

Hate Crime

What is a hate crime?

For conceptual purposes, a hate crime is any criminal offence that is motivated by hostility or prejudice based upon the victim's:

- disability
- race
- religion or belief
- sexual orientation
- transgender identity

For reporting purposes, a hate crime is any criminal offence which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a monitored equality strand or a perception that the victim belongs to a monitored strand. This is the “Macpherson” definition.

For sentencing purposes, a hate crime is one where there is sufficient evidence of hostility based on a monitored equality strand. Courts may, if the defendant is found guilty of the aggravating aspect of the offence, impose a more severe sentence, stating also what the sentence would have been without the aggravation.¹

The extra severity may take a sentence past the threshold for a more severe penalty, such as a custodial sentence. Elements such as a pattern of offending, the causing of particular distress or the membership of a group promoting hostility may increase the severity of sentence.

Size of protected groups

	Basis	Estimate
Race	ONS Population Estimates by Ethnic group (All groups except White British, 2009, England and Wales)	c. 9 million
Sexual orientation	ONS LGB experimental estimate from Integrated Household Survey, 2010-11, England and Wales	c. 0.7 million
Transgender identity	Registration rates with Gender Recognition Panel	c. 0.03 million
Disability	DWP Family resources survey, UK 2009-10, estimate of people with chronic illness or disability that limits everyday activities.	over 10 million

¹ Magistrates’ Court Sentencing Guidelines, p. 178,

http://sentencingcouncil.judiciary.gov.uk/docs/Magistrates_Guidelines_including_update_1_2_3_4_5_web.pdf

Defendants on Hate Crime charges per million minority members per annum, 2008/09 to 2010/11 by category of principal offence and protected group

	Disability	Sexual Orientation and Transgender	Race and Religion
Homicide	0.3	8.2	1.6
Sexual Offences	3.6	13.2	2.9
Offences Against The Person	25	719	562
Public Order Offences	6	556	528
Others	16	135	142
Total	50	1,432	1,237

Source: Derived from Crown Prosecution Service, Principal Offence Category statistics and above estimates of minority sizes.

Total Defendants by Principal Offence Category and protected group, three years 2008/09 to 2010/11

	Disability	Sexual Orientation and Transgender	Race and Religion
Homicide	10	18	44
Sexual Offences	114	29	78
Others	1,460	3,088	33,267
Total	1,584	3,135	33,389

Source: Crown Prosecution Service

In terms of numbers of defendants, racially and religiously aggravated crimes are by far the most common, dominated by public order offences and offences against the person. Allowing for the smaller protected population, crimes aggravated by sexual orientation and transgender are similarly prevalent. Given the high proportion of the population that fit definitions of disability, the total number of prosecutions is relatively low but this includes a high share of the most serious offences, such as homicide and murder.

Racial Hate Crime

The number of racially or religiously motivated offences recorded in England and Wales in 2010/11 was 31,486, down from a peak of 42,554 four years earlier. The Police force area with the greatest number of offences was the Metropolitan Police, with close to 7,000, followed in order by Greater Manchester, West Midlands and West Yorkshire, where 1,800 were recorded. All these areas had recorded substantial drops in the range of 15 to 33 per cent in four years.²

In 2010/11, the clear-up rate for racially or religiously aggravated harassment remained the most frequent hate crime offence, but it had a clear-up rate lower than for non-racially or religiously aggravated harassment (46% compared with 56%). The less frequent but more serious offences of assault without injury and actual bodily harm had higher clear-up rates than their unaggravated equivalents. Racist incidents are higher in number than recorded offences. In 2010/11 there were 51,187 in England and Wales, a fall of 10,000 in four years.³

² From Ministry of Justice, Statistics on Race and the Criminal Justice System 2010, table 2.05 <http://www.justice.gov.uk/publications/statistics-and-data/criminal-justice/race.htm>

³ From Ministry of Justice, Statistics on Race and the Criminal Justice System 2010, table 2.04 <http://www.justice.gov.uk/publications/statistics-and-data/criminal-justice/race.htm>

The Crown Prosecution Service keeps records under the Racist Incident Monitoring Scheme under the race and religion strands and produces annual reports of hate crime.

	1999/2000	2003/2004	2006/2007
Defendants Received	2,417	4,728	9,145
Defendants Prosecuted	1,832	3,616	7,694
Percentage Unprosecuted	24%	24%	16%
Charges Prosecuted	2,651	4,719	10,179
Non RA Charges	1,352	1,472	2,428
Percentage non-RA	51%	31%	24%
Guilty Pleas	1,743	3,320	7,398
Other Successful Outcomes	335	716	1,549
Unsuccessful Outcomes	451	683	1,232
Percentage Unsuccessful	17%	14%	12%
Percentage of Not Guilty Pleas Unsuccessful	57%	49%	44%

Source: Crown Prosecution Service⁴

In the eight years between 1999 and 2007, numbers of cases identified as having an element of racial aggravation under the broad, Macpherson definition grew approximately fourfold. The number of cases not prosecuted fell from around a quarter to around one in six. The proportion of charges not including racial aggravation, using the stricter sentencing definition fell from around a half to around a quarter, and the percentages of successful outcomes, both as a proportion of contested cases and overall, rose over the period. These statistics take no account of the scale of the offence but they show signs of improved efficiency in the prosecution of racial hate crime and suggest that the gap between the victims' and juries' views of hate crime are narrowing. Four years of more recent data, reported under a new format, show a different picture.

	2006/07	2007/8	2008/9	2009/10
Defendants Received	13,201	12,996	11,845	12,927
Defendants Prosecuted	7,886	9,115	8,673	9,214
Percentage Unprosecuted	40%	30%	27%	29%
Charges Prosecuted	11,713	13,008	11,624	12,131
Non RA Charges		Not specified		
Percentage non-RA		Not specified		
Guilty Pleas	7,546	8,648	8,112	8,501
Other Successful Outcomes	1,471	1,750	1,464	1,492
Unsuccessful Outcomes	2,696	2,610	2,048	2,138
Percentage Unsuccessful	23%	20%	18%	18%
Percentage of Not Guilty Pleas Unsuccessful	65%	60%	58%	59%

Source: Crown Prosecution Service⁵⁶

⁴ Crown Prosecution Service, Racist And Religious Incident Monitoring Annual Report 2006 – 2007, Section 2.8, <http://www.cps.gov.uk/publications/docs/rims06-07.pdf>

In 2009-2010, 75 per cent of defendants were identified as white British, but as 9 per cent of defendants were not racially identified, that was 82 per cent of defendants of known race. In June 2009, 83 per cent of the population of England were White British⁷, which combined with the 94 per cent of Wales that was white British in 2007⁸ gives an overall proportion of 85 per cent. Even this revised figure should be treated with caution, since neither crime nor ethnic diversity is uniform by age group, meaning that older people receive fewer convictions and younger age bands have higher proportions of ethnic minorities. 95 per cent of defendants were aged 14 to 59. Substantial differences are to be expected in offending rates between different police force areas. The white British fraction defending charges of hate crimes on grounds of sexual orientation was also 75 per cent, but had been higher (78 per cent) the previous year.

Racially motivated incidents represent only a small fraction of crime. In 2010/11, an estimated 150,000 out of a total of 9,618,000 incidents of crime in the British Crime Survey were racially motivated, constituting 1.5 per cent.⁹ The majority white population may be victims of racially motivated crime, but the estimate of 150,000 incidents represents around 1 hate crime per ethnic minority resident, whether victim or perpetrator, every 35 years.

Racial or religious aggravation may increase the sentence. For assault occasioning actual bodily harm, the element of hate increases the maximum sentence (if tried on indictment) from 5 years to 7.

High Profile Case

The Murder of Stephen Lawrence

A South London black teenager was murdered in 1993 by at least two white youths. The offence caused widespread revulsion. The victim and his family attracted a lot of public sympathy.

The initial police investigation provided no case strong enough for any suspects to be charged. The Crown Prosecution Service discontinued the case against Jamie Acourt, Neil Acourt, David Norris, Gary Dobson and Luke Knight.

Michael Mansfield QC led a private prosecution in 1996 against three suspects, Knight, Dobson and Neil Acourt, on behalf of the Lawrence family, but all three were acquitted. Identifying evidence from a traumatized witness was deemed inadmissible. The law as it stood meant that they could never be tried again on the same charge. The scale of publicity made it possible for the other two to claim even a first trial would be unfair.¹⁰

⁵ Crown Prosecution Service, Hate Crime Report 2008-2009, Racially and religiously aggravated hate crime: key findings, http://www.cps.gov.uk/publications/docs/CPS_hate_crime_report_2009.pdf

⁶ Crown Prosecution Service, Hate crime and crimes against older people report 2009-2010, Racially and religiously aggravated hate crime: key findings, http://www.cps.gov.uk/publications/docs/CPS_hate_crime_report_2010.pdf

⁷ ONS Neighbourhood Statistics, <http://www.neighbourhood.statistics.gov.uk/dissemination/hierarchySelection.do?datasetFamilyId=1812&instanceSelection=027655&hierarchyId=2&CurrentPageId=62>

⁸ Stats Wales, <http://www.statswales.wales.gov.uk/TableViewer/tableView.aspx?ReportId=29063>

⁹ From Ministry of Justice, Statistics on Race and the Criminal Justice System 2010, <http://www.justice.gov.uk/publications/statistics-and-data/criminal-justice/race.htm>

¹⁰ Kathy Marks, Independent, 29th January 1999, <http://www.independent.co.uk/news/lawrence-family-lawyers-to-be-censured-in-inquiry-report-1076835.html>

The Police Complaints Authority found that the police investigation had oversights and omissions, even incompetence, but that there was no evidence of racism.¹¹

Sir William Macpherson (Lord Macpherson) chaired a public enquiry from 1998 to 1999, which recommended allowing murder suspects to be tried a second time for the same offence on the discovery of new and compelling evidence. This change in law was passed in 2005. It also introduced the term “institutionally racist” to describe the Metropolitan Police.

In 2011-2, two of the original suspects, Gary Dobson and David Norris, were tried a second time and convicted of the murder. This was made possible by substantial advances in DNA identification after the original investigation.

Hate Crime Motivated by Sexual Orientation and Gender Identity (Homophobic and Transphobic)

Approximately 1.5 per cent of adults in 2010 in the United Kingdom considered themselves gay, lesbian or bisexual, suggesting a total of around 700,000.¹² Numbers of transgender citizens are hard to estimate. In England, 30 people each month apply to the Gender Recognition Panel, which represents around one in 2,000 reaching adulthood. That equates to around 30,000 people in the UK. A larger estimate is possible if people are not choosing that form of registration. If the whole transgender population has chosen to register at an early opportunity, then they may number as few as 2,000. Numbers of transgender-related hate crimes, which can be against perceived not actual transgender victims, are generally reported aggregated with crimes motivated by sexual orientation.

Hate crime affects transgender in more cases than where the status has been recognized officially. A victim may choose to regard a hate crime as motivated by transgender status, or a perpetrator may mistreat somebody over a mistaken belief in their transgender status.

From 2009 to 2010, annual reported incidents rose from 312 to 357. The increase reflects a mixture of changes in incidence and definition as people become aware of the new category of transgender hate crime.¹³

Homophobic and Transphobic Hate Crime Prosecuted by the Crown Prosecution Service

	2007-2008	2008-2009	2009-2010
Defendants Received	1,219	1,090	1,373
Defendants Prosecuted	758	710	907
Percentage Unprosecuted	38%	35%	34%
Charges Prosecuted	995	1,013	1,152
Guilty Pleas	662	683	780
Other Successful Outcomes	116	132	149
Unsuccessful Outcomes	217	198	223
Percentage Unsuccessful	22%	20%	19%

¹¹ Peter Saunders, “The Rise of the Equalities Industry,” Civitas 2011, chapter 4.

¹² Integrated Household Survey April 2010 to March 2011 : Experimental Statistics. Higher numbers answered “Don’t Know”, “Other” or refused, so there is a broad error margin. <http://www.ons.gov.uk/ons/rel/integrated-household-survey/integrated-household-survey/april-2010-to-march-2011/stb--integrated-household-survey-april-2010-to-march-2011.html#tab-Sexual-Identity>

¹³ ACPO Hate Crime Data for 2010, from http://www.report-it.org.uk/hate_crime_data1

	2007-2008	2008-2009	2009-2010
Percentage of Not Guilty Unsuccessful	65%	60%	60%

The Crown Prosecution Service report hate crime motivated by transgender identity aggregated with that motivated by sexual orientation. The number of defendants grew by 154, over 10 per cent, in two years to 2009/10. The proportions of defendants prosecuted and of successful outcomes to charges both grew, allowing convictions to grow from 778 to 929. There is approximately one homophobic or transphobic case for every ten racist cases.

12 per cent of incidents reported by lesbian, gay and bisexual respondents to the British Crime Survey from 2007 to 2010 were regarded as motivated by that aspect of the victim’s identity.¹⁴ Researchers found that the police were more likely to know about identity motivated crime than about other incidents, but still only 42 per cent were reported.

High Profile Case

Admiral Duncan pub bombing

A nail bomb was set off at the Admiral Duncan pub in Old Compton Street, a popular venue among the gay community, on April 30th, 1999. Three people died. David Copeland, who admitted hatred of ethnic minority and gay communities and had detonated two other devices in Brixton and Brick Lane, was convicted of murder and is serving six life sentences in Broadmoor high-security psychiatric hospital. One of the victims, Andrea Dykes, who was both married and pregnant, can be regarded as the victim of a homophobic hate crime although not herself belonging to a protected equality strand. The words of section 146 of the 2003 Criminal Justice Act, implemented in 2005 allow this definition:

“The offence was motivated (wholly or partly) by hostility towards persons who are of a particular sexual orientation.”¹⁵

By contrast, the killing in 2004 of David Morley, the manager of the Admiral Duncan who survived the bombing, was attributed not to homophobia but to a violent trend known as “happy slapping.” The four responsible were convicted of manslaughter.¹⁶

¹⁴ Equality groups’ perceptions and experience of crime, Equality and Human Rights Commission, Briefing paper 4 http://www.equalityhumanrights.com/uploaded_files/research/bp4.pdf

¹⁵ Crown Prosecution Service, Policy for Prosecuting Cases of Homophobic and Transphobic Hate Crime, 2007, http://www.cps.gov.uk/publications/docs/htc_policy.pdf

¹⁶ <http://news.bbc.co.uk/1/hi/england/london/4637382.stm>

Disability Hate Crime

The degree of disability varies enormously. The standard definition, chronic illness or disability that affects day to day activities, can cover upwards of 10 million people in Britain for the purposes of the Equality Act and other measures, including close to half the population above retirement age. Some categories, much smaller in number, are more susceptible to hate crimes, such that people with learning difficulties, visual impairment or mental health conditions are more frequent victims.¹⁷

Mencap’s ‘Living in Fear’ survey in 1999 asked five thousand people with learning disabilities about their experience of bullying. Of 904 responses, 88 per cent reported being bullied within the previous year, with 32 per cent for whom it was daily or weekly.¹⁸

Because higher proportions of older people have disabilities, survey findings may relate to age as much as to disability. The British Crime Survey 2009/10 finds within each age group that the disabled people are more commonly victims of crime.¹⁹

Proportions that were victims of crime, British Crime Survey 2009/10

	Disabled	Not disabled
16-34	38%	30%
35-54	29%	22%
55-64	20%	15%
65+	10%	9%

Key types of incident affecting disabled people²⁰

- *physical incidents*
- *verbal incidents*
- *sexual incidents*
- *targeted anti-social behaviour*
- *damage to property/theft*
- *school bullying*
- *incidents perpetrated by statutory agency staff*
- *the more recent phenomenon of cyber bullying*

¹⁷ Hate Crime against Disabled People in Scotland, Disability Rights Commission and Capability Scotland, 2004, referenced in Getting Away with Murder, Scope http://www.scope.org.uk/sites/default/files/pdfs/Campaigns_policy/Scope-Disability_Hate_Crime_Summary.pdf

¹⁸ Living in Fear, Mencap, 2000, <http://www.mencap.org.uk/sites/default/files/documents/2009-10/Livinginfear.pdf>

¹⁹ Reproduced from Roadmap 2025, DWP. Indicator H1. <http://odi.dwp.gov.uk/roadmap-to-disability-equality/indicators.php>

²⁰ Disabled people’s experiences of targeted violence and hostility, Equality and Human Rights Commission Research Report 21, page v. http://www.equalityhumanrights.com/uploaded_files/research/disabled_people_s_experiences_of_targeted_violence_and_hostility.pdf

High Profile Case

Fiona Pilkington killed herself and her disabled daughter Francessca Hardwick in 2007 after ten years of taunting by local gangs in Barwell, Leicestershire. She had made 33 calls to police about anti-social behaviour. In the words of the foreman of the inquest jury, 'Calls were not linked or prioritised.' Her son, with severe dyslexia, had also suffered long-running abuse, from the same gang.²¹

Incidents included:

- Theft of a chequebook and disability book
- Children jumping on the hedge and smoking in the family's garden
- Mockingly imitating a way of walking
- Hit by stones
- Pushed into a car
- Setting fire to gates and fences
- Punched in the mouth
- Breaking windows
- Death threats at school
- Locked in a shed at knifepoint
- Attacked with an iron bar²²

Police acted on some of the incidents, but action was halted either on police advice or because Ms Pilkington feared reprisals.

Police and the Crown Prosecution Service are attempting to improve their response to disability hate crime, focusing on such issues as:

- Under-reporting, or reporting to authorities other than the police²³
- Distinguishing hate crime from anti-social behaviour, while understanding the overlap
- Particular concerns of disabled witnesses.²⁴

²¹ Guardian, 28th September 2009, <http://www.guardian.co.uk/uk/2009/sep/28/pilkington-inquest-ruling>

²² 'Timeline: Abuse of car death pair' BBC news website, 28th September 2009, <http://news.bbc.co.uk/1/hi/england/leicestershire/8268706.stm>

²³ 'Don't stand by', Mencap, 2010, page 43

²⁴ Crown Prosecution Service, Policy for Prosecuting Cases of Disability Hate Crime, 2007, page 27 http://www.cps.gov.uk/publications/docs/disability_hate_crime_policy.pdf