



STAFFORDSHIRE
POLICE

Hate Crime – Racist Hate Crime Procedure

What is racist hate crime?

Any criminal offence which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a person's race or perceived race. Certain offences, including assault, harassment, criminal damage and public order offences can be prosecuted specifically as racially aggravated offences. The defendant faces a harsher sentence than if they were found guilty of a non-racial crime. The Crime and Disorder Act 1998 as amended by the Anti-terrorism Crime and Security Act 2001, and Protection of Freedoms Act 2012 provides definitions of:

"A racial group means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins."

The definition is wide and victims may come within the definition under more than one of the references. Gypsies and Travellers, refugees or asylum seekers or others from less visible minorities would be included within this definition. There has been a legal ruling that Jews and Sikhs are included in the definition of a racial group (*Mandla v Dowell-Lee* [1983] 2 AC 548).

The law imposes a general duty on criminal courts, when sentencing an offender, to treat more seriously any offence which can be shown to be racially aggravated, Section 145 Criminal Justice Act 2003 namely:

S145 Increase in sentences for racial aggravation

(1) This section applies where a court is considering the seriousness of an offence other than one under sections 29 to 32 of the Crime and Disorder Act 1998 (racially aggravated assaults, criminal damage, public order offences and harassment)

- (2) If the offence was racially aggravated, the court –
- a) must treat that fact as an aggravating factor,
and
 - b) must state in court that the offence was so aggravated

3) Section 28 of the Crime and Disorder Act 1998 (meaning racially aggravated) applies for the purposes of this section as it applies for the purposes of sections 29 to 32 of that Act.

Hostility

An offence will be racially aggravated if:

a) at the time of the offence (or shortly before or after), the offender demonstrates to the victim hostility based on the victim's membership (or presumed membership) of a racial group,

or

b) the offence is motivated wholly or partly by hostility towards members of a racial group based on their membership (or presumed membership) of that group.

Additional Evidence Gathering

- Is there any collective harassment by neighbours or attacks by organised gangs on a person and their home or random attacks in public places?
- Be aware that the complainant, victim or /witness may not wish to give evidence because he or she lives or works in a community in which they feel isolated or particularly vulnerable
- Complainants, Victim and witness may be fearful of the consequences of giving support to the prosecution.

Motivation

- Was the offence a random crime, for example, at nightclubs, at takeaways or restaurants, on public transport, at football matches, or on shopping trips
- Was it part of a campaign of continued harassment and victimisation by, for example neighbours, extremist groups, customers or even family members?
- Is there evidence of membership of, or association with a racist group, or evidence of expressed racist views in the past

Additional Support

Establish whether it would be appropriate to offer the victim the services of a specialist hate crime support agency via the use of Commissioned Services.

- Uniting Staffordshire Against Hate (USAH) Staffordshire Victims Gateway