

Hate Crime Newsletter



Issue no. 17
May 2018

Welcome to the hate crime newsletter



I'm very pleased to be introducing the hate crime newsletter as the new Hate Crime Champion. I'm really excited about taking on this role and working closely with the policy team, Area Hate Crime Coordinators, Inclusion Managers, Area Communications Managers and our valued external stakeholders.

In June 2017 I was appointed as the Chief Crown Prosecutor for the South West Area. Prior to that I held the role of Deputy Chief Crown Prosecutor for the North West Area and also undertook that role on secondment in London. I have over 16 years' experience as a prosecutor and look forward to bringing that knowledge and expertise to the CPS' work in tackling hate crime.

One of the first things I've done in this role is to look at the [CPS Hate Crime Strategy 2017-2020](#) and the work we're planning to do over the next couple of years. It's a really ambitious programme of activity and I encourage you to read the strategy on the CPS website. We're looking at work to better understand and support the victims of hate crime, to progress our programme of training to give prosecutors the skills needed to effectively prosecute these cases and also looking to increase performance on sentence uplift to show these crimes are taken seriously.

I've also been really impressed by the collaboration between CPS Areas and Headquarters in relation to hate crime. The value of Hate Crime Coordinators and Inclusion Managers informing and feeding into policy development cannot be underestimated. I also think it's hugely important to work collaboratively with Area Communication Managers to promote successful cases. I know some Areas already do this really well. I'm passionate about championing the experience of those who deal with these cases day in, day out and making sure their voices are heard when it comes to the strategic direction of our hate crime work. That's something I'll be focussing on in my role as Champion.

I hope you enjoy this issue of the newsletter. There's a lot of interesting work to read about. Prosecutors may be especially interested in the information on [page 4](#) about the agreed approach on the announcement of sentence uplifts following the ruling in R -v- Fitzgerald.

To shape the August edition of the newsletter, please send comments, contributions and examples of best practice to: HateCrime.policy@cps.gov.uk

Chris Long, Hate Crime Champion and Chief Crown Prosecutor

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Updates and info

Positive Outcomes from CPS Area Hate Crime Coordinators

Prosecutors and Hate Crime Coordinators are working hard across the country to prosecute hate crimes. Here we celebrate some of our recent successes:

CPS North East obtained a significant sentence uplift for a man who threatened to petrol bomb mosques after the Manchester Arena attack. The offender sent text messages to his probation officer four days after the Manchester Arena bombing telling her he planned to kill Muslims. When police went to his home they found home-made weapons and cable ties which he said were in case he needed to kidnap someone.

The offender pleaded guilty to threats to kill, malicious communications, making threats to destroy property and having articles with intent to destroy property. He was given a sentence of six years imprisonment uplifted to eight due to the racist and religious aggravation. The Judge also made an order banning the offender from going within 200 metres of a mosque when he is released.

CPS Wessex successfully prosecuted a case of homophobic hate crime where the offender had breached his bail conditions not to enter a particular area. The police were called by a member of the public who told them the offender was in the area banging on the windows of a particular house. When the police officers arrived the defendant was violent and resisted arrest. He targeted one of the officers with a tirade of homophobic threats and abuse as well as threatening members of her family with violence. The defendant also attempted to headbutt the officer.

The defendant was charged with a public order offence, breaching his restraining order, and resisting a constable in the execution of their duty. He pleaded guilty and was sentenced to 12 weeks custody for each offence to run concurrently. The homophobically aggravated offences included a sentence uplift of an additional four week's custody.

CPS South East prosecuted a high profile case of religiously aggravated harassment. The leader and deputy leader of Britain First were convicted after filming and harassing people they incorrectly believed were involved in a rape trial, however they instead targeted innocent members of the public.

They filmed the abuse and then released it on social media and through the Britain First website. They also posted offensive leaflets through the letterboxes of houses in the area where the rape trial defendants lived.

One of the offenders was jailed for 36 weeks including a sentence uplift for the religiously aggravated nature of the offence. The other was jailed for 18 weeks.

Each CPS Area has a dedicated webpage on the CPS website. To find out more about the work of the CPS in your area, please visit our website: www.cps.gov.uk/cps-areas-and-cps-direct

Jaswant Narwal, Chief Crown Prosecutor for CPS South East, said: “The prosecution case demonstrated these defendants were not merely exercising their right to free speech but were instead aiming religiously-aggravated abuse at innocent members of the public. The victims suffered the distress of the abuse followed by additional stress when the footage was uploaded to the internet. This offending also related to an ongoing criminal trial and could easily have derailed the justice process”.

CPS East Midlands successfully prosecuted a case of disability hate crime. The victim, who uses a mobility scooter, was out with his son and a friend when one of the offenders drove her car close to him causing him to reverse quickly. She then pulled up further down the road and when the victim approached she and a friend verbally abused the him. One of the offenders then took a bottle of beer from the basket of the victim’s scooter and poured it over his head, then hit him with it on his arm and head. The driver of the car then pulled at his top and punched him on the back of the head.

The victim, his son and friend left the area but were later accosted by the driver of the car and her boyfriend. The pair were again verbally abusive and the female offender tipped over the victim’s mobility scooter causing him to fall to the floor.

Both women were convicted after trial for common assault. One offender was sentenced to eight weeks imprisonment uplifted to 10 to reflect that the offence was a disability hate crime. This was suspended for 24 months. She was also ordered to pay £100 compensation. The second offender was given a 12 month community order and 150 hours unpaid work uplifted to 200 hours to reflect the hate crime uplift.

CPS Yorkshire and Humberside successfully prosecuted a case of transphobic hate crime. The defendant assaulted the victim after making transphobic comments to her.

The defendant saw the victim again some weeks later and threatened her. He pleaded guilty to assault by beating and using threatening or abusive words or behaviour to cause harassment, alarm or distress.

He was sentenced to 12 weeks’ imprisonment uplifted from six weeks suspended for 18 months, a 10 day rehabilitation activity requirement, 100 hours’ unpaid work and an 18 month Community Order. He was also ordered to pay £250 compensation and £85 costs. A five year Restraining Order was also imposed.

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Recording of Sentencing Uplifts in Hate Crime Cases

Jonathan Bushell, Senior Policy Advisor and Legal Lead on Hate Crime, Prosecution Policy and Inclusion Unit

Please note, the links in this article will only work for those who have access to the CPS internal intranet.

In all hate crime cases the prosecutor is normally required to invite the court to adopt the following approach to sentencing set out in [R v Kelly and Donnelly \[2001\] EWCA Crim 170](#):

- The court should determine the appropriate sentence leaving aside the element of aggravation related to race, religion, disability, sexual orientation or transgender identity but taking into account all other aggravating or mitigating factors.
- The sentence should then be increased to take account of the Hate Crime aggravation.
- The sentencer should then state (in open court) that the offence was aggravated and what the sentence would have been without that element of aggravation.

However, the case of [R-v-Fitzgerald \[2003\] EWCA Crim. 2875](#), established that this approach to sentencing is not applicable where the aggravating features are considered inherent and integral to the offence. This will most usually be in relation to offences under sections 4, 4A and 5 of the Public Order Act 1986.

Where the court announces a separate sentence uplift is not appropriate because the element of aggravation is inherent and integral to the offence itself (applying the decision in R v Fitzgerald), the sentence should still be recorded on the Hearing Record Sheet and finalised on the Case Management System (CMS) as uplifted. This is because a greater sentence has been imposed due to the hate crime element and this should be recognised and captured.

[A CPS Gateway](#) issued in February outlined the agreed approach to the announcement of sentence uplifts following the ruling in R -v- Fitzgerald.

The CPS Legal Guidance will be amended to reflect this change shortly.

More information about hate crime prosecutions can be found in the CPS legal guidance:

Disability hate crime:
<https://www.cps.gov.uk/legal-guidance/disability-hate-crime-and-other-crimes-against-disabled-people-prosecution-guidance>

Racist and Religious hate crime:
<https://www.cps.gov.uk/legal-guidance/racist-and-religious-hate-crime-prosecution-guidance>

Homophobic, biphobic and transphobic hate crime:
<https://www.cps.gov.uk/legal-guidance/homophobic-biphobic-and-transphobic-hate-crime-prosecution-guidance>

CPS South East Stakeholder Conference

Ann-Marie Tierney, Inclusion and Community Engagement Manager, CPS South East

On Monday 19th March 2018, CPS South East hosted an external stakeholder conference to bring together our key criminal justice partners and partner agencies for a day of information sharing and networking.

Approximately 75 delegates from across Kent, Sussex and Surrey attended the event at the Holiday Inn Gatwick. After an opening speech by the Chief Crown Prosecutor Jaswant Narwal, we enjoyed a presentation by Jonathan Sanders of the Home Office Safeguarding Unit on Crimes Against Older People and the steps being taken to address it from across the country.

After a short break we welcomed Lilly Kennard from Brighton's [PossAbility People](#) and one of their service users Victoria who has a visual impairment. Lilly and Victoria spoke eloquently on the issue of disability hate crime - the impact, the barriers to accessing justice and the great work going on in Sussex to support victims.

After lunch there was a presentation from Sam Taylor and Claudia Miles of Veritas Justice discussing stalking and harassment and how we can all improve our response to this offence.

As the Area Inclusion and Community Engagement Manager, I gave a short talk about the work the CPS does in our community including the Local Scrutiny Involvement Panels (LSIPs) and how people can get involved.

Throughout the day there were table top activities and time for discussions, questions and sharing good practice.

The day was hugely successful and, as a result, we were able to recruit eight potential new LSIP members.

For more information about the CPS South East, visit their page on the CPS website: www.cps.gov.uk/south-east

EU visit

Mick Conboy and Jonathan Bushell, CPS Prosecution Policy and Inclusion Unit

The Hate Crime Team within the Prosecution Policy and Inclusion Unit is regularly invited to support visiting delegations of legal and government representatives. These visits usually seek to learn from experience of prosecuting hate crime in the UK. The most recent event, a study visit on 17 and 18 May 2018, involved a high-level delegation involved in supporting the French Government's efforts to provide a more robust and consistent approach to tackling the rise of hate crime domestically.

The PRINT project (Preventing Racism and INTolerance), is led jointly by France (Ministry of Justice and DILCRAH) and Germany (Ministry of Justice) and co-financed by the Rights, Equality and Citizenship (REC) Programme of the European Commission.

The programme was initiated by a new judge-led hate crime programme set up in the wake of the Paris terrorist attacks by the French Prime Minister's office. The UK cross-Government Hate Crime Programme prioritised bilateral support for the project.

The delegation was led by project team leaders from the French Ministry of Justice and DILCRAH, the inter-Ministerial team established under the direction of the Prime Minister to breathe new life into public action to counter racism, anti-Semitism and hatred on the grounds of sexual orientation and transgender identity. The delegation also included appeal court judges and ministerial legal advisers.

Jonathan Bushell, Hate Crime Legal Lead, spoke on the first day of the visit. His presentation covered; the legal framework for hate crime; key definitions of aggravated offences and the grounds covered; the law on stirring up hatred including the "free speech" consideration included in the Public Order Act 1986; and relevant sections of the Code for Crown Prosecutors.

Mick Conboy, Hate Crime Stakeholder Manager spoke on the second of the two day visit and covered putting the law into practice. The presentation covered; key guidance and policy; supporting prosecutors; working with stakeholders in policy development, training and local scrutiny and involvement panels (LSIPs); supporting victims; engaging communities locally and nationally; and communications strategy.

Both presentations were very well received. Delegates were interested in the legal definitions and in particular the definition used for reporting hate crime - the Macpherson report inspired definition. Delegates were also interested in the involvement of community stakeholders, the practical effects of assurance checks and the benefits of increased awareness and understanding, particularly via positive outcomes.

Director of Public Prosecutions Gives Evidence on Hate Crime

Alison Plant, CPS Senior Policy Advisor, Prosecution Policy and Inclusion unit

On 6th March, the Director of Public Prosecutions gave evidence to the Home Affairs Select Committee (HASC) inquiry into hate crime and its violent consequences.

The evidence session lasted for just under two hours and covered a number of areas relating to the prosecution of hate crime. The Committee was interested to hear about offences of stirring up hatred and the Director talked about the high bar for prosecuting these cases and the need to take into account an individual's right to freedom of speech. The Director explained the process for dealing with these cases within the CPS and that they are prosecuted by the Special Crime and Counter Terrorism Division as well as requiring the consent of the Attorney General to proceed.



The Director spoke about the work to improve prosecutions of disability hate crime in order to bring performance in line with that of the other strands. She also spoke about the importance of community engagement and the fact that the CPS is working hard to engage with communities both nationally and locally to challenge negative perceptions of the criminal justice system. The Lammy Review into 'The treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System' found that 'the charging decisions taken by the CPS are broadly proportionate and that the CPS demonstrates good practice in areas such as openness to external scrutiny, systems of internal oversight, and diversity of the wider workforce, which other CJS institutions should learn from'.

The Director also spoke about the communications campaign the CPS ran in August 2017, [#HateCrimeMatters](#), to raise awareness of hate crime and how to recognise and report it.

Other areas covered in the session included:

- Prosecution and conviction rates for hate crimes
- Updated CPS guidance and public statements on the prosecution of hate crime
- The adequacy and appropriateness of current hate crime legislation
- Prosecution of online hate crime
- Most effective approaches to tackling hate crime, including raising awareness and support for victims

The full transcript of the session can be downloaded here: <http://data.parliament.uk/writtenevidence/committeeevidence/svc/evidencedocument/home-affairs-committee/hate-crime-and-its-violent-consequences/oral/80050.pdf>

The full evidence session can be watched on Parliament TV here: www.parliamentlive.tv/Event/Index/7cf5a5fe-1590-4e97-8a0d-57f46b7a84f1

B Right On Festival in Brighton

Ann-Marie Tierney, Inclusion and Community Engagement Manager, CPS South East

As part of LGBT history month, Brighton hosted the 'B Right On' festival - almost three weeks of events, workshops and shows that aimed to celebrate LGBT history as well as raise awareness of important issues facing the community today. It was organised by the Brighton and Hove Community Safety Forum and LGBT Switchboard.



The Crown Prosecution Service delivered two one-hour workshops on 21 February for members of the Brighton LGBT community. As the Area Inclusion Manager I worked with the DCCP Paul Stimson and Senior Crown Prosecutor and Hate Crime co-ordinator Gareth Morgan to deliver the interactive sessions on LGBT hate crime and Domestic Abuse.

The two workshops were very successful. We delivered to over 30 community members across both and facilitated discussion on:

- the definitions of offences
- support provided to victims of crime
- barriers for the LGBT community in accessing justice and
- how community members and advocates can get involved in the work of the CPS.

We had attendees from a variety of community organisations including the local Independent Domestic Violence Advisors (IDVA) service; homelessness charities; interpreting services; gypsy and traveller community advocacy service, amongst others. We followed up on the day with direct communication to all of those who left their contact details and invited them to join our LSIP.



As a direct result of the workshops, we were contacted by a representative of a local LGBT mental health charity who has applied to join our hate crime LSIP and has requested the CPS deliver training to their cohort of volunteers.

For more information about the CPS South East, visit their page on the CPS website: www.cps.gov.uk/south-east

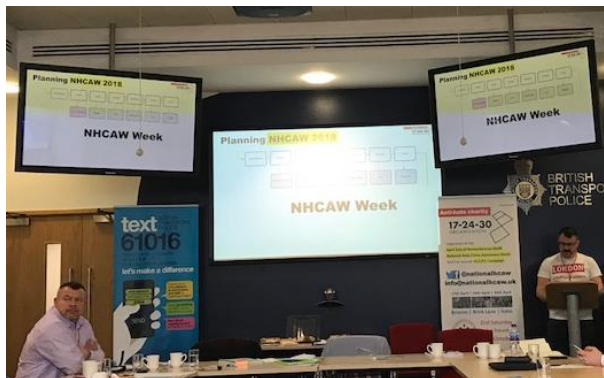
National Hate Crime Awareness Week 2018 preparations

Alison Plant, CPS Senior Policy Advisor, Prosecution Policy and Inclusion Unit

Hate Crime Awareness Week 2018 will run from 13-20 October.

National Hate Crime Awareness Week (NHCAW) aims to bring people together, to stand with those affected by hate crime, to provide support and to remember those who have been lost to these abhorrent crimes.

Preparations for this year's NHCAW have already begun. On 26 March the CPS, police and third sector organisations who work to tackle hate crime and support victims attended a roundtable to talk about how the week of activity is shaping up.



The event opened with presentations from the founders of hate crime awareness week on the success of last year's NHCAW, the impact of the campaign as well as lessons that can be learnt for this and subsequent years.

The event then moved on to a panel discussion on planning for NCHAW 2018. As in other years, events for National Hate Crime Awareness Week 2018 will include candle lit vigils for the victims of hate crime, photo support campaigns and other community awareness and education events, as well as social media discussions with designated hashtags. There will be a focus on local issues and local community involvement.

As we did last year, the CPS plans to publish its annual Hate Crime Report during HCAW.

" #NHCAW is a week to remember those we have lost, and those who need our ongoing support – we stand together to say no to all forms of hate crime in our communities. "

Mark Healey, Founder of @NationalHCAW



For more information, visit the NHCAW site: www.awarenessdays.com/awareness-days-calendar/national-hate-crime-awareness-week-2018/

Training Video for Call Handlers and First Responders

Gareth Morgan, Hate Crime Coordinator, CPS South East

On Monday 21 May, I was interviewed and videoed as part of a police training programme for call handlers and first responders.

I was asked to take part in this project following a presentation I gave to police on investigating hate crime and the law at a regional hate crime meeting.

I was pleased to be asked to be involved in this training programme because first responders have an enormously significant part to play in recognising a hate crime, asking the right questions and gathering the right evidence.

I was asked to cover three questions:

1. What is the approach to prosecuting hate crime?
2. What are some common signs of 'hostility' in hate crime cases across the strands?
3. What should be looked for and what questions should be asked to ensure that victim and witness needs are identified?

I covered the importance of the victim's perception of whether something is a hate crime as well as the fact that any other person such as a first responder or call handler can also perceive the crime to be a hate crime and record it as such.

I talked about recognising hostility and that, sometimes, it is blatant and very obvious while other times it can be more subtle. It is important to understand that language and abusive terms are constantly adapting and that first responders and call handlers should ask for clarification if they don't understand the terms used.

I explained that hostility can be demonstrated in many ways including the targeting of items associated with cultural or religious identity such as the hijab or kippah, targeting mobility aids or supportive technology such as hearing aids, walking sticks or mobility scooters and targeting places of worship.

I also covered the potential questions that call handlers and first responders should consider asking. This included asking about support needs and concerns around further targeting.

Once the interview has been edited and approved, there will be a series of three sessions in different parts of the country to promote the material with individual forces. This is likely to focus on London, Bristol and Leeds. It is also likely that the National Police Chiefs' Council lead on hate crime ACC Mark Hamilton will want to promote the material via his hate crime working group. Once finalised, Hate Crime Coordinators will have the chance to discuss its promotion and use at the monthly network dial-in.

For more information about the CPS South East, visit their page on the CPS website: www.cps.gov.uk/south-east

Useful updates and info

Alison Plant, CPS Senior Policy Advisor, Prosecution Policy and Inclusion Unit

Khurshid Drabu, Britain's first Muslim judge, died on 20 April 2018. Khurshid Drabu made a significant contribution to work on interfaith relations and worked to promote interfaith understanding. The full obituary can be read here: www.theguardian.com/law/2018/may/16/khurshid-drabu-obituary?CMP=Share_iOSApp_Other

Gypsy, Roma and traveller communities and their access to the criminal justice system

The Women and Equalities Committee is taking forward its inquiry into tackling inequalities faced by Gypsy, Roma and Traveller Communities in to this Parliament. Full details of the committee can be found here: www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/inquiries/parliament-2017/inequalities-faced-by-gypsy-roma-and-traveller-communities-17-19/

The House of Commons research paper on this issue provides useful reading: researchbriefings.files.parliament.uk/documents/CBP-8083/CBP-8083.pdf

As does the Traveller Movement's document on sentencing: travellermovement.org.uk/wp-content/uploads/Sentencing-Gypsy-Traveller-and-Roma-children.pdf

Jewish Institute of Policy Research

The Jewish Institute of Policy Research published a study last year on anti-Semitism in contemporary Great Britain. The full report can be found here: www.jpr.org.uk/documents/JPR.2017.Antisemitism_in_contemporary_Great_Britain.pdf

Autism, learning disabilities and hate crime

People with learning disabilities and autism are considerably more likely to experience hate crime than other disabled groups, figures show. ONS data, published last year, gives a new insight into the experience of disability hate crime. More information can be found here: www.independent.co.uk/news/uk/home-news/autism-disability-hate-crime-figures-most-likely-a7725006.html

We welcome your input so if you would like to contribute to the Hate Crime Newsletter or have comments on this or any other issue, please email: HateCrime.Policy@cps.gov.uk