



CPS

**Policy for Prosecuting
Cases of Homophobic
and Transphobic
Hate Crime**

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What do we mean by a homophobic or transphobic incident?

There is no legal definition of a homophobic or transphobic incident. However, we adopt this definition when applying our policy:

“Any incident which is perceived to be homophobic or transphobic by the victim or any other person”.

This definition is wide and covers all incidents which are felt to be homophobic or transphobic by anyone involved in them (including the perpetrator) or by anyone who witnesses them.

I am being targeted because of my sexual orientation – what can the court do?

If someone pleads or is found guilty of a crime against you, and the court is satisfied that the crime was motivated by hostility towards you based on your sexual orientation, then the Court must treat this hostility as something that makes the offence more serious. The Court must state this openly so that everyone knows that this is the case.

The hostility could be based on what the offender thought your sexual orientation was – even if they were wrong.

I do not want my sexual orientation or trans identity to become widely known. What safeguards can you offer?

We recognise these concerns and we will treat all victims and witnesses with dignity. We will do all that we can to make giving evidence in court as easy as possible. This could include applying to the court for media reporting restrictions about your identity, although the court will need to be satisfied that it is in the interests of justice to make a reporting restriction.

If the court allows the application then all sections of the media are barred from publishing any information that could identify you.

What does the CPS do?

The CPS is the main public prosecution service for England and Wales, headed by the Director of Public Prosecutions. Although we work closely with the police, we are independent of them. The police are responsible for investigating criminal offences and for gathering the evidence. We have the responsibility for deciding (in all but the most minor cases) whether a suspect should be charged with a criminal offence, and, if so, what the charge(s) should be.

How does the CPS decide whether to charge someone?

We apply the Code for Crown Prosecutors. In order to bring a prosecution there must first be

sufficient evidence to provide a realistic prospect of conviction. If the case does not pass this evidential stage it must not proceed, no matter how serious or sensitive it may be.

If the case does pass the evidential stage, we must then decide if a prosecution is needed in the public interest (the public interest stage). We regard any offence based on hostility, because of perceived or actual sexual orientation, as being more serious. As a result, it will usually be in the public interest in homophobic or transphobic hate crime cases to bring a prosecution.

What if I don't want to go to court?

Your views as the victim of a crime are important when deciding whether a case should proceed or not, but they are not the only factor. We prosecute cases on behalf of the public at large and not just in the interests of any particular individual.

If a victim has withdrawn support for a prosecution, we have to find out why. We will explore all options fully and offer whatever support we can through our Witness Care Units before we decide whether or not to proceed with a prosecution. Generally speaking, the more serious the case, the more it will be in the public interest to proceed with a prosecution, even if the victim says they do not wish us to.

What do Witness Care Units do?

We have Witness Care Units in all CPS Areas, run jointly by the CPS and the police. Witness Care Officers provide a single point of contact and tailored support for each witness to ensure

that you are able to give your best evidence. If you are a victim of crime a Witness Care Officer will manage your care from the point of charge until the conclusion of the case.

What support will I receive at court?

When you attend court as a witness, the CPS prosecutor presenting the case will introduce themselves and answer any general queries that you may have. If you are kept waiting, we will make sure you are told the reasons for the delay and the estimated time when you will be required to give evidence.

Wherever possible, we will try to make sure that separate waiting facilities are made available for prosecution witnesses so that you do not have to mix with the defendant or his or her friends or family.

The following publications provide further information on how prosecution decisions are reached and what victims and witnesses can expect from the criminal justice system –

- CPS Policy for Prosecuting Cases of Homophobic and Transphobic Hate Crime
- The Code for Crown Prosecutors
- The Prosecutors' Pledge
- The Code of Practice for Victims of Crime (Victim's Code)

These publications are public documents and are available on the CPS website: www.cps.gov.uk

Or copies can be obtained from:

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London EC4M 7EX

Tel: 020 7796 8442

Fax: 020 77968351

Email: publicity.branch@cps.gsi.gov.uk

Translations into other languages, and audio copies are available.

Further information and support:

The Albert Kennedy Trust

www.akt.org.uk

Tel: 020 7831 6562

E-mail: contact@akt.org.uk

Unit 203, Hatton Square
16/16a Baldwins Gardens
London EC1N 7RJ

Gires (The Gender Identity Research & Education Society)

www.gires.org.uk

Tel: 01372 801554

E-mail: info@gires.org.uk

Melverley

The Warren

Ashstead

Surrey KT21 2SP

LGF (The Lesbian and Gay Foundation)

www.lgf.org.uk

Helpline: 0845 3 30 30 30

Princess House

105-107 Princess Street

Manchester M1 6DD

London Lesbian & Gay Switchboard

www.llgs.org.uk

Helpline: 020 7837 7324

E-mail: admin@llgs.org.uk

PO Box 7324

London N1 9QS

Stonewall

www.stonewall.org.uk

Info Line: 0800 50 20 20

E-mail: info@stonewall.org.uk

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