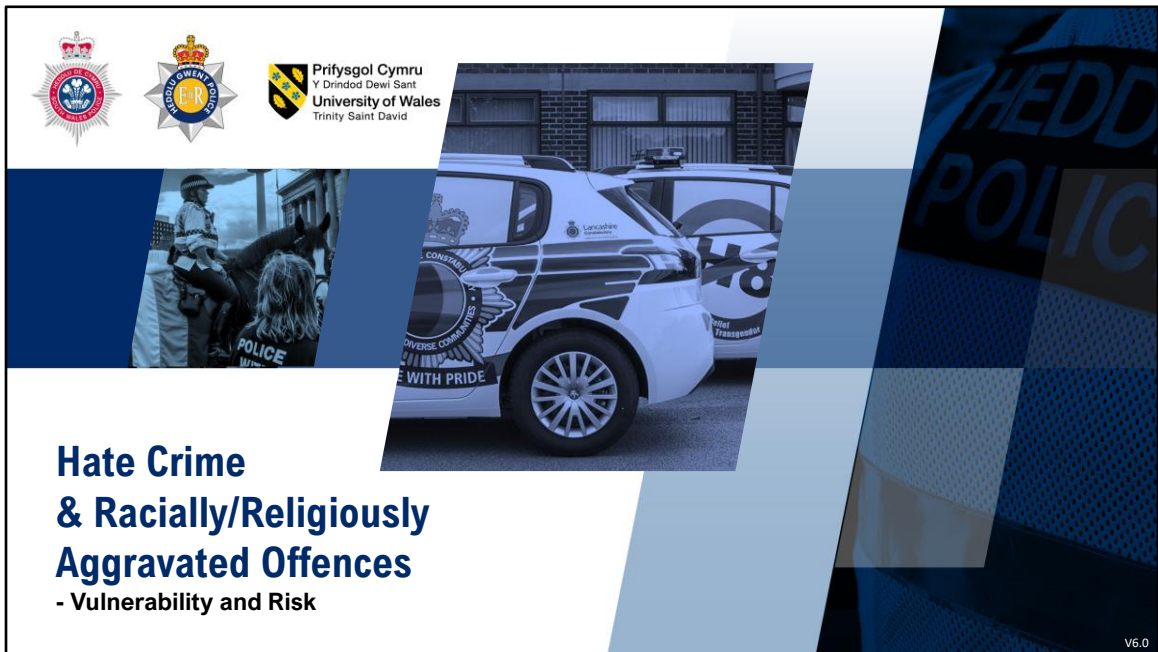
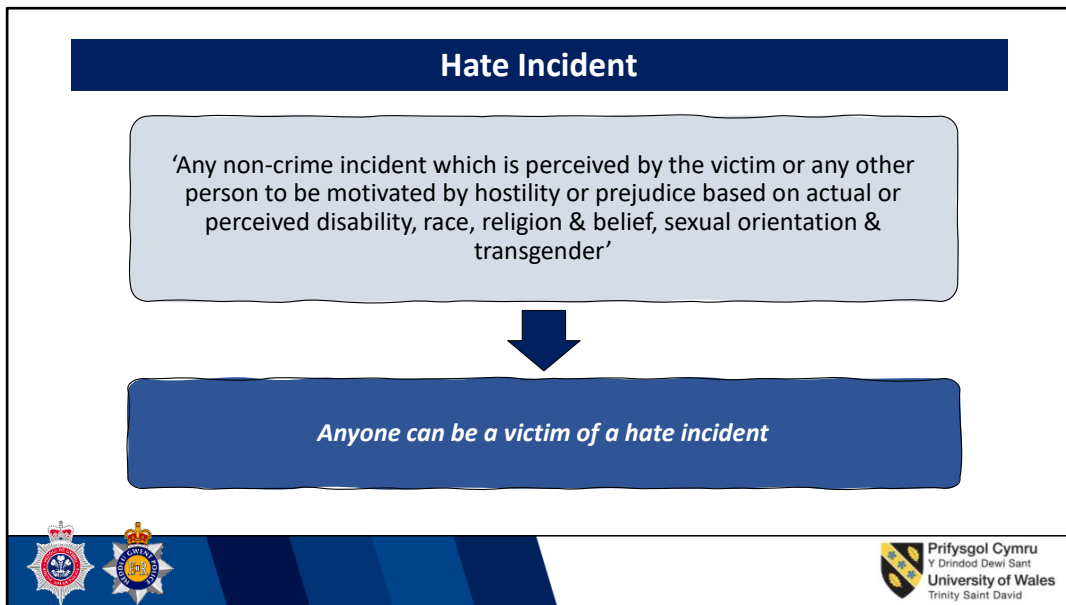




**** Health warning *** Some of the content discussed may be emotive for some of the students. Trainers to give a health warning, which is appropriate for their forces.

By the end of this lesson, you will be able to:

1. **State** the differences between a Hate Crime & Hate incident.
2. **Explain** why particular members of society might be subject to hate/prejudice.
3. **Describe** the impact Hate Crime/Hate Incidents might have on victims
4. **Outline** the initial police response to Hate Crime/Hate Incidents
5. **Discuss** key definitions and legislation associated with Hate Crime, Hate Incidents and Racial/Religious aggravated offences.



Trainer to write 'Hate Incident' and 'Hate Crime' on the whiteboard

QTS – What do the headings 'Hate Crime' & 'Hate Incident' mean?

State:

The police and Crown Prosecution Service have agreed a common definition of hate incidents. **(Click)**

This means that if someone believes something is a hate incident it should be recorded as such. It is possible that the reporting officer may be the only person that perceives such a motivation.

All police forces record hate incidents based on these five personal characteristics.

- Sexual orientation/perceived sexual orientation
- Transgender/perceived transgender
- Race/perceived race
- Religion/perceived religion
- Disability/perceived disability

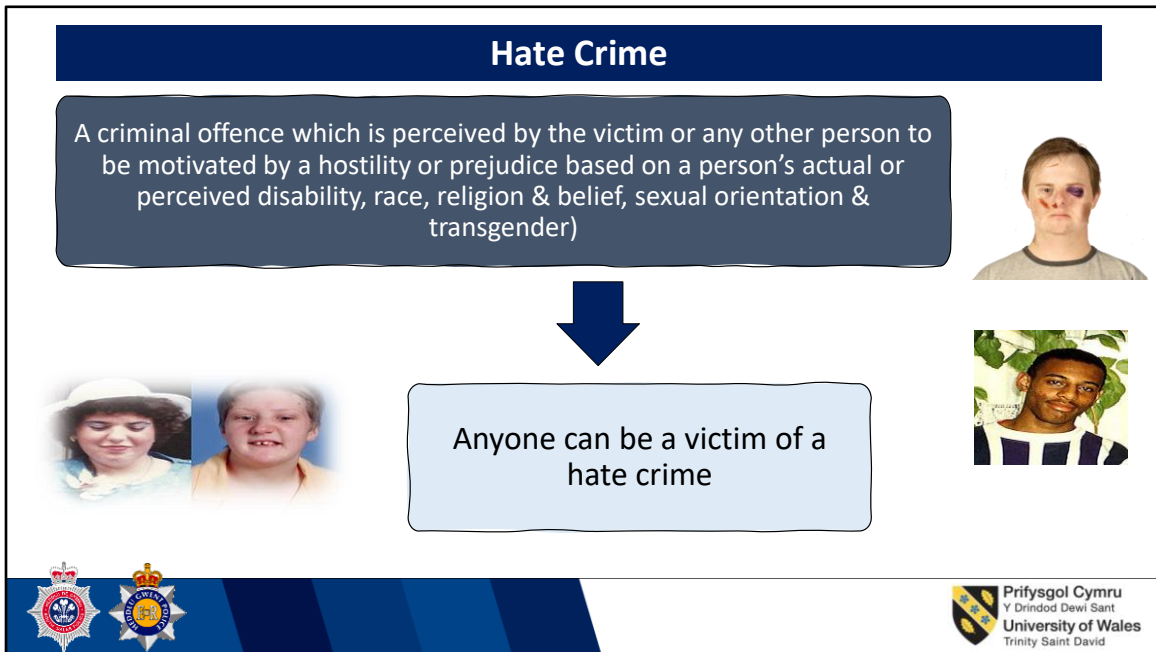
Some police forces also record hate incidents based on other personal characteristics such as age.

It is important to note that prejudicial behaviour towards a social group can be based on a wide range of identifying factors, not exclusively those mentioned above.

Examples – ASB (throwing fireworks) throwing mud against someone's house wall, posting litter through letterbox, persistent knock door run etc.

What must be made clear is that evidence of an offence is not required in order for an

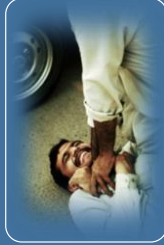
allegation of a hate incident to be recorded. THE PERCEPTION THAT A HATE INCIDENT HAS OCCURRED ON THE PART OF ANYONE IS ALL THAT IS REQUIRED.



The definition of 'Hate Crime' is defined by NPCC and the CPS and is given on the CPS website as:

'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 race or perceived race; religion or perceived religion; sexual orientation or perceived sexual orientation; disability or perceived disability and any crime motivated by hostility or prejudice against a person who is transgender or perceived to be transgender.'

Hate Motivation



Hate crimes & incidents are taken to mean any crime or incident where the perpetrator's hostility toward or prejudice against an identifiable group of people is a factor in determining who is victimised



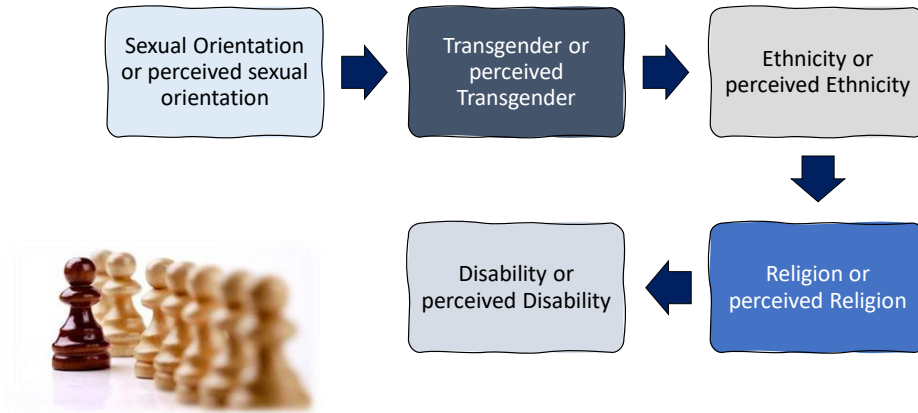
QTS – what is prejudice?

QTS – what is hate?

This is a broad and inclusive definition.

A victim does not **have** to be a member of the group it is the offender's perception that will make someone 'part of a group'.

Identifiable Groups



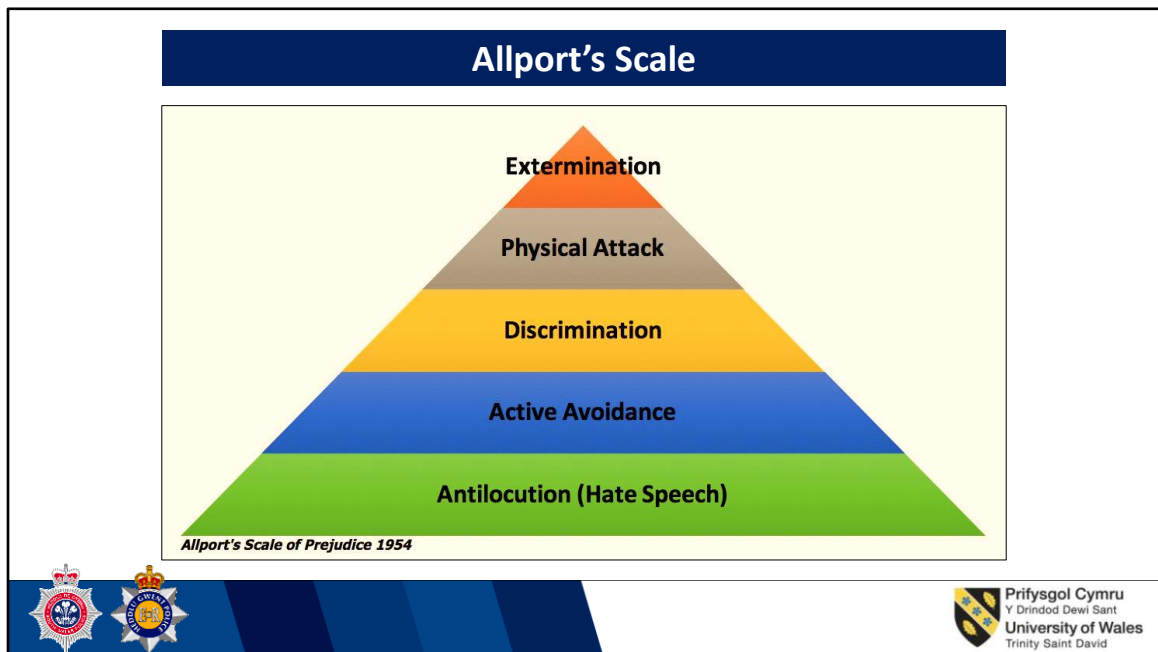
Hostility



'ill-will, ill-feeling, spite,
contempt, prejudice,
unfriendliness,
antagonism, resentment
& dislike'



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Trainer to link in Allport's scale and the impact hate crime can have on communities.

Allport's Scale is a measure of the manifestation of prejudice in a society. It is also referred to as **Allport's Scale of Prejudice**. It was devised by psychologist Gordon Allport in 1954.

Allport's Scale of Prejudice goes from 1 to 5.

1. Antilocution

Antilocution occurs when an in-group freely purports negative images of an out-group. Hate speech is included in this stage. Although antilocution itself may not be harmful, it could set the stage for more severe outlets for prejudice

2. Avoidance:

Members of the in-group actively avoid people in the out-group. No direct harm may be intended, but psychological harm often results through isolation

3. Discrimination

The out-group is discriminated against by denying them opportunities and services, putting prejudice into action. Behaviors have the intention of disadvantaging the out-group by preventing them from achieving goals, getting education or jobs, etc. Examples include Jim Crow laws in the US, the Statute of Kilkenny in British Ireland, Apartheid in South Africa, the Nuremberg Laws in 1930's Germany and antisemitic laws in the Middle East.

4. Physical Attack

The in-group vandalizes, burns, or otherwise destroys out-group property and carries out violent attacks on individuals or groups. Physical harm is done to members of the out-group. Examples include pogroms against Jews in Europe, the lynchings of blacks and Italians in the

US, and ongoing violence against Hindus in Pakistan

5. Extermination

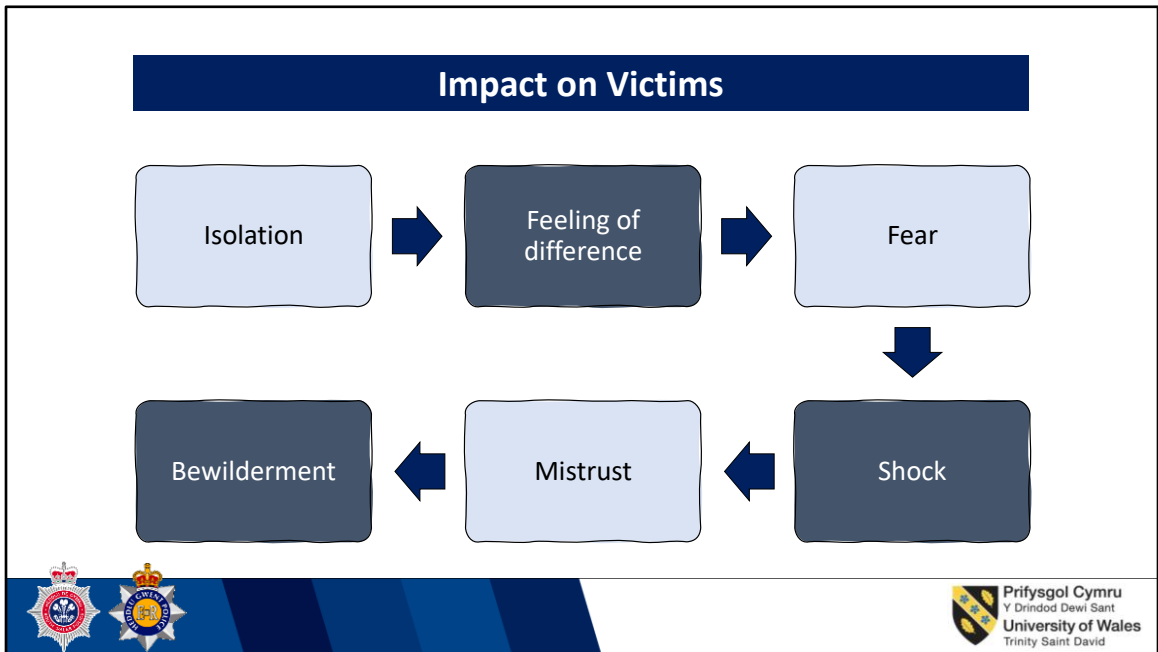
The in-group seeks extermination or removal of the out-group. They attempt to eliminate either the entirety or a large fraction of the undesired group of people. Examples include the Cambodian genocide, the Final Solution in Nazi Germany, the Rwandan genocide, the Armenian Genocide, the Genocide of the Hellenes and ethnic cleansing in the Bosnian War

Activities 2 & 3 to follow this slide as per lesson plan

Impact on Victims



Trainer to pose question to students and record answers on wipe board



Trainer to pose question to students and record answers on wipe board

Should we treat everyone the same?



QTS – Should we treat everyone the same?

Trainer to pose question to students and discuss answers provided.

Trainer to discuss the idea of treating everyone the same.

Is this always appropriate or should we treat people according to their needs?

What about the public perception?

What would they expect?

Hate Incidents and Hate Crime

The notion of 'treating everyone the same' is not appropriate



The notion of 'treating everyone the same' is not appropriate:

As Police Officers it is our duty to recognise the vulnerable groups within our communities who are likely to be victimised.

We must ensure they receive the standard of policing that is appropriate to their particular circumstances.

This may involve extra protection, extra preventative measures, additional support for victims or careful liaison to ensure that all sections of the relevant group are consulted.

Recording of Non-Crime Hate Incidents (NCHI)

Not all reported incidents need to be recorded as a NCHI. An NCHI is 'an incident or alleged incident which involves or is alleged to involve an act by a person 'the subject') which is perceived by a person other than the subject to be motivated wholly or partly – by hostility or prejudice towards persons with a particular characteristic'

Even when a report is perceived by the complainant to be motivated by hostility or prejudice, it should only be recorded as an NCHI where that perception is reasonable. If the complaint is irrational, trivial or malicious it should not be recorded as an NCHI

Furthermore, the personal data of the subject may only be included when the incident meets the additional threshold set out in the Code of Practice.

This is when the incident 'presents a real risk of significant harm to individuals or groups with particular characteristics &/or a real risk that a future criminal offence may be committed against individuals or groups with particular characteristics'.



Police forces should always ensure that neutral, non-criminal terminology is used when making enquiries about an incident or when recording an NCHI.

- A **complainant** may be the individual who has experienced the incident, or alleged incident, & reported it to the police, or any other person who has first-hand knowledge of the incident (for instance, someone who has witnessed the incident or alleged incident). For the avoidance of doubt, where an individual is making, or has made, a complaint about another person, they are referred to as the 'complainant'.
- The person being complained about is referred to as the **subject**.

Hostility & prejudice have no specific legal definition. **Hostility** represents the legal threshold for prosecuting hate crimes in law, whereas **prejudice** only features in NCHI recording. For the purposes of NCHI recording, either factor may be present, in line with the ordinarily understood meaning of these terms.

Applying a proportionate, lawful, accountable, necessary & ethical (PLANE) approach to decision making will support common sense and judgement.

Chief officers must ensure that when it is necessary & proportionate to record NCHIs – & where personal data is recorded and retained – this is done by the least intrusive method & achieves a policing purpose.

Police should always use the least intrusive method of contact for achieving their legitimate aims – for example, a telephone call or letter rather than a visit to the subject's place of work.

When making decisions about reported incidents, police officers & staff must apply the Code's provisions using common sense & professional judgement based on the available information.

A particular characteristic, for the purposes of an NCHI recording, means a characteristic that is protected under hate crime legislation – race or perceived race, religion or perceived religion, transgender identity or perceived transgender identity, sexual orientation or perceived sexual orientation, disability or perceived disability

While the Code applies specifically to incidents involving particular characteristics, there may be cases where a force considers it necessary to record incidents involving protected or other characteristics not covered by hate crime legislation, for example, incidents that target homeless people.

Although outside the scope of the Code, police officers & staff should apply the same decision making, particularly in the context of the need to protect the right to freedom of expression & when considering whether to record the personal data of the subject.

Trainer to distribute/ direct students to the handout 'process flowchart for recording Non-Crime Hate Incidents' on Moodle

Hate Incidents and Hate Crime

It is important that victims of hate crime/incidents are offered support from very early on. Other agencies that can assist include:

Local Authority
Probation
Service

Local Education
Authority

Safeguarding
Children Board

Primary Care
Trusts

Race Equality
Councils (R.E.Cs)



QTS – What else can we do to help victims of Hate Crime & incidents?

The notion of ‘treating everyone the same’ is not appropriate:

As Police Officers it is our duty to recognise the vulnerable groups within our communities who are likely to be victimised.

We must ensure they receive the standard of policing that is appropriate to their particular circumstances.

This may involve extra protection, extra preventative measures, additional support for victims or careful liaison to ensure that all sections of the relevant group are consulted.

Racially & Religiously Aggravated Offences



The definition of these aggravated offences was enacted under the Crime and Disorder Act 1998 which created a number of specific offences of racially aggravated crime, based on offences of Wounding, Assault, Criminal Damage, Public Order (harassment and threatening/abusive behaviour).

Racially & Religiously Aggravated Offences



Section 28 Crime and Disorder Act 1998

An offence is racially or religiously aggravated if, at the time of committing, or immediately before or after doing so,

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



The definition of these aggravated offences was enacted under the Crime and Disorder Act 1998 which created a number of specific offences of racially aggravated crime, based on offences of Wounding, Assault, Criminal Damage, Public Order (harassment and threatening/abusive behaviour).

Monitoring had indicated that these types of crime were those most commonly experienced by victims of racial violence or harassment.

The Act was amended by the Anti-Terrorism Crime and Security Act 2001. It extended the scope of the Crime and Disorder Act by creating a new specific religiously aggravated offence – Harassment, and applying the same sentencing duty to all other offences where there is evidence of religious aggravation.

The Act was amended further by the Protection of Freedoms Act 2012, which created a new specific offence of stalking and it also created racially and religiously aggravated versions of these offences.

Membership – in relation to a racial or religious group, includes association with members of that group

Presumed – means presumed by the offender

Racial Groups & Religious Groups



S28(4) Crime and Disorder Act 1998



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



A group of persons defined by reference to religious belief or lack of religious belief



The definition of these aggravated offences was enacted under the Crime and Disorder Act 1998 which created a number of specific offences of racially aggravated crime, based on offences of Wounding, Assault, Criminal Damage, Public Order (harassment and threatening/abusive behaviour).

Racially & Religiously Aggravated Offences

Assaults

Common Assault

Actual Bodily Harm

Wounding or Grievous Bodily Harm



Stalking & Harassment

Stalking & Harassment

Putting People in Fear of
Violence



The offences you can see are defined as being racially aggravated under Sections 28 to 32 of the Crime and Disorder Act 1998 and should be charged as the aggravated offences created by the Crime & Disorder Act, If found guilty the offender will automatically receive higher sentencing.

All other offences should be charged as the offence committed for example the Theft Act 1968, and any racially or religious aggravation added to the file so that sentence can be increased if the courts feel this is appropriate.

The pictures you can see are from an incident in Birmingham, where a female Lidl store assistant abused a customer because she thought he was Muslim.

Witnesses said the man got into an argument with the cashier in front of other customers because he did not know that carrier bags in the supermarket had to be paid for.

The cashier repeatedly swore at the man while customers watched, and she described him as an 'arrogant Muslim'. She even addressed him as 'Mohammed'.

He made a comment about the way she was speaking to him and she just exploded shouting 'I was having a good day until I saw your f***ing face.' Shoppers heard her screeching: 'Go on, you Muslim, die.'

Racially & Religiously Aggravated Offences: Penalties

Assaults

Common Assault

Summary 6 months
imprisonment or fine.
Indictment 2yrs

S47 – ABH

Summary 6 months
imprisonment or fine.
Indictment 7yrs

S20- Malicious Wounding or GBH

Summary 6 months
imprisonment or fine.
Indictment 7yrs



The definition of these aggravated offences was enacted under the Crime and Disorder Act 1998 which created a number of specific offences of racially aggravated crime, based on offences of Wounding, Assault, Criminal Damage, Public Order (harassment and threatening/abusive behaviour).

Section 29 of the Crime and Disorder Act 1998 provides three racially or religiously aggravated assault offences committed where an assault meets the racial or religious aggravation test in section 28.

29(1) A person is guilty of an offence under this section if he commits -

- (a) an offence under section 20 of the Offences Against the Person Act 1861 (malicious wounding or grievous bodily harm);
- (b) an offence under section 47 of that Act (actual bodily harm); or
- (c) common assault,

which is racially or religiously aggravated for the purposes of this section.

- Did this happen Kamil?

Comparison

Offence:	Non-Racially Aggravated:	Racially Aggravated:
Common Assault:	6 months imprisonment	2 years imprisonment
Actual Bodily Harm:	5 years imprisonment	7 years imprisonment
Grievous Bodily Harm:	5 years imprisonment	7 years imprisonment



Racially & Religiously Aggravated Offences: Penalties

Criminal Damage

Summary 6 months imprisonment +/- fine. Indictment 14 yrs

Public Order

S4 Fear or Provocation of Violence

Summary 6 months
imprisonment +/- fine.
Indictment 2yrs

S4A Intentional Harassment, Alarm or Distress

Summary 6 months
imprisonment +/- fine.
Indictment 2yrs

S5 Harassment. Alarm or Distress

Summary 6 months
imprisonment +/- fine



Racially & Religiously Aggravated Offences: Penalties

S2 or 2A Offences of Harassment & Stalking

Summary 6 months imprisonment
+/- fine. Indictment 2yrs

S4 or 4A Harassment with Fear of Violence & Stalking involving Fear of Violence or serious alarm or distress

Summary 6 months imprisonment
+/- fine. Indictment 7yrs



Racial & Religious Hatred 2006

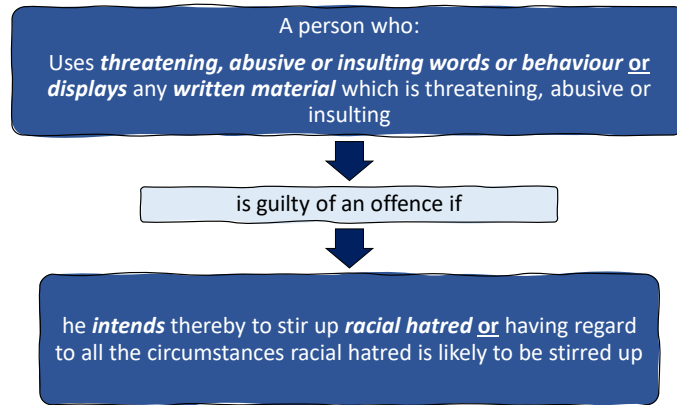


Racial & Religious Hatred Act 2006

An Act to make provision about offences involving stirring up hatred against persons on racial or religious grounds.

The Public Order Act 1986 is amended in accordance with the Schedule to this Act, which creates offences involving stirring up hatred against persons on racial and religious grounds.

Racial & Religious Hatred S18 POA 1986



Threatening includes verbal and physical threats, and also violent conduct; **abusive** means using degrading or reviling language; **insulting** has been held to mean scorning, especially if insolent or contemptuous. It does not mean behaviour which might give rise to irritation or resentment (e.g. running onto a tennis court at Wimbledon blowing a whistle and stopping the game)

The term **'displays'** is not defined by the Act itself. The word should therefore be given its natural meaning as defined by the Oxford dictionary - **display** means a visual presentation, the action, or act of displaying or exhibiting to view or the presentation of printed matter in such a way as to make it visually prominent.

written material

includes any sign or other visible representation. (see note below).

Note

Common sense dictates that the words be given their natural meanings. 'Visible representation' is defined by the Oxford Dictionary as a reproduced image or likeness, visible to the eye. This should include electronic forms of representation such as television displays and computer monitor images, as well as the more permanent forms such as photographs etc.

In criminal law **'intent'** is often an element of the offence. It is known in law as 'mens rea', which is Latin for 'guilty mind'. Intention is not defined but has to be proved. It can be proved by drawing on two sources of information or by a combination of both:

- 1) By admissions made by the defendant in interview with reference to his state of mind at the time of commission of the offence and his answers to questions with regard to his actions and intentions at the time of the offence.
- 2) By inference from the circumstances the offence, any evidence from witnesses, the defendant's actions and property found on him or in his control, such as a motor vehicle for transporting property.

To prove intent, an officer needs to take all this into account, the important thing is that he has to prove the defendant's state of mind at the time

Racial & Religious Hatred S19 POA 1986

A person who:
Publishes or distributes any **written material** which is threatening,
abusive or insulting



is guilty of an offence if



he **intends** thereby to stir up **racial hatred** **or** having
regard to all the circumstances racial hatred is likely to
be stirred up



Either Way

SUMMARY: Six months imprisonment and / or a fine.

INDICTMENT: Seven years imprisonment and / or a fine.

Consent of Attorney-General required for prosecution

Note that the points to prove are exactly the same as those in the Sec 18 offence covered previously.

In proceedings for an offence under this section it is a defence for an accused who is not shown to have intended to stir up racial hatred to prove that he was not aware of the content of the material and did not suspect, and had no reason to suspect, that it was threatening, abusive or insulting.

References in this part to the **publication and distribution** of written material are to its publication or distribution to the public or a section of the public.

Note

It **must** be proved that there was a publication or distribution to the public or to a section of the public.



Racially & Religiously Aggravated Offences

Kamil's story



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QTS – Now that we've explored legislation around this area, what offences, if any can you identify from the video?

The definition of these aggravated offences was enacted under the Crime and Disorder Act 1998 which created a number of specific offences of racially aggravated crime, based on offences of Wounding, Assault, Criminal Damage, Public Order (harassment and threatening/abusive behaviour).

The number of hate crimes in England and Wales has increased by 29%, according to Home Office statistics.

There were 80,393 offences in 2016-17, compared with 62,518 in 2015-16, the largest increase since the Home Office began recording figures in 2011-12.

https://www.youtube.com/watch?v=kYqJ_zuMhEc



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