

NORTH EAST

RACE EQUALITY FORUM

INFORMATION BRIEFING

No.8



Prosecuting Hate Crime

This is a summary of key points emerging from the workshop led by the Crown Prosecution Service at the NEREF conference held in Newcastle upon Tyne last November. A number of people asked for the information to be made available in print and the CPS has therefore given us this summary to share with members of the NEREF network as an Information Briefing.

+ The Crown Prosecution Service (CPS): This is independent of the police and CPS North East covers the police force areas of Cleveland, Durham and Northumbria.

The role of the CPS is to decide in many cases whether or not a suspect should be charged with an offence and, if so, with what offence. Whilst the police have the power to charge some offences, all hate crime cases need to be referred to the CPS for charging to be authorised. If the CPS decide no charges should be brought in a case, the Victim has the right to seek a review of that decision.

The CPS has **Legal Guidance for Racist and Religious Hate Crime.**

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

The CPS understands that these crimes can have a lasting effect on victims and their families; but they also have an impact on the victim's community and the community as a whole. Prosecution is therefore almost always in the public interest.

+ Racially or Religious Aggravated offences: Parliament has created certain offences which have the words "Racially Aggravated" or "Religiously



Aggravated” in their title. These are offences of assault, criminal damage, and some of the Public Order Act offences. To secure a conviction for these offences, it is necessary to prove to the court all the elements of the basic offence, plus the racist or religious aggravation – i.e. that at the time of committing the offence, the Defendant (the person accused of the offence) demonstrated hostility towards the victim based on the victim’s actual or presumed race or religion; or the offence was motivated by hostility towards people of the same actual or presumed race or religion as the victim. Racially or Religiously aggravated offences carry higher maximum sentences and the sentence should be increased to reflect the Racist or Religious aggravation. Where there is no specific Racially or Religiously aggravated offence, but the Court is satisfied of such hostility as referred to above, the court is again required to increase the sentence.

If a victim of an offence, or a witness to an offence, is required to go to Court to give evidence, it may be possible for the CPS to apply for **Special Measures** to help them give the best evidence they can. Witnesses under the age of 18 are automatically entitled to Special Measures. A witness over the age of 18 can ask for Special Measures if they are Vulnerable (because of a physical disability, mental disorder or learning disability) or if they are Intimidated (suffering from fear or distress about having to give evidence). Special Measures can include having screens when the witness goes into court so that the Defendant can’t see them; or giving evidence by live video link from another room in the Court building.

Once a case has gone to court, the **Witness Care Unit** will become involved – a named Witness Care Officer is assigned to each case as a single point of contact for the victim and witnesses. The Witness Care Officer can arrange for victims and witnesses to visit the court ahead of the trial date to see the court room and understand what will happen on the day of trial. This is organised by the Witness Service, who will support witnesses in the court building on the day of the trial – there is a separate room where prosecution witnesses can wait separately from the Defendant and his/her witnesses, friends and family.

The Witness Care Officer can also put witnesses in touch with support agencies.

+ Helpful Hints:

- A hate crime is a crime where the victim, or anyone else, thinks it is based on hostility and prejudice. If you are reporting a crime and you think it is a hate crime, it is a good idea to make this clear at the time you report. This means it will be recorded as a hate crime and the victim will receive enhanced services;
- Anyone can report a hate crime – it doesn't have to be the victim;
- If you are a victim or witness and have any worries or concerns about going to court to give evidence – do not try to be brave - speak to your Witness Care Officer. They will discuss with you whether Special Measures could be applied to help ease your concerns.



Contact: For further information, back copies of Information Briefings or Research Briefings, or to join the Network, email gary.craig@galtres8.co.uk

The North East Race Equality Forum is a Network of around 300 individuals and organisations in the North East Region committed to promoting racial equality in the context of social justice. No one organisation is necessarily committed to every idea published in the name of the Forum. The Forum is supported by the 'Race', Crime and Justice Regional Research Network, which includes researchers from each University in the region.