



SO WHEN IS IT A HATE CRIME?

There is no specific offence of 'hate crime' but many different offences, from assault to online threats, can become one.

If the offence is perceived by a victim or witness to have been motivated by hostility towards the victim's disability, race, religion, sexual orientation or transgender identity, it can be recorded as a hate crime.

There is no legal definition of 'hostility' so police and the CPS use the everyday understanding of the word which includes ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment and dislike. Note that this definition applies to whether an offence should be considered a hate crime, but not to whether a crime was committed in the first place.

As with any case passed to the CPS by police, we will only charge where there is sufficient evidence to provide a realistic prospect of conviction and where it is in the public interest to do so.

When it comes to online offences, in order to strike a balance with freedom of speech, there is a high evidential threshold to prosecute grossly offensive, indecent, obscene or false communications.

Legal guidance given to CPS prosecutors on online communications recognises the potential impact of prosecutions on free speech. The guidance recognises that not only is speech which is well-received and popular protected, but also speech which is offensive, shocking or disturbing.

The guidance states that freedom of expression can only be restricted under very limited circumstances and prosecutions may only be undertaken when they are proven to be 'necessary' and 'proportionate'.

However, as stated in the Code for Crown Prosecutors, evidence of hostility based on the 'victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity' will make it 'more likely that prosecution is required'.

The full CPS legal guidelines on prosecuting online offences can be found at:
bit.ly/CPSonlineoffences

