

# Criminal justice processes

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Under [\*\*The Director's Guidance on Charging\*\*](#), crown prosecutors are responsible for making all charging decisions for any offence recorded as a hate crime, whether admitted or not. The following information will help prosecutors to make an appropriate charging decision and support a request for enhanced sentencing:

- details of the incident, accurately reflecting potential offences
- that it has been recorded by the police as a hate crime
- who perceived this offence as a hate crime
- evidence of hostility being a motivation or being demonstrated
- any additional aggravating factors
- victim personal statements
- risks identified to victims or witnesses
- risk of community tension or civil unrest
- special measures to help victims or witnesses

Other material that will assist the prosecution includes:

- previous incidents involving the victim
- previous incidents involving the defendant
- the ability and/or willingness of the victim to give evidence
- the impact of the alleged offence on the wider community
- the likelihood of recurrence
- an assessment on the safety of the victim and their family
- information from other agencies, for example, social services or housing departments
- any other orders in existence, for example, civil injunctions, community protection orders (CPO) or criminal behaviour orders
- whether the current incident breaches any existing order or injunction

See also [Prosecution and case management](#).

## Bail proceedings

Victims of hate crime may be afraid of repercussions or intimidation when a suspect is charged. To protect victims and witnesses, the CPS may apply for a remand in custody or ask the court to attach bail conditions.

The court can only remand a suspect in custody if the CPS can show that there are substantial grounds for not granting bail. The following information should support this decision-making:

- previous convictions
- previous breaches of bail conditions

See also:

- [Victim and witness care and support](#)
- [CPS interim guidance](#)
- [CPD Director's guidance](#)

## Alternative outcomes

Out-of-court disposals are available in hate crime cases. See the [CPS interim guidance](#) for further information. However, conditional cautions for hate crime cases can only be issued in consultation with and with the authority of a crown prosecutor.

Many forces have developed alternative resolutions to 'low-level' hate crime that divert offenders away from the courts. Pilots are taking place in some force areas to use restorative justice as a response to hate crime, for example, [Derbyshire](#).

Hate crimes may involve complex underlying issues which mean that out-of-court disposals or informal resolutions (including those using restorative justice) may not effectively manage the longer-term criminality that only formal interventions (usually court proceedings) can achieve.

See also [Possible justice outcomes following investigation](#).

## At court

Attending court and giving evidence can be particularly traumatic for victims and witnesses of hate crime.

Further advice and resources about court proceedings for victims and witnesses are available on the [Victim Support website](#). See also [Victim and witness care and support](#).

## Victim withdrawal from a prosecution

In cases where a victim or witness wishes to withdraw their support for the prosecution, a statement should be taken explaining their reasons. When submitting the withdrawal statement to the CPS, the officer should also attach a report setting out:

- the reasons given by the victim
- how the victim might react to being compelled
- future risks to the safety of the victim and their family
- the impact on the wider community

See also:

- [Risk assessment](#)
- [Risk management](#)

## Tags

Hate crime