hate speech online, with the European Commission in 2016. This code of conduct compels these companies to have clear and effective processes to review and take action on notifications made to them of illegal hate speech (incitement to violence and hateful conduct). The companies have agreed to review the majority of valid notifications of illegal hate speech within 24 hours and remove or disable access to such content.

There are many reports that these social media platforms are taking much longer or ignoring notifications made to them. However unless we make more use of the notifications systems then we cannot hold the social media/internet companies to account. So here is a guide to the system to notify about hate speech on each platform.

Facebook



To report a post:

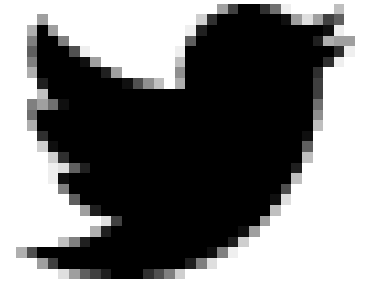
1. Click ▼ in the top right of the post
2. Click **Report post** or **Report photo**
3. Select the option that best describes the issue and follow the on-screen instructions

To report a Page:

1. Go to the Page you want to report
2. Hover over ... **More** below the Page's cover photo
3. Select **Report Page**
4. Choose the option that best describes the issue and follow the on-screen instructions



Twitter



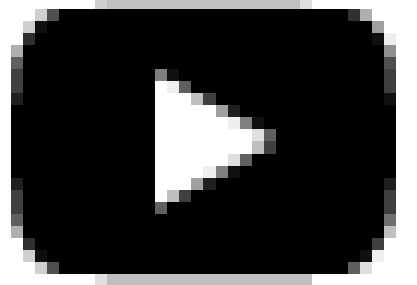
To report a Tweet:

1. Navigate to the Tweet you'd like to report.
2. Click or tap the more icon  on web, or the  icon on the Twitter for iOS or Twitter for Android app.
3. Select **Report**.
4. Select **It's abusive or harmful**.
5. Next, Twitter will ask you to provide more information about the issue you're reporting. They may also ask you to select additional Tweets from the account you're reporting so that they have better context to evaluate your report.
6. Once you've submitted your report, Twitter will provide recommendations for additional actions you can take to improve your Twitter experience.

To report an account:

1. Go to the account profile and click or tap the gear icon  (on web and iOS), or tap the overflow icon  (on Android).
2. Select **Report**.
3. Select **They're being abusive or harmful**.
4. Next, Twitter will ask you to provide additional information about the issue you're reporting. They may also ask you to select Tweets from that account so that they have better context to evaluate your report.
5. Once you've submitted your report, Twitter will provide recommendations for additional actions you can take to improve your Twitter experience.

YouTube



To flag a video for it to be investigated by YouTube:

On a mobile -

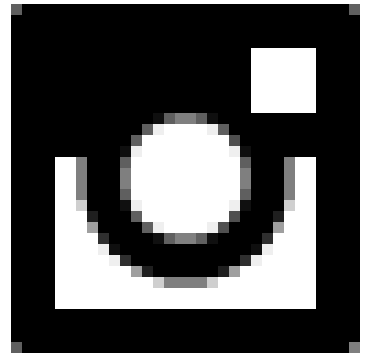
1. Go to the video that you'd like to report.
2. Tap **More** ⋮ at the top of the video.
3. Tap **Report** 🚩.
4. Select a reporting option.

On a computer -

1. Sign in to your YouTube account.
2. Below the player for the video that you want to flag, click **More** ⋮.
3. In the drop-down menu, choose **Report**.
4. Select the reason for flagging that best fits the violation in the video.
5. Provide any additional details that may help the review team make their decision including time stamps or descriptions of the violation.

To file an abuse report if you have found multiple videos, comments or a user's entire account that you wish to report, please visit YouTube's reporting tool (<https://www.youtube.com/reportabuse>), where you will be able to submit a more detailed report.

Instagram



On a computer:

- To report someone's account, go to their profile and click **⋮** next to their username. Select **Report user**. Then click the type of account you want to report and follow the on-screen instructions.
- To report a post, click **⋮** below the post. Then click **Report inappropriate** and follow the on-screen instructions.

On the Instagram mobile app: To report a post:

1. Tap **⋮** (iOS) or **⋮** (Android) above the post
2. Tap **Report**
3. Follow the on-screen instructions.

To report a profile:

1. Tap **⋮** (iOS) or **⋮** (Android) in the top right of the profile
2. Tap **Report**
3. Follow the on-screen instructions.

Hate crime case work

Hate crime case work and support involves providing emotional support and practical assistance and advice to victims of hate incidents. To do this effectively, the case worker requires a general knowledge of the law - as set out in this guide - and contacts and partnerships with relevant agencies, such as the police. The case worker also needs strong interpersonal skills: of listening, questioning, problem solving and advising.

A key point of providing support is that victims should be told their rights and options, and what they can expect from the police and the criminal justice system during the course of their complaint.

There are a set of minimum standards of hate crime support. These are:

- believe the victim, do not question the validity of their account and do not blame the victim for what they have experienced
- communicate with respect and dignity, in a language and manner that the victim can understand. Do listen to the victim
- respond to the victim as an individual
- respect the right of the victim to receive regular information on their case
- give contact details that the victim knows who to contact for more information or to ask further questions
- treat the victim in a respectful, sensitive and professional manner, without any form of discrimination.

The EU Victims Directive sets out standards that member states need to adopt. In the UK this is in the Code of Practice for Victims of Crime (Ministry of Justice, 2015). This states that victims should be treated in a respectful, sensitive, tailored and professional manner without discrimination of any kind. Victims should receive appropriate support to help them to cope and recover. Victims should be protected from re-victimisation. Victims should know what information and support is available to them from reporting a crime onwards. And victims should know who to request help from if not getting it.

The Code of Practice for Victims of Crime sets out standards that the police must provide to victims:

- Police must give a written acknowledgement that a crime has been reported
- Give a clear explanation of what to expect from the criminal justice system when a crime has been reported
- They must assess whether the victim needs or wants support
- Inform the victim on how often updates on the status of the case will be sent
- Give an explanation to the victim on a decision not to investigate a case
- Explain that the victim's details will be passed to Victim Support
- Give an explanation when an investigation has been concluded with no charges brought.

The Code of Practice is a useful set of standards to use in advocacy work with the police when you or the victim believe that the correct procedure has not been fully followed by the police.



Further reading

Chahal K. (2016), Supporting victims of hate crime, University of Bristol Policy Press, <https://policypress.co.uk/supporting-victims-of-hate-crime>

EU (2008), Framework Decision on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:l33178&from=EN>

European Union Agency for Fundamental Rights, Hate Crime in the European Union factsheet, available at: http://fra.europa.eu/sites/default/files/fra-factsheet_hatecrime_en_final_0.pdf

Home Office (2016), Hate Crime England and Wales 2015-16 statistical bulletin, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/559319/hate-crime-1516-hosb1116.pdf

OSCE-ODIHR (2009), Hate Crime Laws: A Practical Guide, available at: <http://www.osce.org/odihr/36426?download=true>

Report-it, (2015), Hate crime definitions, available at: http://www.report-it.org.uk/files/hate_crime_definitions_-_v3_0.pdf

