



CPS

Racist and Religious Crime – CPS Prosecution Policy

Contents

1	Introduction	3
2	What we mean by racist or religious crime	7
3	Types of offences	11
4	The role of the CPS	19
5	The Code for Crown Prosecutors	21
6	Deciding which charges to prosecute	25
7	Bail	27
8	Deciding what evidence is needed to prove the case	29
9	Helping victims and witnesses to give evidence	35
10	Accepting guilty pleas	43
11	Sentencing	45
12	Keeping victims informed	49

13	Monitoring of racist and religious crime	51
-----------	---	-----------

14	Community engagement	53
-----------	-----------------------------	-----------

15	Complaints	55
-----------	-------------------	-----------

16	Conclusion	57
-----------	-------------------	-----------

Annex A		
Legislation used to prosecute racist and religious crime		58

Annex B		
The roles of the Police, the CPS and the Courts		64

Annex C		
Bail		65
Useful information and contacts for people experiencing racist and religious crime		68

1 Introduction

This policy statement explains the way that we, the Crown Prosecution Service (CPS), deal with cases of racist and religious crime. This is the second edition and reflects the changes in the law and CPS procedures that have taken place since the publication of the first edition in July 2003.

We are publishing the statement because we want victims, witnesses and their families, as well as the general public, to be confident that the CPS understands the serious nature of this type of crime and the real and lasting effects it can have, not just on individuals and their families, but also upon communities and society as a whole. We want people to know what they can expect from us when we prosecute racist or religious crime and hope that this will help them to have greater confidence in the criminal justice system.

In preparing this second edition, we have consulted with people from Black and minority ethnic communities and faith communities and we have taken their comments into account when writing this document. Their contributions have helped us to have a better understanding of the things that are important to them and that we need to know about when we deal with racist and religious crime.

Racist and religious crime is particularly hurtful to victims as they are being targeted solely because of their personal identity, their actual or perceived racial or ethnic origin, beliefs or faith. Black and minority

ethnic victims can also be targeted because they belong to other minority groups and may experience multiple discrimination.

These crimes can be committed randomly at restaurants or takeaways, nightclubs, football matches, on shopping trips, or can be a part of a campaign of continued harassment and victimisation by neighbours, customers, extremist groups or even family members. Crimes can sometimes be a combination of these things – harassment by neighbours or attacks by organised gangs on a person and their home, or random attacks in public places.

The impact on victims is different for each individual, but many experience similar problems. They can feel extremely isolated and fearful of going out or even staying at home. They may become withdrawn and suspicious of organisations and strangers. Their mental and physical health may suffer. For young people in particular the impact can be damaging to their self-esteem and identity and, without support, a form of self-hatred of their racial or religious identity can result. Young people may also develop suspicion or hatred of others, as a result of suffering racist or religious crime.

The confusion, fear and lack of safety felt by the victims of these crimes can have a ripple effect on their racial or religious group in the wider community. Communities can feel victimised and vulnerable to further attack.

It is because crimes of this nature can have such far-reaching consequences that we have decided to publish this policy statement, which explains:

- what we mean by racist and religious crime;
- the offences and how the law works;
- our role and where we fit in the criminal justice system;
- our responsibility to victims and witnesses;
- the rights of defendants; and
- how we monitor cases of racist and religious crime.

Although the document will be of particular interest to people affected by racist or religious crime, it is also intended as a clear statement of our policy to the public at large.

Our policy is to prosecute racist and religious crime fairly, firmly and robustly.

This document is supported by more detailed guidance for all CPS prosecutors and caseworkers so that they can have a clear understanding of the policy and how we deal with this sort of crime. We will share the guidance with others who work in the criminal justice system so that they can contribute to implement the policy. The guidance is publicly available.

Our staff has been trained in equality and diversity awareness. We have also designed a training course for our prosecutors and caseworkers to help improve their knowledge and understanding of racist and religious crime, and to help them make the right casework decisions. This training has now been delivered to prosecutors and caseworkers throughout England and Wales, while newly recruited prosecutors and caseworkers are being trained as part of an ongoing rolling programme. Representatives from community and faith groups contributed to the design of the course on racist and religious crime.

2 What we mean by racist or religious crime

Racist or religious incidents

The Stephen Lawrence Inquiry Report was published in February 1999, and defined a racist incident as:

“... any incident which is perceived to be racist by the victim or any other person.”

We accept this definition.

We define a religious incident as:

“Any incident which is believed to be motivated because of a person’s religion or perceived religion, by the victim or any other person”.

Both definitions help us to identify all racist or religious incidents on our case files to make sure we take the racist or religious element into account when we make decisions about prosecuting.

Not all racist or religious incidents are criminal offences.

Furthermore, even if an incident does amount to a crime, there may not be a prosecution because:

- there might not be enough evidence to allow the case to be prosecuted at all;
- and even if there is enough evidence to prosecute an offence, there might not be enough evidence to prosecute a specific racist or religious offence or to prove that the offence was racially or religiously aggravated.

To help us decide whether a racist or religious incident amounts to a crime and whether there is enough evidence to prosecute the case, we use the Code for Crown Prosecutors. We explain the Code later in paragraph 5 of this statement.

Racist or religious crime

This is an offence where the prosecutor has to prove a racial or religious element as part of the offence itself, or where the law allows the prosecutor to put that evidence to the court when an offender is being sentenced.

There is no single criminal offence of racist crime or religious crime. There are a number of different offences where we have to prove a racial or religious element before the accused person can be found guilty. An example of this is racist chanting at a football match.

Apart from the offences where we have to be able to prove a racial or religious element, the criminal courts have a duty to treat any offence as being more serious where there is evidence that the accused person demonstrated hostility, or was motivated by hostility towards the victim because of the victim's membership of a racial or religious group.

Racial group – this means any group of people who are defined by reference to their race, colour, nationality (including citizenship) or ethnic or national origin. This could include Gypsies and Travellers, refugees, or asylum seekers or others from less visible minorities. There has been a legal ruling that Jews and Sikhs are included in the definition of racial group.

Religious group – this means any group of people defined by reference to their religious belief or lack of religious belief. For example, this includes Muslims, Hindus and Christians, and different denominations and branches within those religions. It would also include people with no religious belief at all.

3 Types of offences

For some offences we have to prove a racial or religious element before the accused can be found guilty. We explain these offences, together with the sentences that the court can impose, in **Annex A**.

Racially or religiously aggravated offences

Some offences can be charged as specific racially or religiously aggravated offences.

For these offences we have to prove first that the offender committed one of the **basic** offences and then we have to prove that the offence was racially or religiously **aggravated**.

The **basic** offences that can be charged include offences of assault or wounding, harassment, damage and public order offences, such as causing people to fear violence or harassment. More severe sentences can be imposed when these offences are charged as specific racially or religiously aggravated offences.

We can prove that an offence is racially or religiously aggravated in one of two ways. We have to prove that the accused person:

- either demonstrated hostility to the victim because the victim belonged to or was thought to belong to a particular racial or religious group – for example, using racist or religiously abusive language when assaulting someone;

or

- was motivated by hostility towards the victim for the same reasons – for example, the accused admitting to the police that he threw a brick through an Asian shopkeeper’s window because he disliked Asians.

Motive is always difficult to prove and most prosecutions will result from hostile acts by the accused towards the victim.

Incitement to racial hatred

This offence is committed when the accused person says or does something which is threatening, abusive or insulting and, by doing so, either intends to stir up racial hatred, or makes it likely that racial hatred will be stirred up. This can include such things as making a speech, displaying a racist poster, publishing written material, performing a play or broadcasting something in the media.

One of the first things we have to prove for this offence is whether the behaviour is threatening, abusive or insulting. These words are given their normal meaning but the courts have ruled that behaviour can be annoying, rude or even offensive without necessarily being insulting.

We also have to consider whether the offender intended to stir up racial *hatred* or whether racial hatred was likely to result. Hatred is a very strong emotion. Stirring up racial tension, opposition, even hostility may not necessarily be enough to amount to an offence.

Sometimes it may be obvious that a person intends to cause racial hatred, for example, when a person makes a public speech condemning a group of people because of their race and deliberately encouraging others to turn against them and perhaps commit acts of

violence. Usually, however, the evidence is not so clear-cut and we may have to rely upon people's actions in order to infer their intention.

If we are not able to prove that someone intended to stir up racial hatred, we have to show that, in all the circumstances, hatred was *likely* to be stirred up. 'Likely' does not mean that racial hatred was simply possible. We therefore have to examine the context of any behaviour very carefully, in particular the likely audience, as this will be highly relevant.

These offences appear in the Public Order Act 1986, which is generally designed to prevent acts of violence, disorder, harm or threats. Although it will often be present, the risk of commission of a criminal act of this nature is not essential to prove the commission of an offence of stirring up hatred on the grounds of race.

When people hate others because of race, such hatred may become manifest in the commission of crimes motivated by hate, or in abuse, discrimination or prejudice. Such reactions will vary from person to person, but all hatred has a detrimental effect on both individual victims and society, and this is a relevant factor to take into account when considering whether a prosecution is appropriate.

It is essential in a free, democratic and tolerant society that people are able robustly to exchange views, even when these may cause offence. However, we have to balance the rights of the individual to freedom of expression against the duty of the state to act proportionately in the interests of public safety, to prevent disorder and crime, and to protect the rights of others.

As these decisions involve questions of public policy, a specialist team of lawyers based at CPS Headquarters reviews the police file in all such cases and decides whether there is enough evidence. In addition, a case of incitement to racial hatred cannot be brought without the permission of the Attorney General, who is the senior Law Officer for the Crown.

The law only covers acts that are intended, or are likely to stir up, racial hatred. Whilst the definition of what constitutes “race” or “racial” is wide, it is clear that it does not cover “religious” hatred.

Incitement to religious hatred

A religious hatred offence has been created by Parliament, and came into force on 1 October 2007. However, this law is very different from the race hate law already on the statute books in that it only covers *threatening* words or behaviour (not insults or abuse) and only covers such words or behaviour that is *intended* to stir up religious hatred (not that which is likely to stir up hatred).

So abusive or insulting behaviour intended to stir up religious hatred is not an offence under the legislation, nor are threatening words likely to stir up religious hatred.

There is a freedom of expression defence enshrined in the new law that means it cannot be used to prohibit or restrict discussion, criticism, antipathy, dislike, ridicule, insult or abuse of a religion or its beliefs or practices.

So it will be more difficult to prosecute for inciting religious hatred as opposed to racial hatred (for which the standard is already properly high).

Prosecutions for this offence require the consent of the Attorney General and will be dealt with under the same arrangements as offences of inciting racial hatred.

Racist chanting at football matches

Millions of people follow football with many attending live games during a season. Although the problem of mass racist chanting is far less common than it was, there are continuing problems with racist abuse and harassment within football.

The offence of racist chanting is committed when a person or group of people repeatedly utter words or sounds of a racist nature at a designated football match defined as a match between teams from the Premier League, the Football League or the Conference League. "Racist" means the same as racist.

If convicted, a person can be fined and, additionally, banned from attending football matches both in this country and abroad.

Although this offence is designed to deal with particular racist behaviour within football grounds, and does not apply specifically to chanting of a religious nature, it is not the only way that we can combat racist or religious crime.

In some situations, racist or religious football-related crimes might be dealt with more appropriately using other legislation, such as racially or religiously aggravated public order offences. For example:

- when the offence is committed outside the stadium at a designated football match;
- if a public order offence is committed where religiously aggravated hostility is demonstrated to the victim;
- at non-designated football matches, such as amateur games;

We will consider carefully racist or religious crimes committed in a football context to make sure that we prosecute an offence (or offences) that reflects most accurately the offender's behaviour and which allows the court to take account of any racist or religious hostility or motivation.

Other religious offences

In addition to the religiously aggravated offences, there are other religious offences that can be prosecuted.

Blasphemy was an attack on the Christian religion, either orally or in writing, made in terms that are likely to shock or outrage the feelings of most Christian believers. Nevertheless, people have always been free to express anti-religious views providing they did so in a reasonable manner. As a result, there were very few prosecution in recent years, and an Act of Parliament abolished the offence entirely with effect from 8 July 2008.

Some other religious offences that can be prosecuted include:

- violent or indecent behaviour in places of worship;
- assaulting ministers or preventing them from officiating at religious services;
- causing disturbances in cemeteries; and
- disrupting or obstructing burials.

Most of these offences are contained in very old Acts of Parliament and are rarely used because the criminal behaviour they cover can be dealt with by charging other offences that are more familiar and also have higher penalties. Unlike blasphemy, the offences listed above can be committed against all faiths and their places of worship or burial.

Taking into account the racial or religious element in all other offences

When an offence is not charged as a specific racially or religiously aggravated offence or as one of the other offences described above, it does not mean that the racial or religious element will be overlooked. The court must take account of evidence of racial or religious aggravation in any case which is not charged as a racially or religiously aggravated offence in its own right.

For example, if someone jumps out of a taxi driven by an Asian taxi driver and runs off without paying, that person commits the offence of “making off without payment”. If that person at the same time makes remarks about Asians that suggests there was a racial motive

for not paying the fare, the offence cannot be charged as a racially aggravated offence. This is because the offence of “making off without payment” is not one of the “basic” offences that the law allows us to charge as a specific racially aggravated offence.

However, this does not mean that the racist element is ignored. In this situation, we must ensure that the court is told about the remarks and argue that as a result the offence was racially motivated. If the court accepts this, it would have to impose a higher penalty.

When an offender has been found guilty and the court is deciding on the sentence to be imposed, it should treat evidence of racial or religious aggravation as something that makes the offence more serious. The court must also state that fact openly so that everyone knows that the offence is being treated more seriously because of the racial or religious aggravation.

4 The role of the CPS

The CPS is one part of the criminal justice system, which includes other organisations such as the police, the courts, defence lawyers, the National Probation Service, Youth Offender Teams (YOTs), the Witness Service and the Prison Service. We have summarised the main roles of the police, the CPS and the courts in the diagram at **Annex B**.

We are a public service for England and Wales, headed by the Director of Public Prosecutions, who is also the Director of the Revenue and Customs Prosecution Office. We were set up in 1986 to prosecute cases investigated by the police. Although we work closely with the police, we are independent of them. We are answerable to Parliament through the Attorney General, who is the senior Law Officer for the Crown and also a Government Minister.

We are a national organisation consisting of 42 Areas. Each Area is headed by a Chief Crown Prosecutor and corresponds to a single police force area, with one Area covering London. The 42 Areas are now grouped into 14 Strategic Boards, excluding CPS London, which has a management team of its own, led by the Chief Crown Prosecutor of London. Each Strategic Board is led by a Group Chair Chief Crown Prosecutor.

5 The Code for Crown Prosecutors

The Code for Crown Prosecutors sets out how we make decisions about whether or not to prosecute. The Code is a public document. We review the cases referred to us by the police in line with the test set out in the Code. The test has two stages.

The evidential stage

We must be satisfied first of all that there is enough evidence to provide a realistic prospect of conviction against each defendant on each charge. This means that a jury or a bench of magistrates or a judge hearing a case alone, properly directed in accordance with the law, is more likely than not to convict the defendant of the alleged charge.

For there to be a conviction, we have to prove the case so that the court is sure of the defendant's guilt.

If the case does not pass the first stage (the evidential stage) based on the strength of the evidence, it must not go ahead, no matter how important or serious it may be. We have explained already that not every case that meets the definition of a racist/religious incident will necessarily be prosecuted. There may not be enough evidence for us to be satisfied that a court is likely to convict the defendant.

The public interest stage

If the case does pass the evidential stage, we must decide if a prosecution is needed in the public interest. A prosecution will usually take place unless: “there are public interest factors tending against prosecution which outweigh those tending in favour”.

When considering the public interest stage, crown prosecutors “should take into account any views expressed by the victim regarding the impact that the offence has had. In appropriate cases, for example, a case of homicide or where the victim is a child or an adult who lacks mental capacity, prosecutors should take into account any views expressed by the victim’s family.” We always think very carefully about the interests of the victim when we decide where the public interest lies. But we prosecute cases on behalf of the public at large and not just in the interests of any particular individual. There can be difficulties in striking this balance. The views and interests of the victim are important, but they cannot be the final word on the subject of a CPS prosecution.

We regard any offence motivated by hostility towards the victim because of the victim’s ethnic or national origin or religious beliefs as being more serious. Also, we are aware that even relatively minor racist or religious crime can have a disproportionately large impact upon individual victims. As a result, the public interest in racist and religious hate crime cases that are referred to us will almost always be in favour of a prosecution.

Some other public interest factors that we will consider are:

- the seriousness of the offence;
- the victim’s injuries – physical and/or psychological;
- if the defendant used a weapon;
- if the defendant has made any threats before or after the attack;
- if the defendant planned the attack;
- the chances of the defendant offending again;

- the continuing threat to the health and safety of the victim or anyone else who is, or may become, involved;
- the victim's relationship with the defendant; and
- the defendant's criminal history, particularly any previous offences against vulnerable people.

The Threshold Test

Crown prosecutors will apply the Full Code Test whenever possible. However, there will sometimes be cases when the person arrested will be considered unsuitable to be granted bail but when not all the evidence is available at the time a charging decision has to be made.

In such cases, when the investigation is incomplete, the CPS may apply the Threshold Test. However, the Threshold Test can only be applied when all the following conditions are met:

- there is insufficient evidence to apply the Full Code Test;
- there are reasonable grounds for believing further evidence will be available in a reasonable time;
- the seriousness of the circumstances justifies the making of an immediate charging decision; and
- there are continuing substantial grounds to object to bail.

Where all these conditions are met, the Threshold Test may be applied and the suspect charged, provided that:

- there is at least reasonable suspicion that the person arrested has committed the offence;
- the prosecutor is satisfied that there are reasonable grounds for believing that further evidence will be provided which will provide a realistic prospect of conviction in accordance with the Full Code Test; and
- if so, a prosecution would be in the public interest.

A decision to charge under the Threshold Test must be kept under review and the Full Code Test must be applied to the case as soon as reasonably practicable.

The Code is a public document. Copies are available from CPS Communication Division, Rose Court, 2 Southwark Bridge, London SE1 9HS or from local CPS offices, or from our website:
www.cps.gov.uk/victims_witnesses/code.html

6 Deciding which charges to prosecute

We must select charges that reflect the seriousness of the case and allow the court to impose a suitable sentence. The charges must also help us to present the case clearly and simply.

In some situations, depending on the type of charge being prosecuted, we have to include a charge for the basic offence as well so that if the racial or religious part of a charge is not proved, the court can still find the accused person guilty of the basic offence. When we do this, it does not mean that we are inviting the accused to plead guilty to the basic offence alone, nor does it mean that we think that the case is weak.

Since 2004, we have had the responsibility for deciding (in all but the most minor cases) whether a suspect should be charged with a criminal offence, and, if so, what the charge(s) should be. When the police have a reasonable suspicion that a suspect has committed an offence which is racially or religiously aggravated, they *must* refer that case to a crown prosecutor, who will make the decision whether or not to charge.

7 Bail

After a person is charged with an offence, the police decide whether to release the person on bail to attend the next available court hearing (usually within two to five days of charge), or to keep the person in custody to appear before the magistrates' court that day or the next. Once the accused appears before the court, the magistrates make the decision about bail after hearing from the prosecution and the defence. We can appeal, in certain circumstances, against a decision to grant bail.

To protect victims or witnesses from the risk of danger, threats, pressure or other acts by the accused that might obstruct the course of justice, we may ask the court to impose conditions on the accused's bail, or we may ask the court to remand the accused in custody. The court will only agree if it is satisfied that there are grounds for withholding bail.

Conditions that the court can impose include requirements not to approach any named person or to keep away from a certain area. In making our decisions, we take account of information provided to us by the police about the fears of a victim or witness about harassment or repeat offending. Common examples of bail conditions are set out in **Annex C**.

We work with the police and the courts to make sure that the victim or witness is kept informed, either by the police or by us, of any change to the bail conditions or custody status of the accused person.

8

Deciding what evidence is needed to prove the case

We work closely with the police to make sure that the police investigation has been thorough and that all the available evidence has been gathered and brought to our attention. In some cases, we may advise the police to follow up other possible lines of enquiry. This might include looking at previous reported incidents involving the same victim, or the same suspect, or the same location. In all cases, prosecutors should liaise directly with the officer in the case to make sure all available evidence has been obtained and sent to the CPS so that we may fully review the case. This may be especially important if the situation represents repeat victimisation.

We will consider the evidence carefully and make our decisions as quickly as possible. We will also try to make sure that cases progress through the court without delay.

The victim is often the only witness in many racist or religious crimes. This can mean that, unless the defendant pleads guilty or there is strong supporting evidence, it will usually be necessary for the victim to give evidence in court.

We will not, however, assume that bringing the victim to court to give evidence is the only way to prove a case. We will consider what other evidence may be available either in support of, or as an alternative to, the victim's evidence

When a victim withdraws a complaint or no longer wishes to give evidence

Sometimes a victim may withdraw support for a prosecution and no longer wish to give evidence. This does not mean that the case will automatically be stopped. If the victim has decided to withdraw support for the prosecution, we have to find out why. This may involve delaying the court hearing to investigate the facts and decide the best course of action.

We will take the following steps:

- if the victim decides to withdraw support, we will ask the police to take a written statement from the victim to explain the reasons for that withdrawal, to confirm that the original complaint was true and to find out whether the victim has been put under any pressure to withdraw support; and
- we will ask the police to give their views about the evidence in the case and how they think the victim might react if they are compelled to attend court.

If the victim's statement, after withdrawing the complaint, is not the same as the earlier statement, we expect the police to ask the victim to explain why it has changed.

If the victim confirms that the original complaint is true, we consider first whether it is **possible** to continue with a prosecution without his or her evidence (the evidential test) and then, if it is possible, whether we should continue the case without the support of the victim/against the victim's wishes (the public interest test).

The prosecutor will want to know the reasons why the victim no longer wishes to give evidence. In cases of racist or religious crime, this may be because the victim lives in a place in which they feel isolated or particularly vulnerable (and we recognise that feeling

isolated or vulnerable may have deterred or delayed the victim from reporting the incident in the first place), where supporting the prosecution may place the victim at further risk of harm. In such cases, the prosecutor must have regard to any special measures or other support available to the victim that may help them, at least in part, to overcome their concerns.¹

If we suspect that the victim has been pressured or frightened into withdrawing the complaint, we will ask the police to investigate further. The investigation may reveal new offences, for example, harassment or witness intimidation, or that bail conditions have been breached. If necessary, we will ask the court to delay any hearing so that a thorough investigation may take place before we decide about the future of the case. If the reason for a victim or witness's withdrawal is based on fear or intimidation, the prosecutor will consider that evidence and decide whether further charges, for example, of witness intimidation, should be brought.

We will explore all these options fully, before we decide whether to proceed with a prosecution. The safety of the victim or any other potentially vulnerable person will be a prime consideration in reaching our decision.

Continuing a case against the victim's wishes

Generally, the more serious the offence (for example, because of the level of violence used or the real and continuing threat to the victim or others), the more likely we are to prosecute in the public interest, even if the victim says they do not wish us to do so.

¹ Prosecutors' Pledge: "Address the specific needs of a victim and where justified seek to protect their identity by making an appropriate application to the court" and The Code of Practice for Victims of Crime, section 7.8 states that CPS prosecutors must consider applications for special measures for potentially vulnerable or intimidated witnesses.

In cases where we have sufficient other evidence, we may decide to proceed without relying on the evidence of the victim at all.

If we decide that the case should continue and that it is necessary to rely on the victim's evidence to prove the case, we have to decide:

- whether we should apply to the court to use the victim's statement as evidence without the victim having to give evidence in court;
- if we can proceed with the prosecution by helping the victim to attend court by the use of special measures; and
- whether we should compel the victim to give evidence in person in court.

Background information is crucial in helping a prosecutor to make the correct decision about how to proceed in a case where the victim has withdrawn their support for the prosecution.

Some examples of what helps us to decide the public interest in proceeding with a racially or religiously aggravated offence when the victim has withdrawn support for the prosecution are:

- the seriousness of the offence;
- the victim's injuries whether physical or psychological;
- if the defendant used a weapon;
- if the defendant made any threats before or after the attack;
- if the defendant planned the attack;
- the chances of the defendant offending again;
- the continuing threat to the health and safety of the victim or anyone else who is or may become involved;
- the victim's relationship with the defendant;
- the defendant's criminal history, particularly any previous offences based on race or religion; and
- if the offence is widespread in the area where it is committed.

A prosecutor will only call a victim to give evidence against his or her wishes if he is satisfied, after consultation with the police and any other interested party, that such a course of action is necessary.

The law allows us to use the victim's statement in court without calling the victim to give oral evidence but only in very limited circumstances. It is for the court to decide and it will only allow this if it is in the interests of justice to do so. If the victim is the only witness to the offence, it may be difficult to satisfy the court that justice is being served when the defence cannot cross-examine the principal witness in the case.

When victims and witnesses have to attend court to give evidence, we know that they will be worried and might need practical and emotional support. We explain in paragraph 9 some of the steps we can take to help them to overcome their fears and to give the best evidence they can.

Background information

Bad character

Sometimes information that might suggest a person is guilty of an offence cannot be used in court because of legal rules of evidence and we have to bear this in mind when we are deciding whether we can proceed with a case.

Even if information cannot be used to prove the defendant's guilt, it may be important background information that will enable the prosecutor to put the offence in context. The victim may, for example, have been subjected to repeated attacks and may be vulnerable to certain consequences, such as eviction, if the prosecution does not proceed.

Some information might need to come from sources such as Housing Authorities, or voluntary agencies. All this information must be collected by the police and given to the CPS prosecutor.

Victim Personal Statements

Another important source of information for the prosecutor and the court is the Victim Personal Statement. This is a statement made by a victim that explains the effect that the crime has had on his or her life.

The victim can choose whether or not to make such a statement and will be invited to do so immediately after making a witness statement. A Victim Personal Statement can be made at any time, and more than once, before the trial. The more information it contains about the long term impact of the crime upon the victim, the more helpful it is likely to be.

A Victim Personal Statement allows the prosecutor to understand the effects of the crime and can help in deciding the right charge. Victims are able to say whether they have any concerns about the accused being on bail, whether they feel threatened or intimidated and whether they would like support from one of the voluntary agencies.

If there is a Victim Personal Statement, we will tell the court about it so that it can help the court to make decisions about bail and sentence. Further information about how Victim Personal Statements are used during sentencing is given in paragraph 11.

9 Helping victims and witnesses to give evidence

We will try to take account of cultural and religious sensitivities when we prosecute cases.

We will find out as much about a witness's circumstances as we can before a witness is asked to come to court, such as which holy book would be appropriate for taking an oath or whether the witness prefers to affirm.

When setting hearing dates or appointments, we will make sure that matters such as religious festivals are taken into consideration.

We will try to take account of any sensitivities relating to age, disability, sexual orientation, gender or gender identity so that witnesses can feel as comfortable as possible when they meet us or when they go to court.

Special measures

In some circumstances, the court may agree to allow a witness to give evidence with the help of "special measures". The need for special measures should be investigated first by the police and then by the prosecutor. The Witness Care Officer may also have an input following a needs assessment but it will be for the court to decide whether they should be granted. The Code of Practice for Victims of Crime, section 7.8 states that CPS prosecutors must consider

applications for special measures for potentially vulnerable or intimidated victims who are to be called as witnesses to give evidence.

Special measures are available in both the Crown Court and the magistrates' courts. They are available to help the following witnesses:

- children under 17 years;
- adults (17 and over) who may be considered vulnerable because of incapacity, such as a physical or mental disorder;² or learning disability; and
- witnesses whose evidence is likely to be affected because they are intimidated (for example, because they are afraid or distressed about giving evidence).

Special measures can help vulnerable or intimidated people give their evidence in the best possible way and with as little stress as possible.

Special measures include, amongst other things:

- playing to the court the victim's or witness's video recorded statement (previously taken by the police during the investigation);
- allowing the use of screens in a courtroom to prevent a victim or other witness and the defendant seeing each other;
- giving evidence away from the courtroom through a live television link (but the defendant will still be able to see them); and
- clearing the public gallery in sexual offence cases or cases involving intimidation.

We have to ask the court to allow special measures and it is not automatic that they will be granted.

² This includes someone who is living with a particular condition which may inhibit them from pursuing a prosecution if that fact is going to be widely broadcast.

The court has to take account of certain things when deciding whether to allow a special measure for witness. These include:

- the social and cultural background and ethnic origins of the witness;
- the religious beliefs of the witness; and
- any behaviour towards the witness by the defendant or his/her family or associates.

The court also has to take into account any views expressed by the witness about how he or she wants to give evidence.

This list is not complete and the court can take account of anything else that it thinks it should.

It is important that we have all the available information that could help us to apply for special measures for a witness. Normally it will be the police or the Witness Care Officer who will pass on the information to us. Sometimes we may get the information by meeting the witness directly.

Meeting between the CPS and vulnerable or intimidated victims and witnesses

Where we decide to make an application to the court for special measures, we will ask the police to find out if the witness would like to meet the prosecutor.

The purpose of such a meeting is to build trust and confidence and to enable us to reassure the witness that their needs will be taken into account. We will also offer such a meeting if we have decided not to apply for special measures so that we can explain that decision. The witness does not have to attend that meeting unaccompanied. They can bring a partner, a relative, a friend or other supporter. In order to facilitate communication with the victim, it may be appropriate for an interpreter or other similar person, to attend the meeting. Wherever possible, the CPS prosecutor will ensure that the advocate who will

be conducting the trial attends the meeting between the CPS prosecutor and the witness. The CPS prosecutor will also offer the victim a court familiarisation visit.

Further information about meetings with vulnerable or intimidated witnesses is contained in the leaflet: *Witnesses, Your Meeting with the CPS Prosecutor*. This leaflet is available from CPS Communication Division, Rose Court, 2 Southwark Bridge, London SE1 9HS or from our website:
www.cps.gov.uk/publications/prosecution/witnesseng.html

Anonymity

Many victims and witnesses are concerned about personal safety and are particularly worried that personal details or information about them might become public knowledge and expose them to risk of further attack or harassment.

Generally, it is a fundamental principle of our criminal justice system that those accused of crimes are entitled to know the name of their accuser. Most criminal proceedings are held in public, and information about the identity of the witness will become a matter of public record.

However, addresses of witnesses are not disclosed to the defendant and, unless already known (for example, where an offence is committed by a neighbour) or if required for evidential purposes, will not be mentioned in the court proceedings.

The court can, in some situations, allow witnesses not to give their name in open court. One consideration the court will take into account is whether the naming of an individual witness might make it more difficult to obtain evidence from other witnesses in similar cases in the future.

Victims of serious sexual offences are entitled as a matter of law to anonymity in the press, even if their name has been given in court.

In other cases, the court has the power to forbid the media from reporting a witness' personal details if it considers that the quality of the witness' evidence or co-operation in the proceedings is likely to be reduced because the witness is afraid of being identified as a witness in the case. Media representatives have the right to object, in the interests of open reporting, to a court order that prohibits publication of this information.

Support for victims and witnesses

The CPS is fully committed to taking all practicable steps to help victims and witnesses through the often difficult experience of becoming involved in the criminal justice system. We recognise that victims of racially and religiously aggravated crime might be reluctant to report incidents because of fear or mistrust, or because of their previous experience of those who are involved in that system.

Initiatives such as special measures, meetings between the CPS and vulnerable and intimidated witnesses, and the creation of dedicated Witness Care Units staffed by CPS and police personnel are all designed to increase the confidence of victims within the criminal justice system. Support is also available at a very early stage from the police and other support agencies, which can continue throughout the life of the prosecution.

Magistrates' courts and Crown Court centres have a Witness Service, which is a service provided by Victim Support. More information on this service can be found from the local police or local Victim Support Group [telephone number 0845 30 30 900]. Some courts also have a specialist Child Witness Service.

Members of the Witness Service may be able to arrange pre-court familiarisation visits if needed and are able to explain what might happen at court. They are not, however, allowed to discuss the details of the case.

We make sure that appropriate arrangements are made to have an interpreter available for the court proceedings when one is needed.

When a witness attends court, the CPS prosecutor presenting the case or the CPS caseworker will introduce themselves and answer any general queries that a witness may have. They are not permitted to discuss the detail of the case with a witness.

Sometimes, the person prosecuting may be a barrister (also known as counsel) or a solicitor, who is not a member of the CPS but who has been employed by us to present the case in court. We expect every barrister or solicitor we employ to be familiar with our policies and procedures and to act in accordance with them.

We will pay reasonable expenses to a witness for attending court.

If witnesses are kept waiting, we will make sure they are told the reasons for the delay and the estimated time when they will be required to give evidence.

Wherever possible, we will try to make sure that separate accommodation facilities are made available for prosecution witnesses so that they do not have to mix with the defendant or his or her friends or family, and vice versa.

The Prosecutors' Pledge

This is a ten point Pledge that describes the level of service victims can expect to receive from prosecutors. The Prosecutors' Pledge should ensure that the specific needs of victims and witnesses are addressed; that they are assisted at court to refresh their memory from their written statement or video interview; and that they are protected from unwarranted or irrelevant attacks on their character.

The Prosecutors' Pledge can be obtained from our website:
www.cps.gov.uk/publications/prosecution/prosecutor_pledge.html

10 Accepting guilty pleas

Where there is evidence available to prove the racial or religious element in the case, we will make sure that this evidence is placed before the court, either during the trial or when the court is considering sentence.

This means that where the aggravated offence has been charged, **we will not accept a guilty plea to the basic offence alone unless there are proper reasons for doing so**. An example would be where the evidence needed to prove the aggravated element of the offence is no longer available or where the court refuses to allow the evidence to be given.

When considering whether to accept a plea, we will, in accordance with our obligations under the Attorney General's 2005 Guidelines, discuss with the victim or the victim's family whenever possible, so that we can explain the position and take into account their views and interests to help us to make the right decision. We will keep them informed and explain our decisions once they are made at court.

The basis of a guilty plea will not be agreed on a misleading or untrue set of facts, and will take proper account of the victim's interests.

11 Sentencing

Evidence of racist or religious aggravation makes a case more serious and the court has a duty to take this into account when it sentences the accused and to make it clear that it has done so. We will not make a case appear less serious than it is by leaving out evidence of racial or religious aggravation. However, we can only put material before a court that the law allows and that is relevant to the case. We will make sure that the court has all the information it needs to carry out this duty.

In all cases before the Crown Court and in cases before the magistrates' courts where the issues are complex or where there is scope for misunderstanding, we will provide a Plea and Sentencing document which sets out:

- the aggravating and mitigating factors of the offence (not personal mitigation);
- any statutory provisions relevant to the offender and the offence under consideration so that the judge is made aware of any statutory limitations on sentencing;
- any relevant sentencing guidelines and guideline cases;
- identifying any victim personal statement or other information available to the prosecution advocate as to the impact of the offence on the victim;
- where appropriate, any evidence of the impact of the offending on a community; and

- an indication, where applicable, of an intention to apply for any ancillary orders, such as anti-social behaviour orders and confiscation orders, and so far as possible, indicating the nature of the order to be sought.

When a defendant pleads guilty or is found guilty, the court has to decide on the sentence to impose and can choose from a broad range of penalties. The penalties may be in the form of rehabilitative orders, community penalties, fines, “bind overs” or custody.

Before being sentenced, a defendant is entitled to make a plea in mitigation. We will challenge defence mitigation which unfairly attacks the victim’s character.³

If the defendant pleads guilty or is found guilty of an offence but disagrees with the prosecution that the offence was aggravated by hostility based on the victim’s race or religion or presumed race or religion, the judge or magistrates will have to decide whether the aggravating feature is proved. The prosecution must call witnesses who can give evidence about the hostility and the defence will be able to cross-examine them before the court makes a decision. This process is called a “Newton hearing”. At the end of the hearing, the court must announce whether it is satisfied, having heard the evidence, that the offence was aggravated by hostility based on the victim’s race or religion or presumed race or religion. If so, the court must treat the offence more seriously when deciding on sentence.

We will give the court information to help it to decide whether to make any orders it has the power to make in addition to the main

³ Prosecutors’ Pledge “Protect victims from unwarranted or irrelevant attacks on their character and may seek the court’s intervention where cross-examination is considered to be inappropriate or oppressive.”

sentence.⁴ This includes making an order in appropriate cases for compensation for loss, injury or damage.⁵

In all cases, it is for the magistrates or judge alone to decide what the sentence should be. In a limited number of offences (and only when the defendant is sentenced in the Crown Court), we have the right to ask the Attorney General to challenge a sentence, if we believe it is unduly lenient. An unduly lenient sentence is one: *‘where it falls outside the range of sentences which the judge, applying his mind to all the relevant factors, could reasonably consider appropriate’*.

Anyone, including the victim or the victim’s family, can themselves draw the sentence directly to the attention of the Attorney General, if they consider it to be unduly lenient. There is, however, a strict 28 day time limit (from the date of sentence) within which the Attorney General must apply to the Court of Appeal.

Victim Personal Statements

A Victim Personal Statement is a statement made by a victim of crime explaining the effect that the crime has had on him or her. In the statement, victims can describe how they have been affected by the crime. They may talk about their wishes or needs during the case, and any concerns that they might have as a result of the offence, for example, about safety, intimidation or bail. They can mention their support (or the lack of support) for the prosecution and request help from any of the support agencies. In this way, the court can better understand not only the crime, but also the context in which it occurred. The statement is optional, and the victim should be asked whether or not s/he wishes to make such a statement or if s/he requires help to make a statement from a family member or a support

⁴ The Code of Practice for Victims of Crime, section 7.12 states that the CPS must answer any questions the victim has about the sentence if the victim is referred to the CPS by the Witness Care Unit (this is if the Witness Care Unit is unable to answer the victim’s questions).

⁵ Prosecutors’ Pledge: “On conviction, apply for appropriate order for compensation, restitution or future protection of the victim”.

worker. This statement can be made at any time and it is possible to make more than one statement. A victim can ask the police or the CPS lawyer for a leaflet which explains what Victim Personal Statements are, and how they can be used.

We will take account of any information contained in a Victim Personal Statement and we will tell the court about the effects of the crime on the victim. We can also use these statements to help make decisions about cases, for example when deciding whether or not to ask the court to refuse bail or to impose bail conditions.

12 Keeping victims informed

We understand how important it is for victims to be kept informed about the progress of a case. Dedicated Witness Care Units are now responsible for letting victims and witnesses know about dates of court hearings or other important case developments. We have Witness Care Units in every CPS Area and these are run jointly by the CPS and the police. Witness Care Officers provide a single point of contact and tailored support for each witness to ensure that they are able to give their best evidence. This tailored support is based upon a needs assessment which should lead to the identification of any specialist support that the witness needs.

Witness Care Officers will manage the care of a victim from the time when a defendant is charged right up until the final hearing.

The Code of Practice for Victims of Crime

This Code sets out the obligations of the CPS towards victims. One of these obligations is to tell a victim if we decide that there is insufficient evidence to bring a prosecution (following a full evidential report from the police), or if we decide to drop a case, or substantially to alter the charges. In such circumstances, we will explain to a victim why we have made these decisions. Normally we will do this by writing a letter directly to the victim. In some situations, a case can be dealt with very quickly and we may not always be able to give the explanation before the case is finished. However, the victim will still be

given an explanation even if the case has finished. If the victim is vulnerable or intimidated, we will notify him or her within one working day, and within five working days for other victims.

In cases involving racist or religious crime, the prosecutor who made the decision to drop or substantially to alter the charge will also offer to meet the victim to explain personally the reasons for the decision. Where a prosecutor has made a decision not to charge during a face-to-face consultation with a police officer (that is, without a full, written evidential report), the police officer must notify the victim.

Copies of the Code of Practice for Victims of Crime can be obtained from CPS Communication Division, Rose Court, 2 Southwark Bridge, London SE1 9HS or from our website: www.cps.gov.uk/victims_witnesses/victims_code.pdf

13 Monitoring of racist and religious crime

We record the decisions we make whether or not to prosecute cases identified as racial or religious incidents and also the results of cases we prosecute. In addition, religiously aggravated offences are reported to the Director's Principal Legal Advisor personally so that he can express his own view about the prosecution decision.

We have published an annual report on racially and religiously aggravated crime, giving both local and national statistics since 1999. The CPS Racist and Religious Incident Monitoring Scheme (RIMS) annual report is a public document and can be obtained from our Communications Branch or from our website.

The report gives information on the number of cases sent to us by the police, our decision on whether to prosecute, the charges prosecuted or discontinued, the outcome of charges prosecuted in the magistrates' courts, youth courts and Crown Court and the sentences imposed.

In 2006-07, the CPS established a Hate Crimes Monitoring Project to improve the electronic recording of hate crime and to enable the CPS publicly to report on hate crime data in a single annual report. From 2008-2009 onwards, the CPS will publish an Annual Hate Crimes Report which will contain performance data on racist and religious crime (along with performance data on other hate crimes). This Annual Hate Crime Report will replace the RIMS annual report.

The CPS consulted internally and externally with a wide range of community partners with regard to what additional data should be recorded by the CPS. The following key priority areas were identified and these should be recorded from April 2007:

- recording the religion and belief of all defendants and all victims (we secured the agreement of the Association of Chief Police Officers to amend the monitoring forms used by police forces);
- recording racist crime and religious crime separately;
- recording the number of cases where the aggravating element is dropped; and
- recording the sentence uplift for aggravated offences.

The Code of Practice for Victims of Crime has imposed new duties and obligations on the CPS. Monitoring racist and religious crime and monitoring the outcomes of crimes involving black and minority ethnic victims and witnesses will help us to ensure that we are complying with our obligations and that we are providing a quality service for all victims of crime.

We are in the process of establishing Hate Crime Scrutiny Panels covering all CPS Areas, which will scrutinise our performance on how we handle hate crimes.

14 Community engagement

We recognise the importance of working with the community to build positive relationships with minority ethnic groups and organisations. The publication of this policy statement is an important step towards achieving this goal. We have consulted widely in its preparation and will keep it under review after publication. We will put the policy into practice and seek thereby to build the trust of local communities in the work we do and the decisions we make.

We are already working locally to deepen links with black and minority ethnic and faith communities through representative groups and individuals. This helps us to explain the policy statement and how we expect it to operate in the criminal justice system. We will answer questions about the CPS and the criminal justice system frankly and without raising false expectations about what can be offered.

15 Complaints

We recognise that if a member of the public wishes to make a complaint, or provide other feedback about the service that they have received from us, they should find it easy to do so. We aim to achieve this through the publication of information about our feedback and complaints policy and procedures on our website, in booklets and leaflets. We are committed to ensuring that all users of our service have equal access to this information and the opportunity, where possible, to communicate in the way that suits them best. Complaints will be treated impartially and in confidence (within our legal obligations).

Full details of how to complain or provide feedback and contact points for the CPS are available on our website: www.cps.gov.uk

16 Conclusion

We are determined to play our part in reducing racist and religious crimes by bringing offenders to justice, but we need help if we are to do our job well. We want black and minority ethnic communities and faith groups to have confidence in us. We hope that this public policy statement and the accompanying guidance is a start in helping all members of society to gain a better understanding of what we do; why we carry out our work in the way that we do; and also some of the constraints we face.

We intend to review this policy statement regularly so that it reflects the current law and the concerns of the community. We welcome therefore any observations that help us to achieve this aim.

Annex A

Legislation used to prosecute racist and religious crime

1. Racially or religiously aggravated offences – Crime and Disorder Act 1998 (amended by Anti-terrorism, Crime and Security Act 2001)

Offence	Maximum Penalty – aggravated form	Maximum Penalty – basic form	Notes
Racially/religiously aggravated wounding (s.29(1)(a) CDA)	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Crown Court – 5 years’ imprisonment Magistrates’ court – 6 months	
Racially/religiously aggravated actual bodily harm (s.29(1)(b) CDA)	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Crown Court – 5 years’ imprisonment Magistrates’ court – 6 months	
Racially/religiously aggravated common assault (s.29(1)(c) CDA)	Crown Court – 2 years’ imprisonment Magistrates’ court – 6 months	Magistrates’ court – 6 months	Can only be tried in magistrates’ court in basic form
Racially/religiously aggravated damage (s.30(1)(c) CDA)	Crown Court – 14 years’ imprisonment Magistrates’ court – 6 months	Crown Court – 10 years’ imprisonment Magistrates’ court – 3 months	Where value is less than £5,000 basic offence can only be tried in magistrates’ court

Offence	Maximum Penalty – aggravated form	Maximum Penalty – basic form	Notes
Racially/religiously aggravated fear/provocation of violence (s.31(1)(a) CDA)	Crown Court – 2 years’ imprisonment Magistrates’ court – 6 months	Magistrates’ court – 6 months	Can only be tried in magistrates’ court in basic form
Racially/religiously aggravated intentional harassment/alarm/distress (s.31(1)(b) CDA)	Crown Court – 2 years’ imprisonment Magistrates’ court – 6 months	Magistrates court – 6 months	Can only be tried in magistrates. court in basic form
Racially/religiously aggravated harassment/alarm/distress (s.31(1)(c) CDA)	Magistrates’ court – fine up to level 4	Magistrates’ court – fine up to level 3	Can only be tried in magistrates’ court in either aggravated or basic form. Need to put charges for both aggravated and basic offence.
Racially/religiously aggravated harassment/stalking without violence (s.32(1)(a) CDA)	Crown Court – 2 years’ imprisonment Magistrates’ court – 6 months	Magistrates’ court – 6 months	Can only be tried in magistrates’ court in basic form. Court can impose restraining order on conviction of either aggravated or basic offence.
Racially/religiously aggravated harassment/stalking with fear of violence (s.32(1)(b) CDA)	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Crown Court – 5 years’ imprisonment Magistrates’ court – 6 months	Court can impose restraining order on conviction of either aggravated or basic offence.

2. Incitement to racial hatred – sections 17-29 Public Order Act 1986

Offence	Maximum Penalty	Notes
s.18 - using threatening /abusive /insulting words or behaviour or displaying written material with intent/likely to stir up racial hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.19 - publishing/ distributing written material which is threatening/ abusive/ insulting with intent/likely to stir up racial hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.20 - public performance of a play involving threatening/abusive /insulting words/ behaviour with intent/likely to stir up racial hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.21 - distributing/ showing/playing a recording of visual images or sounds that are threatening/abusive/ insulting with intent/likely to stir up racial hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor

Offence	Maximum Penalty	Notes
s.22 - broadcasting or including programme in cable programme service involving threatening/abusive/insulting visual images or sounds with intent/likely to stir up racial hatred	Crown Court – 7 years' imprisonment Magistrates' court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.23 - possessing racially inflammatory material/ material for display/ publication distribution with intent/likely to stir up racial hatred	Crown Court – 7 years' imprisonment Magistrates' court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor

3. Incitement to religious hatred – sections 29B-29G Public Order Act 1986

Offence	Maximum Penalty	Notes
s.29B – use of words or behaviour/display of written material intended to stir up religious hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.29C - publishing or distributing written material intended to stir up religious hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.29D – public performance of a play intended to stir up religious hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.29E – distributing/showing/playing a recording intended to stir up religious hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.29F – broadcasting/ including a programme in a programme service intended to stir up religious hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor
s.29G - possession of inflammatory material intended to stir up religious hatred	Crown Court – 7 years’ imprisonment Magistrates’ court – 6 months	Can only be prosecuted with consent of Attorney General. Referred to CPS Counter Terrorism Division to be dealt with by specialist prosecutor

4. Football offences - s.3 Football Offences Act 1991 (amended by s.9 Football (Offences and Disorder) Act 1999)

Offence	Maximum Penalty	Notes
Engaging in or taking part in indecent/racist chanting at a designated football match	Fine up to level 3	Court can impose a football banning order in addition to any other penalty. Breach of banning order carries up to 6 months' imprisonment. Does not apply to religious chanting – BUT NB. Other offences (such as racially/religiously aggravated public order offences or assaults) may be more appropriate

Annex B

The roles of the police, the CPS and the courts

Police	CPS	Courts
Takes the report	Advises the police on evidence before charge.	Youth Court Deals with young people up to the age of 17
Takes victim and witness statements	Reviews the file	
Investigates crime	Decides whether a suspect should be charged, and if so, decide what the charge(s) should be.	Magistrates' court Deals with most criminal cases and is the court that makes an initial decision on bail in all cases.
Gathers evidence		
Compiles the case		
Offers to take a victim personal statement	Assesses the evidence	Crown Court Deals with the most serious cases e.g. murder, rape, etc. and some less serious cases where the accused claims right to trial by jury. It also deals with appeals and referrals for sentencing from the magistrates' court
Apprehends the accused	Makes suggestions to police where evidence is lacking	
Refers to CPS to decide the charge (in all but the most minor of cases)	If circumstances change, decides whether a charge should be altered or dropped.	
Sends the prosecution file to CPS	Prepares cases for court	
Offers victims choice to be referred to Victim Support	Presents the case to magistrates' or Crown Court	
Keeps victim informed of progress of case		



Annex C

Bail

A court can remand a defendant in custody, or can grant bail, with or without conditions. Before the first court hearing, the police can also detain a defendant in custody or grant bail, with or without conditions attached, but the police's power are more limited than the court's.

Conditions can only be imposed to ensure that the defendant attends the next court hearing, commits no new offences in the meantime and does not interfere with witnesses or obstruct the course of justice.

Examples of bail conditions imposed by the courts

A court can impose any condition that seems appropriate in the circumstances of the particular case. Here are some examples of typical bail conditions imposed by the courts:

- *The defendant must not contact, either directly or indirectly, a named person or persons.*

This means no contact whatsoever, including by telephone, fax, e-mail, text message or letter or through another person e.g. the defendant cannot get a relative to make contact on his or her behalf.

- *The defendant must not go to a named place.*

This is usually a specific address, but may also be a street, a town, an area or even a whole county. Sometimes, a court will say that the defendant must not go within a specified distance of a place e.g. within half a mile of the victim's home address.

- *The defendant must reside at a named address.*
This means must live and sleep each night there.
- *The defendant must present him/herself to a police officer on request when living at a named address.*
Known commonly as a "doorstep condition", this allows the police to check that a person is staying at an address that the court has specified as a condition of bail, or is complying with a curfew condition.
- *The defendant must report to a named police station on a given day or days at a given time.*
For example every weekday at 8.30 a.m.
- *The defendant must abide by a curfew between certain specified hours.*
This means remaining indoors for example, from 9pm to 8am.
- *The defendant must provide a security to the court.*
If it is thought that the defendant might not attend the next court hearing, the court can order that a set sum of money be paid into the court. If the defendant fails to attend the next hearing then the money can be forfeited.
- *The defendant must provide a surety.*
A friend or relative must agree to ensure that the defendant attends court, or the friend or relative could lose a specified sum of money.

Sometimes, for practical reasons, there may be exceptions attached to the condition. For example:

- *The defendant must not go to a named place except:*
 - to attend court;
 - to see their solicitor by prior appointment;
 - to collect belongings at an appointed time and accompanied by police officer;
 - to see children under supervision at a specified time.

Breaching bail conditions

If the defendant breaches bail conditions, the police can arrest the defendant and the court can remand the defendant in custody.

Sometimes, the defendant may ask that the conditions of bail that have been imposed should be removed or altered in some way. The police or court have to be satisfied that there is a very good reason for this and will have to consider the reasons why the conditions were imposed in the first place and balance this against the defendant's reasons for asking for a change or removal of the conditions.

The defendant is responsible for complying with any conditions imposed by the police or the court until released from those conditions by the police or the court.

Useful information and contacts for people experiencing racist and religious crime

Generic organisations

Newham Monitoring Project (NMP)

NMP has been operating since 1980. It offers a 24-hour emergency service for victims of racial harassment in East London.

Newham Monitoring Project
The Harold Road Centre
170 Harold Road
Forest Gate
London E13 0SE
Tel: 020 8470 8333
Website: www.nmp.org.uk

Equality and Human Rights Commission (EHRC)

In October 2007 the three equality commissions merged into the Equality and Human Rights Commission:

- Commission for Racial Equality (CRE)
- Disability Rights Commission (DRC)
- Equal Opportunities Commission (EOC)

The websites of these commissions have also been incorporated into the Equality and Human Rights Commission website

Website: www.equalityhumanrights.com
Email: info@equalityhumanrights.com

EHRC - London

3 More London
Riverside, Tooley Street
London SE1 2RG
Helpline: 0845 604 6610

EHRC - Wales

3rd floor, 3 Callaghan Square,
Cardiff CF10 5BT
Helpline: 0845 604 8810

EHRC - Glasgow

The Optima Building,
58 Robertson Street,
Glasgow G2 8DU
Helpline: 0845 604 5510

Federation of Black Housing Organisations (FBHO)

FBHO is the umbrella body for the black led housing sector. FBHO works to eliminate racism in housing. It provides information, advice, support, research and training services. It represents the interests of its membership to housing policymakers, the government and other controllers of housing resources.

2nd floor, 1 King Edwards Road
London E9 7SF
Tel: 020 8533 7053
Website: www.fbho.org.uk

IMKAAN

IMKAAN is a national policy, training and research initiative, dedicated to providing support and advocacy to the specialist refuge sector, supporting Black and Minority Ethnic and Refugee women and children experiencing violence.

IMKAAN does the following:

- Provides training and capacity-building support to specialist BMER refuges
- Contributes towards mainstream policy and service planning forums and consultation processes.
- Conducts community-based research
- Provides CPD training forums for legal advocates

IMKAAN cont...

Tindlemanor
4th floor
52-54 Featherstone Street
London EC1Y 8RT
Tel: 020 7250 3933

Irish Traveller Movement in Britain

The Irish Traveller Movement (ITM) is a second tier policy and ‘voice’ organisation which aims to raise the social inclusion of Irish Travellers and challenge discrimination.

The Resource Centre
356 Holloway Road
London N7 6PA
Tel: 020 7607 2002
Email: info@irishtraveller.org.uk
Website: www.irishtraveller.org.uk

National Assembly Against Racism

A black community led forum of organisations campaigning on issues around asylum and immigration policy, racial violence, deaths in custody, against institutional racism, opposition to Islamophobia. and working towards multi-culturism.

28 Commercial Street
London E1 6LS
Tel: 020 7247 9907
Email: info@naar.org.uk
Website: www.naar.org.uk

The Monitoring Group

Provides legal, moral and practical support to people experiencing racial harassment.

28a Museum Street

London WC1A 1LH

Tel: 020 7636 6000

Email: admin@monitoring-group.co.uk

Website: www.monitoring-group.co.uk

Min Quan

Min Quan is a branch of The Monitoring Group that provides support, education and resources to the UK Chinese community. In particular Min Quan has been set up to:

- Provide legal, moral and practical support to Chinese people suffering racial harassment, domestic violence and policing problems;
- Monitor the responses of institutions and authorities with regard to these issues;
- Provide information and training on these issues;
- Support and liaise closely with other organisations to bring these issues to the public attention;
- Increase Chinese community confidence in public services and the labour market and improve community cohesion.

Head Office

14 Featherstone Road

Southall

Middlesex UB2 5AA

Tel: 020 8843 2333

Fax: 020 8813 9734

Manchester office

1st Floor
61 Mosley Street
Manchester M2 3HZ
Tel: 0161 247 7982
Fax: 0161 228 3096

Southampton office

135 St Mary Street
Southampton SO14 1NX
Tel: 023 8071 0138
Fax: 0238 033 0760
Email: enquiries@minquan.co.uk

Southall Black Sisters

Provides information, advice, advocacy, practical help, counselling and support for women and children experiencing domestic and sexual violence (including forced marriage and honour crimes). The provision of holistic services is aimed at helping victims escape violence; abuse and deal with a range of inter related problems. Advice, emotional support and help for Asian and black women

21 Avenue Road
Southall
Middlesex UB1 3BL
Helpline: 020 8571 0800
Tel: 020 8571 9595
Email: info@southallblacksisters.co.uk
Website: www.southallblacksisters.org.uk

Victim Support

Victim Support is the national charity for people affected by crime. Our volunteers provide free and confidential support to help people deal with their experience whether or not they report crime. Victim Support also runs the Witness Service and Support line. The Witness Service helps witnesses, victims and their families before, during and

after a trial. Trained volunteers provide emotional support and practical information about court proceedings, a visit to the court, and a quiet place to wait before and during the hearing.

Support line can give practical help and emotional support in confidence and anonymously.

Support line: 0845 30 30 900.

Website: www.victimsupport.org.uk

Faith based organisations

Community Security Trust

Records and investigates incidents against members of the Jewish community. Provides referral to Jewish counselling services where appropriate, and with the victim's permission.

Tel: 020 8457 9999

Email: enquiries@thecst.org.uk

Website: www.thecst.org.uk/incidents

Forum Against Islamophobia and Racism (FAIR)

FAIR is an independent charity organisation established to raise awareness of Islamophobia and combat related prejudice and practices.

PO Box 784

Richmond

Surrey TW9 2WH

Tel: 020 8940 0100

Email: fair@fairuk.org

Website: www.fairuk.org

Jewish Women's Aid

Helpline offering help and support and referral services for Jewish women who have experienced domestic violence.

PO Box 2670
London N12 9ZE
Helpline: 0800 59 12 03
Tel: 020 8445 8060
Email: info@jwa.org.uk
Website: www.jwa.org.uk

Asylum seeker and refugee organisations

Joint Council for the Welfare of Immigrants (JCWI)

JCWI is an independent and national voluntary organisation campaigning for justice and combating racism in immigration, nationality and asylum law and policy. JCWI provides free advice and casework, training courses and publications.

115 Old Street
London EC1V 9RT
Tel: 020 7251 8708
Fax: 020 7251 8707
Website: www.jcwi.org.uk

Refugee Action

Refugee Action is an independent national charity that enables refugees to build new lives in the UK. They provide practical advice and assistance for newly arrived asylum seekers and long-term commitment to their settlement through community development work.

The Old Fire Station
150 Waterloo Road
London SE1 8SB

Tel: 020 7654 7700
Fax: 020 7654 0696
Email: info@refugee-action.org.uk
Website: www.refugee-action.org.uk

Refugee Council

The Refugee Council works across the UK with asylum seekers and refugees.

Head Office

240 - 250 Ferndale Road
Brixton
London SW8 8BB
Tel: 020 7346 6700
Fax: 020 7346 6701
Email: info@refugeecouncil.org.uk
Website: www.refugeecouncil.org.uk

One stop service advice line offers advice and information to individuals and organisations on a range of issues operated by advisers with experience in asylum and immigration matters.

This is a public document.

Further copies of this document and information about alternative languages and formats are available from:

**CPS Communication Division
Rose Court
2 Southwark Bridge
London SE1 9HS**

Email: publicity.branch@cps.gsi.gov.uk

For information about the Crown Prosecution Service, and to view or download an electronic copy of this document, please visit our website:

www.cps.gov.uk