



North and West Yorkshire Hate Crime Scrutiny Panel

Annual Report 2009 - 2010



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1. Introduction from the Independent Facilitator

I am pleased to introduce the latest Annual Report summarising the latest findings of the CPS North and West Yorkshire Hate Crime Scrutiny Panel (HCSP). The Panel has continued to provide the CPS in North and West Yorkshire with constructive feedback in relation to how hate crime cases are prosecuted and the decision-making involved along the way. The Panel has identified a number of learning points, which have been fed back to CPS staff in order to assist them with prosecuting these cases. This report aims to provide an overview of the observations and recommendations made by the Panel during the previous financial year and the impact that this has had on this important area of CPS business.

I hope you find this report informative and that the work of the CPS and the Panel in relation to hate crime will inspire public confidence that these cases are treated with the appropriate level of seriousness and sensitivity.

Ebrahim Dockrat MBE

2. Introduction from the Group Chair

It is with great pleasure that I introduce the third Annual Report on the work of the CPS North and West Yorkshire HCSP and I do so also on behalf of Xanthe Tait, the Chief Crown Prosecutor for North Yorkshire. The Panel has been working well for the duration of the last financial year as a joint North and West Yorkshire resource and it has continued to grow in terms of membership, experience and confidence.

In March 2010 the Director of Public Prosecutions published the Core Quality Standards (CQS), which set out for the first time the level of service that the public should expect from the CPS. CQS 12 states that: "We will engage with communities so that we are aware of their concerns when we make decisions". Working with the Panel helps us to fulfil this standard and it enables us to understand the views and concerns of our communities and raise public confidence in the service we provide.

Now that CPS North and West Yorkshire have merged with CPS South Yorkshire and Humberside to form a regional CPS Group, we are keen to explore how we can continue to scrutinise elements of our casework, whilst seeking to realise the benefits that the Group structure offers. In the challenging times ahead for the public sector, it is crucial that we endeavour to maximise the benefits of our community engagement work and rationalise the resources involved where we can, without jeopardising the integrity of the scrutiny process.

I am grateful to the members of our Panel for their continued enthusiasm and commitment to making the CPS more responsive to our local communities and I look forward another year of working in partnership with the Panel.

**Neil Franklin OBE,
CPS Yorkshire and Humberside**

3. What is the CPS?

The Crown Prosecution Service (CPS) was set up in 1986 to prosecute criminal cases investigated by the police in England and Wales. The CPS is a department of central government which acts independently from the Government in accordance with statute¹. The head of the CPS is the Director of Public Prosecutions (DPP), who has overall responsibility for the Service and its prosecutions. The Chief Executive, who is responsible for the administration of the CPS, assists the DPP. The DPP is superintended by the Attorney General who is accountable to Parliament for the CPS. The CPS is organised into 42 Areas across England and Wales matching police force boundaries. Each Area is headed by a Chief Crown Prosecutor who is responsible for the delivery of a prosecution service to his or her local community. Each Chief Crown Prosecutor is supported by an Area Business Manager, and their respective roles mirror, at a local level, the division of responsibilities between the DPP and Chief Executive. CPS North and West Yorkshire are part of the Yorkshire and Humberside regional Group.

As the principal prosecuting authority in England and Wales, we are responsible for:

- Charging offenders in all but the most minor offences
- Providing advice on cases submitted by the police
- Where the decision is to prosecute, determine the charge in all but minor cases
- Preparing cases for court
- Presentation of cases at court.

The CPS strives to prosecute cases firmly, fairly and effectively, where there is sufficient evidence to provide a realistic prospect of conviction and when it is in the public interest to do so. This is done by reviewing each case against the Code for Crown Prosecutors. The Code gives guidance on the principles to be applied when making decisions about prosecutions. It is designed to make transparent the principles applied when prosecuting crimes. The Code is a public document and is available in community languages, alternative formats and on our website at www.cps.gov.uk.

Although the CPS works closely with the police, we are independent of them. The independence of Crown Prosecutors is of fundamental constitutional importance. Casework decisions taken with fairness, impartiality and integrity help deliver justice for victims, witnesses, defendants and the public. More information about the CPS can be found on our website at www.cps.gov.uk.

¹ Prosecution of Offences Act 1985

4. Annual Report objectives

The key objective of the Annual Report is to account for the actions taken by the Panel over the year, as well as highlighting any developments in relation to the operation or membership of the Panel. Information from the Annual Reports for each CPS Group will also be fed through to the Equality and Diversity Unit at CPS Headquarters, so that there is a national picture of what Panels are doing. This information will also be shared with all the CPS Groups, so that Panels can learn from the activities of their colleagues across the country.

5. What are hate crimes?

The CPS has produced separate policies and guidance for prosecutors in relation to the following hate crimes:

- Racist and religious
- Homophobic and transphobic
- Disability.

Racist and religious hate crime

The CPS uses the definition of a racist or religious incident contained within the McPherson Report, which was published after the murder of Stephen Lawrence. This is: “any incident which is perceived to be racist or religious by the victim or any other person”. The Crime and Disorder Act 1998, as amended, creates a statutory definition of racial and religious aggravation, a range of racially or religiously aggravated offences and a duty for the court when sentencing to treat more seriously any offence (other than one charged as a specific racially or religiously aggravated offence) where there is evidence of racial or religious aggravation. The prosecutor must first prove that the offender committed the basic offence and then that the offence was racially or religiously aggravated.

Homophobic and transphobic hate crime

A definition based on the McPherson definition has been adopted by CPS and this is: “any incident which is perceived to be homophobic or transphobic by the victim or any other person”. In April 2005 section 146 of the Criminal Justice Act 2003 was implemented. Section 146 of the Criminal Justice Act 2003 does not create any new offences but it imposes a duty upon the courts to increase the sentence for any offence aggravated by hostility based on the victim’s sexual orientation (or presumed sexual orientation). Section 146 does not, however, apply in cases where hostility is based on the victim’s gender identity or presumed gender identity.

Disability hate crime

There is no statutory definition of a disability related hate crime, however, the CPS has adopted the following definition; “Any incident, which is perceived to be based upon prejudice towards or hatred of the victim because of their disability or so perceived by the victim or any other person”. In April 2005 the law was changed by section 146 of the Criminal Justice Act 2003. Section 146 did not create any new offences but it did impose a duty upon courts to increase the sentence for any offence aggravated by hostility based on the victim’s disability (or presumed disability). Therefore, when the court is deciding on the sentence to be imposed, it must treat evidence of hostility based on disability 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 this. The CPS therefore now has a duty to ensure that where there is evidence of such hostility, this is brought to the attention of the sentencing court.

6. Panel terms of reference (revised in September 2009)

The CPS North and West Yorkshire HCSP is a mechanism for ensuring transparency and accountability in decision-making in the area of racist, religious, homophobic, transphobic and disability hate crime, as well as crimes against older people.

The Panel aims to contribute to raising the trust and confidence of our key stakeholders in North and West Yorkshire and communities of interest by facilitating a greater awareness and understanding of the decision-making processes of the CPS via the scrutiny of randomly selected hate crime case files.

In addition, the Panel aims to do the following:

- Widen the understanding of the CPS decision-making processes in relation to hate crime
- Review and scrutinise randomly selected finalised hate crime case files
- Identify issues, common themes and trends in the decision-making process, looking in particular at the impact of decision-making on communities of interest
- Make reports and recommendations to the CPS as appropriate in connection with issues arising from the review and scrutiny of case files
- Increase CPS Group and Area performance in relation to hate crime prosecutions by acting as a critical friend and contributing to the development and delivery of hate crime training.

7. List of non-CPS members

Ebrahim Dockrat – Independent Facilitator
Sail Suleman – Calderdale Hate Crime Partnership
Rose Simkins – Stop Hate UK
Javier Santana-Acosta – Kirklees Safer Communities
Ruksana Sardar-Akram – Wakefield Primary Care Trust
Eric Walker – Harrogate and District Neighbourhood Watch
Helen Shay – University of York
Mike Dalton – Youth Offending Service
Tina Landale – Independent Legal Advisor
Chief Inspector Jason Galvin – West Yorkshire Police
Detective Inspector Sarah Jane Sanderson – North Yorkshire Police

Deputies

Tahira Iqbal – Calderdale Hate Crime Partnership
Dieudonné Manirakiza – Kirklees Tenancy Support Service
Andrew Bolland – Stop Hate UK
Sarah Johnston – Independent Legal Advisor

8. Training for Panel members

A training session was devised for newly recruited Panel members and deputies and this was delivered in September 2009. The half-day session was delivered by two CPS hate crime specialist lawyers and it covered the CPS approach to prosecuting racist, religious, homophobic, transphobic and disability hate crime, as well as crimes against older people. The session was designed to be suitable for both new and long-standing Panel members. An additional training session is taking place in September 2010 for those who were unable to attend the previous training and for anyone else who feels they would benefit from a refresher.

9. Group hate crime performance data

In relation to racist and religious crime, North and West Yorkshire's performance fell slightly short of the national target set by CPS Headquarters and the national average for the percentage of successful prosecutions. North Yorkshire achieved a 100 per cent success rate in relation to disability hate crime, well exceeding the national target and the national average. West Yorkshire did not manage to achieve the national target nor exceed the national average. North and West Yorkshire both fell below the national target and the national average for homophobic crime. It is worth noting that the volume of disability hate crime and homophobic cases is very low therefore the performance figures are easily skewed.

The following tables are taken from the national performance figures for 2009 - 2010:

Successful outcome rate

Type of hate crime	Target	North Yorkshire	West Yorkshire	National
	per cent	per cent	per cent	per cent
Racist & religious	82	80.2	81.5	82.4
Disability	80	100	73.3	75.7
Homophobic	82	80	79	80.6

Number of defendants prosecuted

Type of hate crime	North Yorkshire	West Yorkshire	National
	No.	No.	No.
Racist & religious	96	562	12,131
Disability	7	15	638
Homophobic	10	38	1,152

10. Impact on CPS business

During 2009 - 10 the Panel met three times and scrutinised 12 racist and religious cases, two homophobic cases, two disability hate crime cases and one case involving a crime against an older person. Of these cases 15 were from West Yorkshire and the remaining two cases were from North Yorkshire. In relation to these cases, the Panel identified learning points for improving the handling of hate crime and examples of good practice. The Panel's main observations and CPS action in relation to them are detailed below.

The Panel identified that there were some issues with the lawyer reviews in some of the cases scrutinised. For example, there was a lack of evidential analysis in one of the reviews and the evidential weaknesses in another case were not addressed. In the latter case, the Panel would have expected to see evidence on the review of the lawyer recommending actions for the police to undertake to strengthen the case by obtaining further statements but this was lacking in the review. In another case, the decision to charge was considered to be poor because of insufficient evidence and the decision to discontinue the case should have been made sooner. That said, there were some aspects of this particular case that had been commended by the Panel. The letter to the victim explaining the reason for discontinuing the case was very well written and there was a thorough consideration of the victim's issues. In order to learn lessons for the future, feedback in relation to these cases was delivered to individual members of staff where directed by the Panel and the observations were captured in a general feedback note, which was discussed with all legal staff.

One case in which the file was submitted late by the police highlighted the importance of robust file management and supporting administrative processes. For reasons that were not explained in the file papers, the full file was not sent to the CPS in time for the committal. The court refused to adjourn the case and so it was discontinued. A file action plan update should have been issued by the police, which would have provided sufficient information for the court to grant an adjournment. The charging lawyer requested that the police prepare the file immediately but this did not happen and there did not appear to be any dialogue with the police to chase the file. The CPS tried to reinstate the case but the complainant did not want to proceed. This case illustrates the importance of file management and communication with the police in order to ensure cases are prepared in a timely manner. The appropriate police representative on the Panel provided feedback to the officer and general feedback was provided to CPS staff to remind them of the importance of constant communication with police partners.

As well as providing an independent critique of CPS conduct, the Panel also identifies areas of good practice and this positive feedback is shared with CPS staff to act as a reminder of what good case handling looks like in relation to hate crime. In a number of cases the pre charge advice has been considered excellent and the reviewing lawyers have been praised for doing all they could to close any loopholes and strengthen the case. After initial charging advice was given, CPS prosecutors have also been praised for making good follow-up decisions and undertaking thorough reviews throughout. Some of these cases also provided evidence of the police and CPS working well together to ensure that thorough investigations have taken place.

The Panel, who select the cases it would like to scrutinise at each meeting, observed that the number of disability hate crime cases finalised during 2009 - 10 was very low in comparison to other hate crime strands, resulting in only two cases being scrutinised during the year. The Panel suggested joining forces with the equivalent Panel in South Yorkshire and Humberside to have an in-depth look at disability hate crime cases from across the region. This suggestion was taken on board by the four CPS Areas in the Yorkshire and Humberside region and the meeting was planned for July 2010. The outputs from this meeting will be shared in the next Annual Report.

11. The way forward

Due to changes in the local CPS structure, an evaluation of both Panels within the Yorkshire and Humberside Group will take place between July and September in order to look at possible options for ensuring the Panels are as effective and efficient as possible.

We would like to thank all those involved in HCSP meetings for their continued support and commitment.

If you would like further copies of this report or if you require this report in an alternative format please contact:

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