

**Racist and
Religious Crime
– A Summary of
CPS Prosecution
Policy**



Crown Prosecution Service

Racist and Religious Crime – Prosecution Policy

As the Crown Prosecution Service [CPS] we are responsible for prosecuting people in England and Wales who are charged by the police with a criminal offence.

This leaflet summarises the way we deal with cases of racist or religious crime. A full version of our policy statement, *Racist and Religious Crime – CPS Prosecution Policy*, is also available and we explain at the end of the leaflet how to obtain a copy of this and other CPS publications.

In developing our policy we have consulted people from black and minority ethnic communities and faith communities and have taken their comments into account. By doing this we have gained a better understanding of the issues that are important to them and what we need to be aware of when prosecuting cases.

This type of crime is especially hurtful to victims as they are being targeted solely because of their personal identity, racial or ethnic origin, beliefs or faith.

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

The police have to investigate all racist and religious incidents and keep a record of them. If they think a crime has been committed, they send the case file to us. We then have to decide whether to prosecute offences arising from such incidents.

Definitions

- *Racist Incident* – any incident which is perceived to be racist by the victim or any other person.
- *Religious incident* – any incident which is perceived to be religious by the victim or any other person.

Not all incidents will be capable of being prosecuted as a racist or religious offence. We explain later in this leaflet how cases have to meet certain legal tests before we can prosecute.

- *A racist or religious offence* – is an offence where the prosecutor has to prove a racist 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.

Racist or religious offences are committed against people because they belong, or are perceived to belong, to certain racial or religious groups as defined by law.

- *Racial group* – means any group of people who are defined by reference to their race, colour, nationality (including citizenship) or ethnic or national origin. For example, this term could include travellers, refugees or asylum seekers.
- *Religious group* – means any group of people defined by reference to their religious belief or lack of religious belief. For example, this would include Muslims, Hindus and Christians, and different sects within those religions. It would also include people with no religious belief at all.

About the CPS

- We are the main independent prosecuting authority for England and Wales.
- Each of the 42 CPS Areas is headed by a Chief Crown Prosecutor and corresponds to a single police force area, with one CPS Area covering the whole of London.
- The CPS is responsible for prosecuting cases investigated and referred to us by the police.
- Our role as prosecutors involves us in:
 - giving advice to the police to help them with the investigation of crime;
 - reviewing cases to ensure the right cases are prosecuted on the right charge;
 - from 2003/4, in most cases, deciding which offences the police should charge;
 - prosecuting cases at court ourselves or through agents instructed by us.

The Code for Crown Prosecutors

Our prosecution decisions are guided by the **Code for Crown Prosecutors**. The Code is a public document.

Every case we receive is reviewed against two tests set out in the Code. The two tests are the *evidential test* and the *public interest test*.

Under the *evidential test* CPS prosecutors must decide that there is sufficient evidence to provide “a realistic prospect of conviction”. If a case does not pass this test, it cannot go ahead, no matter how serious or important.

When a case passes the evidential test, the CPS prosecutor must apply the *public interest test* to decide whether a prosecution is needed in the public interest. It will usually be in the public interest to prosecute cases where there is sufficient evidence, unless there are factors that weigh against rather than in favour of prosecution.

Is there enough evidence to prosecute the case?

The law relating to racist and religious crime is complicated. We are training our staff to familiarise them with the different offences, the procedures to follow and the issues that are important to victims of these crimes and their communities.

Usually if a defendant pleads not guilty, victims and witnesses have to give evidence at court. Some find this very difficult and we will actively consider whether there is other evidence available to support a victim's evidence or which can be used as an alternative to it.

If a victim or witness has to come to court, we will consider if there are any *special measures* that the court may allow, that would make the experience of giving evidence less difficult for the victim or witness.

Special measures include using screens in court to shield the victim or witness from the defendant, giving evidence through a live TV link, or giving evidence in a closed court in sexual cases or cases of witness intimidation.

It is up to the court to decide whether to allow special measures to be used.

Is it in the public interest to prosecute?

The more serious an offence or the greater the risk of further crimes being committed, the more likely we are to prosecute in the public interest if there is sufficient evidence, even if victims say that they do not wish us to do so.

When there is sufficient evidence, our decision to prosecute in the public interest can be influenced by a number of factors. These include:

“(That) the offence was motivated by any form of discrimination against the victim's ethnic or national origin, sex, religious beliefs, political views, or sexual orientation, or the suspect demonstrated hostility to the victim based on any of those characteristics”.

Where there is any form of discrimination, and the case has first passed the evidential test, the public interest will almost always be in favour of prosecuting.

We prosecute on behalf of the public at large and not just in the interests of a particular individual, including the victim. We will, however, take into account the consequences for the victim of our decision whether or not to prosecute, and views expressed by the victim or the victim's family.

Victim Personal Statements

A Victim Personal Statement (VPS) is a statement made by a victim of crime to a police officer. It enables victims to explain the effect that a crime has had on their lives. This includes things such as physical or emotional harm, or financial loss.

They allow victims to voice worries about things such as repeat victimisation, or intimidation.

Victims can choose whether to make a Victim Personal Statement. One or more statements can be made at any time during a case. A statement will also help the court with information about the effects of the crime upon the victim when it is deciding what sentence to give to the defendant.

A Victim Personal Statement will be used by the prosecutor when reviewing the case and, when making decisions about bail. A statement will also help the court with information about the effect of the crime when it sentences the defendant.

Explaining decisions to drop a case or alter charges

We will ensure that evidence of racist or religious motivation is placed before the court, and will not drop or alter a charge without good reason.

We will tell a victim if we decide to drop a case or significantly alter a charge, and will explain why we have made this decision.

In cases of racist or religious crime we will also offer the victim an opportunity to meet the lawyer who made the decision to drop or substantially alter the charge so that the lawyer can personally explain the decision.

Monitoring

We monitor the decisions we make in racist or religious crime cases and also the results of the cases we prosecute.

We publish an annual report giving both local and national statistics.

As well as publishing the report, we share the information in it with colleagues in other parts of the criminal justice system, as well as with other groups or individuals interested in the report.

We will use this information to help us consult communities about the effectiveness of our prosecution policy.

CPS Publications

The publications referred to in this leaflet are available from:

The CPS Website: www.cps.gov.uk

CPS Communications Branch

50 Ludgate Hill

London,

EC4M 7EX

Tel: 020 7796 8442

Fax: 020 7796 8351

E-mail: publicity.branch@cps.gsi.gov.uk

Translations into other languages and audio copies are also available.
Contact CPS Communications Branch for details.