



CPS

Staffordshire Hate Crime Scrutiny Panel Annual Report 2008/09





CPS

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Foreword by Amir Kabal, OBE, Independent Chair of Hate Crime Scrutiny Panel

Staffordshire Hate Crime Scrutiny Panel was set up in February 2008. The membership of the Panel was openly recruited based on job specification. The purpose of the Panel was to provide a mechanism for ensuring transparency and accountability in decision-making in the area of hate crime. It was hoped this will lead to increased trust and confidence of key stakeholders and communities. This will be achieved by raising the awareness and understanding of the decision-making process of the CPS through the scrutiny of randomly selected finalised case files.

The Panel members were provided with training in March 2008 with an overview of the role of CPS and code of practice and policies in force in relation to hate crimes. The Panel met four times on a quarterly basis. One member at random was provided with list of all hate crimes files from which to select 10 cases for review. The Panel members were provided with a summary of the cases and had access to the full file. The Panel would meet for the first part of the meeting to consider all the selected cases and read files as necessary. They had access to a senior lawyer who was available to provide independent advice. The Panel members would then discuss the process and challenge outcomes with the Chief Crown Prosecutor.

We have made good progress in the first year. We have identified a number of issues for consideration by the Criminal Justice partners. It has been an enjoyable learning experience for the Panel members and I believe we have got better with each meeting. We have been provided with excellent support by the administration staff. The Chief Crown Prosecutor and the Lawyer have been most helpful. I believe the members have provided independent scrutiny to the system and we look forward to the next year with excitement and expectation.

A handwritten signature in black ink, appearing to read 'A. Kabal', with a horizontal line underneath.

Amir Kabal, OBE, Independent Chair



Introduction from Harry Ireland, Chief Crown Prosecutor for Staffordshire

Welcome to Staffordshire's first Hate Crime Scrutiny Panel annual report. This report aims to set out why we have set up the Panel and what the Panel has been doing over the last 12 months.

Hate crime can have a lasting effect on individuals and communities and we are continually reviewing ways to improve the way we prosecute these crimes.

To this end we set the independent Hate Crime Scrutiny Panel in order to scrutinise finalised hate crime cases with a view to providing possible service improvements. The Panel consists of representatives from various community groups who bring with them experiences and views which ordinarily are not included in case papers but are vital for the CPS in ensuring that we have all relevant factors before us when making the decision to prosecute.

The Panel has developed over the last 12 months into a forum where open discussions around selected hate crime cases have taken place. All points and observations made by the panel members have been fed back internally to our prosecutors or where appropriate to our criminal justice partners.

I hope that the Panel will develop further in the future to bring about a dialogue with all sections of the community to ensure that our decisions and our procedures take into account the individuality and diversity of local society.

Hate crime in Staffordshire is relatively low but this area of crime is one that is still under reported and with the help of the panel we want to build confidence in local communities that hate crime will not be tolerated and will be rigorously prosecuted. People should not live in a society whereby they are targeted by hatred towards them.

The work of the Panel through the continued scrutiny of hate crime cases in an open and transparent way can only improve how the CPS locally and nationally prosecutes hate crimes.

A handwritten signature in black ink, appearing to read 'Harry Ireland', written in a cursive style.

Harry Ireland, Chief Crown Prosecutor

What is the CPS?

The Crown Prosecution Service (CPS) was set up in 1986 to prosecute criminal cases investigated by the police in England and Wales. The CPS is a department of central government which acts independently from the Government in accordance with statute. The head of the CPS is the Director of Public Prosecutions (DPP), who has overall responsibility for the Service and its prosecutions. The Chief Executive, who is responsible for the administration of the CPS, assists the DPP. The DPP is superintended by the Attorney General who is accountable to Parliament for the CPS. The CPS is organised into 42 Areas across England and Wales matching police force boundaries. Each Area is headed by a Chief Crown Prosecutor who is responsible for the delivery of a prosecution service to his or her local community. Each Chief Crown Prosecutor is supported by an Area Business Manager, and their respective roles mirror, at a local level, the division of responsibilities between the DPP and Chief Executive. Since 2008 the 42 Areas have been arranged into 14 regions plus London- these are the CPS Groups.

As the principal prosecuting authority in England and Wales, we are responsible for:

- Charging offenders in all but the most minor offences
- Providing advice on cases submitted by the police
- Where the decision is to prosecute, determine the charge in all but minor cases
- Preparing cases for court
- Presentation of cases at court
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The CPS works to prosecute cases firmly, fairly and effectively, where there is sufficient evidence to provide a realistic prospect of conviction and when it is in the public interest to do so. This is done by reviewing each case against the Code for Crown Prosecutors. The Code gives guidance on the principles to be applied when making decisions about prosecutions. It is designed to make transparent the principles applied when prosecuting crimes. The Code is a public document and is available in community languages, alternative formats and on our website <http://www.cps.gov.uk/>

Although the CPS works closely with the police, we are independent of them. The independence of Crown Prosecutors is of fundamental constitutional importance. Casework decisions taken with fairness, impartiality and integrity help deliver justice for victims, witnesses, defendants and the public. More information about the CPS can be found at <http://www.cps.gov.uk>

Annual report objectives

The key objective of the annual report is to account for the actions taken by the panel over the year, as well as highlighting any developments in relation to the operation of the panel or in relation to membership of the panel. Information from the annual report for each CPS Area will also be fed through to the Equality and Diversity Unit to collate, so that there is a national picture of what panels are doing. This information will also be shared with all the CPS Areas, so that Areas can learn from each other.

What are hate crimes?

The CPS has produced separate policies and guidance for prosecutors in relation to the following hate crimes

- o racist and religious crime
- o homophobic and transphobic hate crime
- o disability hate crime

Racist and Religious hate crime

The CPS uses the definition of a racist or religious incident contained within the McPherson Report, which was published after the murder of Stephen Lawrence. This is “any incident which is perceived to be racist or religious by the victim or any other person”. The Crime and Disorder Act 1998, as amended, creates a statutory definition of racial and religious aggravation, a range of racially or religiously aggravated offences and a duty for the court when sentencing to treat more seriously any offence (other than one charged as a *specific* racially or religiously aggravated offence) where there is evidence of racial or religious aggravation. The prosecutor must first prove that the offender committed the basic offence and then that the offence was racially or religiously aggravated.

Homophobic and Transphobic hate crime

A definition based on the McPherson definition has been adopted by CPS and this is “any incident which is perceived to be homophobic or transphobic by the victim or any other person”. In April 2005 section 146 of the Criminal Justice Act 2003 was implemented. Section 146 of the Criminal Justice Act 2003 does not create any new offences but it imposes a duty upon the courts to increase the sentence for any offence aggravated by hostility based on the victim’s sexual orientation (or presumed sexual orientation). Section 146 does not, however, apply in cases where hostility is based on the victim’s gender identity or presumed gender identity.

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What are hate crimes?

Disability hate crime

There is no statutory definition of a disability related hate crime, however, the CPS have adopted the following definition; “Any incident, which is perceived to be based upon prejudice towards or hatred of the victim because of their disability or so perceived by the victim or any other person”. In April 2005 the law was changed by section 146 of the Criminal Justice Act 2003. Section 146 did not create any new offences but it did impose a duty upon courts to increase the sentence for any offence aggravated by hostility based on the victim’s disability (or presumed disability). Therefore, when the court is deciding on the sentence to be imposed, it must treat evidence of hostility based on disability as something that makes the offence more serious. The court must also state that fact openly so that everyone knows that the offence is being treated more seriously because of this. The CPS therefore now has a duty to ensure that where there is evidence of such hostility, this is brought to the attention of the sentencing court.

Domestic violence and violence against women

Prior to April 2008, domestic violence was recorded as a hate crime, which meant that cases of domestic violence could be scrutinised as part of the hate crime scrutiny panel process. In April 2008, the CPS produced its first Violence against Women Strategy. Domestic violence and other forms of violence against women are now all part of that co-ordinated strategy. Hate crime scrutiny panels provide a valuable opportunity to gather qualitative evidence about how our policies are translated into practice and some Areas have found it useful to broaden the remit of their scrutiny panels to incorporate this strand.

Why was the panel set up? National context & objectives

The first hate crime scrutiny panel was set up in West Yorkshire in 2004. The panel was independently evaluated in 2006 by the University of Hull. The evaluation commended the West Yorkshire panel as ground breaking in terms of accountability and transparency. The evaluation concluded that such panels could be usefully introduced across the county.

What does a hate crime scrutiny panel do?

At each panel meeting (held quarterly) panel members look at a number of randomly selected case files, where the case has been finalised. They usually look mainly at unsuccessful cases in order to learn lessons for the future. At the end of the day, the panel will have put forward a series of recommendations that in the panel’s view reflects issues related to the handling of the cases they have looked at.

The CPS will then either act on the recommendation itself, or if the recommendation relates to partner agencies, pass the comments on to the partner service. Each meeting starts with a progress report on the implementation of previous recommendations.

How were members recruited?

Firstly an independent chair for the panel was recruited, this was done first in order to enable them to be part of the panel member selection process.

Panel members were then recruited through a variety of different organisations within Staffordshire. Invitations to join the panel were sent out through the county's three hate crime forums, local councils, community organisations and the voluntary sector.

Sent out with the invitations was an outline of why we were setting up the panel and a 'job specification' for the panel member.

All panel member applications were considered by the independent chair and Chief Crown prosecutor and any additional panel members who subsequently joined were considered by the full panel.

What training did they receive?

Once the panel had the right number and mix of members a full training day was set up for them in order for them to fully understand their role as a panel member but also what guidelines and policies we have in place to specifically prosecute hate crime.

The panel were given an overview of the Code for Crown Prosecutors which is the document that all prosecutors have to firstly apply and then our Area Hate Crime Champion gave presentations on our specific hate crime policies and how they are applied.

At the training day panel members were shown a finalised file for each of the hate crime areas and a domestic violence file in order to explain further how files were put together and what information they contained.

CPS Staffordshire Hate Crime Scrutiny Panel Panel Member Specification

- Experience of directly or indirectly advising and supporting victims and witnesses of hate crime
- Willing to work constructively with other members of the Panel
- A commitment to working in a way that respects difference and values diversity
- Understanding of institutional discrimination within the criminal justice system (CJS) and how this impacts on community trust and confidence in the CJS

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CPS Staffordshire Hate Crime Scrutiny Panel Panel Member Specification

- Understanding of institutional discrimination within the criminal justice system (CJS) and how this impacts on community trust and confidence in the CJS
- Ability to bring relevant expertise and experience to the Panel in relation to supporting victims and witnesses of hate crime
- Willing to complete a register of interests (if such interests relate to paid work the member provides to any other relevant agencies, and such work is likely to be of material relevance to the member's role on the Panel)
- Willing to sign a declaration of confidentiality and maintain confidentiality
- Willing to undergo a security check to achieve security clearance.

Panel Members

**Amir Kabal, OBE, Independent Chair
East Staffordshire Racial Equality Council**

**Angie Bunn
Development Officer, Disability Solutions**

**Jenny Graham,
Community Engagement Team, Stoke-on-Trent City Council**

**Loleita Higgins
Hate Crime Officer, Staffordshire Police**

**Theresa Kirkham
Project Officer, PARINS
(Partnership Approach to Racist Incidents in North Staffordshire)**

**Zou Mohammed
Staffordshire County Council**

**If you are interested in sitting on the panel please contact us,
all details are on the back of the report.**

Terms of Reference for members of the Staffordshire Hate Crime Scrutiny Panel

The Staffordshire Hate Crime Scrutiny Panel is a mechanism for ensuring transparency and accountability in decision making in the area of racist and religious crime, homophobic crime, disability hate crime and domestic violence. The Panel aims to contribute to raising the trust and confidence of our key stake-holders and communities. This will be achieved by raising the awareness and understanding of the decision-making processes of the CPS through the scrutiny of randomly selected case files, and acting on learning points that emerge from that scrutiny.

Aims:

- To widen the understanding of the decision-making processes in the handling of hate crime cases
- To review and scrutinise randomly selected finalised hate crime case files
- To identify issues, common themes, trends in the decision making process, looking in particular at the impact of decision making on diverse communities of interest
- To make reports and recommendations to CPS Staffordshire Management Board in connection with learning
- Through the Chief Crown Prosecutor, to inform other agencies of relevant learning arising from the review and scrutiny of case files
- To improve Staffordshire's performance on hate crimes by the Panel acting as a critical friend in the area of hate crime training, deployment and delivery.

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Terms or Reference for members of the Staffordshire Hate Crime Scrutiny Panel

Membership:

- Membership of the Hate Crime Scrutiny Panel consists of organisations which are represented by the named panel member, or in Area's where membership is not drawn from a specific organisation, the individual member is the member
- Initially, membership of the Hate Crime Scrutiny Panel; will be offered for a period of two years, subject to review after 12 months. This review will give members the opportunity to withdraw from the Panel if they wish or to discuss any specific issues in relation to their continuing membership
- Membership may be extended beyond two years if it is considered to be for the benefit of the Panel. Members may self-terminate their membership of the Panel at any time
- The independent facilitator will sit for a period of three years and then be subjected to an annual review. She/he may be reselected to sit for a further two year period
- Should a member move out of Staffordshire or leave for any other reason their deputy will be invited to join the Panel and a new deputy sought.

Staffordshire Hate Crime Performance 2008/09

Between April 08 and March 09 the Area has prosecuted a wide range of Hate Crimes with Domestic Violence being the largest area of prosecutions.

Hate Crime Offence	Number of offenders	Successful	Unsuccessful	Successful Prosecution Rate
Racist/Religious	198	170	28	86%
Homophobic	16	14	2	87.5%
Disability	10	7	3	70%
Domestic Violence (DV)	1,437	1,046	391	73%
DV with Racist/ Religious element	2	2	2	100%
DV with Disability element	4	2	2	50%

Summary

Over the past year the Staffordshire Hate Crime Scrutiny Panel has developed into an effective and open forum whereby finalised hate crime cases have been openly scrutinised by a Panel independent of the Crown Prosecution Service.

The Panel have identified a number of themes that required attention and action has been taken as a result of these recommendations to address and improve these areas.

Over the past year the Panel have scrutinised 39 cases, consisting of eight homophobic cases, seven disability cases, 10 racial/religious cases and 14 domestic violence cases.

Annex A

Schedule of outcomes

Brief outline of recommendations made by the panel	Actions taken in response to the recommendations	Identify business benefits derived as a result of the actions taken.
1. Panel members requested the meeting format be altered in order for them to obtain a better understanding of individual files prior to the legal advisor and CCP joining the meeting	Format of the meeting altered to include a pre-reading morning, with access to the full files prior to meeting the legal advisor and CCP	Increased clarity of cases and knowledge of individual cases being reviewed which has led to the more effective use of Panel time in scrutinising files
2. To improve the flagging of vulnerable/intimidated victims/witnesses on files	The CCP has raised this issue with the DCPs who have in turn brought the matter to the attention of their teams	The Area performance has improved considerably in relation to the flagging on files which include vulnerable/intimidated victims/witnesses
3. The need for prosecutors to distinguish in their review of files whether the case should be pursued as a disability hate crime or whether the case is one where the victim has been targeted as a result of his or her disability	Discussion around the Disability Hate Crime policy has been discussed at team meetings. A Disability Hate Crime Co-ordinator has been appointed for the Area and information on Disability Hate Crime has been issued to all lawyers directly	An improvement in the quality of Disability Hate Crime files being prosecuted, based on a hatred rather than the vulnerability of victim due to a disability

Brief outline of recommendations made by the panel	Actions taken in response to the recommendations	Identify business benefits derived as a result of the actions taken.
4. Request for prosecutors to make a clear endorsement on files to confirm whether the aggravating feature under s146 of the Criminal Justice Act 2003 has been brought to the attention of the court and that the court has announced this when passing sentence	The CCP has raised this issue with the DCPs who have in turn brought the matter to the attention of their teams	The Area has seen an improvement in file endorsements with regards to the use of s146
5. The Panel identified a communication issue between the police and the local authority regarding information flows where incidents had been reported to the local authority and there was potential for using this information to support a criminal ASBO application	A Panel member from the City Council has undertaken to take this issue back to the local authority and will peruse with the local Crime and Disorder Reduction Partnership	
6. The Panel was aware of the reluctance of some of the City's ethnic minority taxi drivers to report incidents of abuse. In a case reviewed by the Panel the taxi driver declined to make any statement but the case was pursued as a racially aggravated public order offence. The Panel suggested that the police may wish to record the licence no. of the taxi driver in such circumstances so that the outcome of the case could be communicated via the City Licensed Vehicle Hire Committee and hopefully encourage more drivers to come forward	Two Panel members sit on the City Licensed Vehicle Hire Committee and will raise this issue to be reported back at next Panel meeting (yet to be held)	



If you would like this report in another format or language please contact us—

**CPS Staffordshire
Area Secretariat
Building 3
Etruria Valley Office Village
Etruria
Stoke-on-Trent
ST1 5RU**

**tel: 01785 664565
email: Staffordshire@cps.gsi.gov.uk**

www.cps.gov.uk/staffordshire