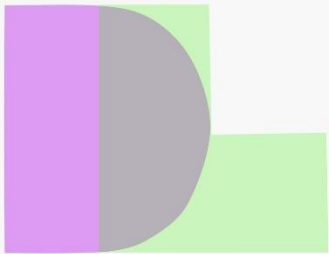
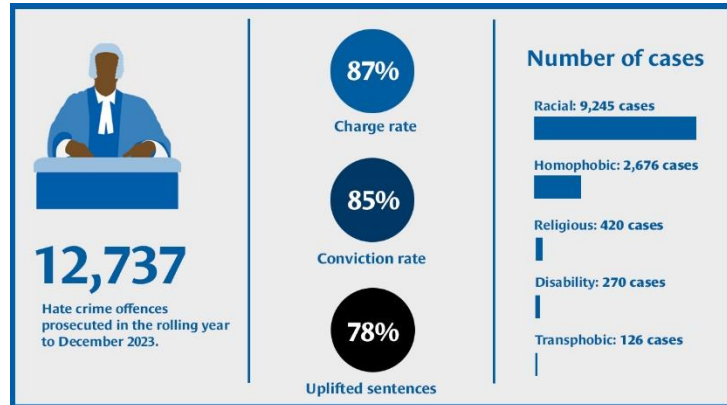


Briefing Paper

'Hate Crimes'



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Hate Crimes.

That's a politically charged term.

Nowhere in English statutory law is the term 'Hate Crime' cited. It is, arguably, an extrapolated activist phrase used by cultural campaigners, the College of Policing, the CPS and the BBC.

The police and the CPS have agreed the following definition for identifying and flagging 'hate crimes':

"Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity."

There is no legal definition of hostility so we [the CPS] use the everyday understanding of the word which includes ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment and dislike.

The CPS concede that their definition is 'wider' than the legal definition within the Sentencing Act 2020, yet they persist with it.

More information on how the CPS are activist on 'hate crime' can be found at

<https://www.cps.gov.uk/crime-info/hate-crime>

A hate crime is a second tier aggravation. For a hate crime to be secured, first of all there must have been an underlying crime committed. Then attached to that is the investigation of the motivation. Is the underlying crime targeted at the 'monitored strands'.

Those monitored strands include:

- Race
- Religion
- Disability
- Sexual orientation
- Transgender identity

The latter is of concern as Transgender Identity is not a protected characteristic under the Equality Act. A person without a gender reassignment certificate does not qualify under protected characteristics.

It is arguable in common law, if a person is on the road to medical conversion from one gender to another, they benefit from protection under the EA and therefore as a category under monitored strands.

See Taylor v Jaguar Land Rover Ltd

Sections 29 to 32 of the Crime and Disorder Act 1998 create specific racially or religiously aggravated offences, which have higher maximum penalties than the non-aggravated versions of those offences. The individual offence guidelines indicate whether there is a specifically aggravated form of the offence. They relate to other offences of actual harm, they do not talk about stirring up.

S.29 Race, but this only applies to common assault or Offences Against the Persons Act,

S.30 Criminal Damage,

S.31 If any offence is committed under Public Order Act 1986 sections 4, 4A and 5 then the sentencing guidance is given under s.31

S.32 Harassment

D.28 Defines racially or religiously aggravated and introduces the idea of 'hostility'.

Sentencing uplift to any statutory crime is achieved via section 66 of the Sentencing Act 2020 against 5 'monitored strands'.



S.145 Criminal Justice Act 2003 allows for increases in sentences for racial or religious aggravation.

S 146 of the Criminal Justice Act - allows for increases in sentences for disability, sexual orientation or transgender identity aggravation.

The standard defence to religious or belief hate crime is 'freedom of expression' as is contained in Section 29J Public Order Act 1986, which confirms that nothing in the Act "... prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult, or abuse of particular religions, or the beliefs or practices of its adherents."

There is some reason to be concerned about how the Public Order Act 1986 Sections 4 and 4A have been deployed. These sections reference insulting behaviour and displays **with the intent** of causing alarm or distress or fear of unlawful immediate violence.

Section 5 again references threatening or abusive words, behaviour or displays likely to cause harassment, alarm or distress. This time it is for the 'protection' of persons within hearing distance.

Please also see our video podcast relating to Sections 18,19, 21 and 29 of the Public Order Act 1986 and the Online Safety Act 2023 Section 179 which relate to the offences of stirring up.

