



**CPS**

# **Hate crime and crimes against older people report**

2011-2012

# Contents

Foreword by the Director of Public Prosecutions	3
Executive summary	4
Introduction	8
Racially and religiously aggravated hate crime	12
Homophobic and transphobic hate crime	19
Disability hate crime	24
Stirring up hatred	29
Crimes against older people	32
Annex 1: Prosecutions by CPS Area	36
Glossary	41

# Foreword by the Director of Public Prosecutions

Hate crime can impact on any community and is often described as a message crime. The message being you don't count, don't belong, don't fit in, aren't welcome. According to the British Crime Survey, there are 260,000 crimes motivated by hostility on the grounds of race, religion, disability and sexual orientation.<sup>1</sup> This hostility can remove a person's dignity, their sense of security, their right to live free from harassment and, in extremis, their lives. This escalating scale of behaviour has the effect of belittling, exploiting and demeaning and is totally unacceptable.

There is now a better understanding within criminal justice agencies including the Crown Prosecution Service (CPS) of the seriousness and of the impact of hate crime on both individual victims and communities. This increased understanding underpins our continued commitment to increasing the volume and improving the quality of the hate crime prosecutions that we handle each year.

This year's Hate Crime and Crimes against Older People annual report once again highlights outstanding examples of effective practice and partnership working that have the potential to make a difference to our work going forward. Annual reporting also enables us to keep a watching brief on volume and performance across all hate crime strands and crimes against older people and provides us with an indicator of emerging priorities. This year has been no different and we have put in train a number of actions in response to our analysis.

There has been a significant amount of activity this year. The Equality and Human Rights Commission (EHRC) Inquiry into disability-related harassment and the subsequent joint thematic inspection featured highly. We responded to the inquiry report and developed a draft action plan, to be signed off once the thematic inspection reports. We have continued to benefit from the shared learning and contributions of Hate Crime Coordinators in each CPS Area and from the external scrutiny of our case work and performance provided by our Local Scrutiny and Involvement Panels.

Consequently, we are reporting on a year of progress and a year of learning. We have identified priorities and taken action. We remain committed to the rigorous scrutiny of our performance as the most effective guarantor of momentum into the future.

**Keir Starmer QC**  
**Director of Public Prosecutions**  
**October 2012**

<sup>1</sup> Hate Crime, Cyber Security and the Experience of Crime amongst Children: Findings from the 2011/12 **British Crime Survey**: Supplementary Volume 3 to Crime in England and Wales 2010/11.

# Executive Summary

The report illustrates positive outcomes in casework and provides examples of successful practice often supported by the contributions of others. Partnership work, policy development, research and guidance that supports these outcomes, all contribute to improving performance and are also included.

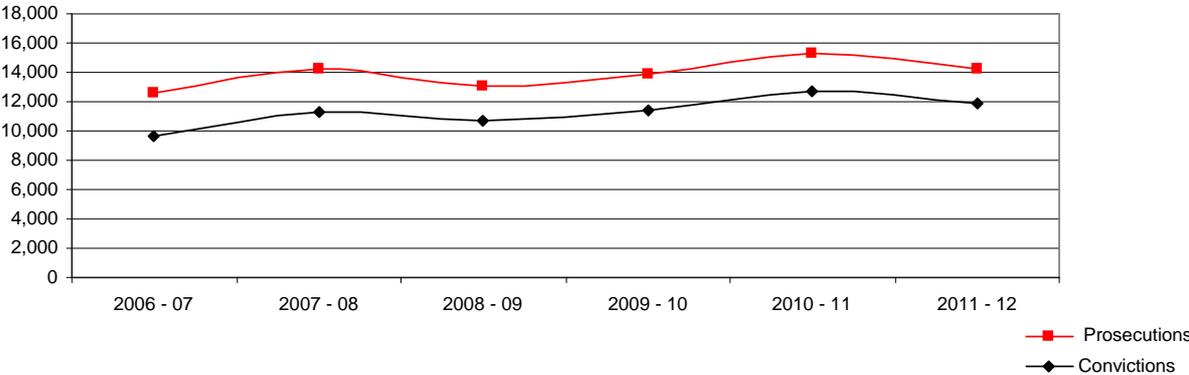
We also publish the underlying data used in our reports. The underlying data for this report can be found on the [data section of the CPS website](#).

In overall terms, volume has fallen this year both in terms of numbers of cases referred by the police for charging as well as the number of concluded prosecutions. The number of convictions also fell over the year, although the proportion of successful outcomes increased, as did the proportion of guilty pleas.

## Hate crime

- In 2011/12, the number of hate crime cases referred to the CPS by the police for decision fell by 5.0% to 14,781 from 15,519 the previous year. This is the first year that the number of referrals has fallen since 2006/07.
- The number of cases charged has increased from 8,390 (59.4%) in 2006/07 to 10,845 (73.4%) last year, but fell back on the previous year's figure by almost 3%.
- Between 2006/07 and 2011/12, the number of successful prosecutions across all types of hate crime has increased from 9,621 (76.8%) to 11,843 (83.4%). However, in 2011/12 the number of successes fell from the previous year's figure of 12,651 (82.8%).
- The volume of cases prosecuted has also increased between 2006/07 and 2011/12 from 12,535 to 14,196, but it has fallen back on last year's figure of 15,284.

Graph 1: Total hate crime



- Since 2006/07, the proportion of successful outcomes due to guilty pleas has steadily increased from 9,035 (69.3%). In the reporting year, the proportion of guilty pleas increased from 70.8% of successful outcomes in 2010/11 to 75.1% although the actual volume fell during the year from 10,823 to 10,658.
- Prosecutions can fail for a variety of reasons including difficulties associated with victims i.e. a victim retracts, unexpectedly fails to attend or their evidence does not support the case. These outcomes are classified as victims' issues and the proportion of these cases increased in 2011/12 from 19.9% (524) of the total number of failed hate crime cases the previous year, to 23.4% (551) this year.
- The most commonly prosecuted crimes in 2011/12 were offences against the person at 49.5% (44.3% in 2010/11) and public order offences at 31.5% (36.3% in 2010/11). It can be noted that the number of Public Order Offences prosecuted has steadily declined since 2007/08 from 5,543 (41.3%) to 4,326 (31.5%)
- The majority of defendants across all hate crime strands were men (82.9%).
- 73.9% of defendants were identified as belonging to the White British category.
- 54.2% of defendants were aged between 25-59 and 28.9% between 18-24.
- 10-17 year olds involvement as defendants continues to decline from 23.1% in 2007/08 to 14.1% last year.

The CPS has responded positively to the challenge of the Equality Act (2010) and our obligations under the public duties in particular. We published our equality and diversity objectives and began work on the development of an equality data strategy (that will be finalised later this year). This strategy will address a number of issues relating to the recording of data and other information relevant to hate crime, its effective prosecution and the appropriate support of its victims.

We responded to the Equality and Human Rights Commission's (EHRC) inquiry report into disability-related harassment '*Hidden in Plain Sight*', in February 2012 and have developed a draft disability hate crime action plan in response. The plan has been consulted on and will be finalised when the joint thematic inspection on disability-related harassment concludes later in 2012.

The CPS supports a range of cross-government initiatives. The Hate Crime Strategy Board convened jointly by the Ministry of Justice and Home Office continues to provide a single point of focus to discussion and coordinated action across government departments and agencies. Central areas of activity in this reporting year have been the development of '*Challenge It, Report It, Stop It: the Government's Plan to Tackle Hate Crime (March 2012)*'. In addition, the Board has also assisted in coordinating responses from across criminal justice agencies in relation to the EHRC Inquiry into disability-related harassment.

## **Racially and religiously aggravated hate crime**

- We are contributing to the work of the Government-led Anti-Muslim Hatred working group. We are currently examining our cases to provide an insight into the nature and type of offences being prosecuted.

- Cases involving harassment via social networking sites have been prosecuted underlining key messages about the abuse of this form of communication and reinforcing the value of the guidance initiated by CPS Merseyside and Cheshire in discussion with its hate crime scrutiny panel.
- The number of defendants referred to the CPS for a charging decision by the police fell by 5% to 12,772 from the previous year. The total number of prosecutions completed during the year also fell by 7% to 12,367.
- Despite the fact that the number of convictions dropped from 11,038 in 2010/11 to 10,412 in the reporting year, the proportion of successful outcomes increased by just over 1% to 84.2%.
- The number of convictions for racist and religious hate crime fell from 11,038 to 10,412 over the reporting year although the proportion of successful outcomes rose from 83.1% to 84.2%. In 2007/08, convictions stood at 10,398 or 80% of concluded cases.
- Although the number of successful outcomes arising from guilty pleas fell from 9,492 to 9,407 over the year, the proportion of these instances actually increased from 71.5% to 76.1%. In 2007/08 the figures were 8,648 and 66.5%.
- After steadily falling since 2007/08, the proportion of racist and religious hate crimes failing due to victim issues has increased in the reporting year from 19.7% (441) to 23.6% (461).
- Of the 11,774 racist offences prosecuted last year 9,933 (84.4%) were successful and 76.3% of all successful outcomes involved guilty pleas. In the previous year, there had been 12,711 prosecutions with 10,566 (83.1%) successes with 71.5% due to guilty pleas.
- The proportion of racist hate crime failing due to victim issues has increased from 19.8% to 23.2% after a steady fall from 22.4% in 2007/08.
- In 2011/12, 593 cases involving religiously aggravated hostility were prosecuted with an 80.8% (479) success rate. 71.2% of successful cases were due to guilty pleas. In 2010/11, there were 566 prosecutions of which 472 (83.4%) resulted in successful outcomes, 70.3% due to guilty pleas.
- The proportion of cases failing due to victim issues increased from 17.0% (16) in 2010/11 to 28.9% (33) last year.

## **Homophobic and transphobic hate crime**

- The first successful prosecution of stirring up hatred on the grounds of sexual orientation was concluded at Derby Crown Court.
- A refresh of our Managers' Guide to Trans Equality was started and will be concluded in 2012. It will be supported by a specialist sub-group of the Community Accountability Forum in taking forward the implications of the change in the law regarding s146 sentence uplift applications.
- The number of prosecutions for homophobic and transphobic hate crime fell in 2011/12 from 1,281 to 1,208 along with the success rate from 80.7% to 78.7%.
- The fall in successful prosecutions is explained in part by the increased number and proportion of prosecutions dropped i.e. discontinued or withdrawn or where no evidence was offered: 171 and 14.2% respectively up from 160 and 12.5% the previous year.
- The number of guilty pleas fell over the year from 856 to 827 although the proportion of cases involving a guilty plea increased from 66.5% to 68.5%.

- The number of cases failing due to victim issues overall has increased slightly over the year from 60 (24.3%) in 2010/11 to 63 (24.5%) in 2011/12.

## Disability hate crime

- The CPS produced mandatory training for prosecutors which focused on supporting victims and witnesses with mental health issues, learning disabilities or autism.
- To address the under-reporting highlighted by the EHRC Inquiry report, a pilot 'Navigators' Workshop' was undertaken with the support of Area specialist prosecutors. The workshop was aimed at advice agencies and sought to improve their ability to effectively support individual clients facing disability hate crime. Three more workshops will be run in 2012.
- The volume of cases referred to the CPS by the police for a charging decision fell in 2011/12 to 643 from 690 in 2010/11. Broadly 70.0% of all such referrals have resulted in a charge over the last three years.
- The total number of completed prosecutions fell from 726 in 2010/11, to 621 in 2011/12. Of the 621 cases, 90 were dropped i.e. discontinued, withdrawn or no evidence offered; an increase from 11.6% in 2010/11 to 14.5% last year.
- The number of convictions fell over the year from 579 to 480 as did the proportion of successful outcomes from 79.8% to 77.3%. A contributory factor was the increase in unsuccessful cases due to victim issues which increased from 15.6% (23) to 19.1% (27)
- The number of guilty pleas in the reporting year fell from 475 to 424, although they increased 65.4% to 68.3% as a proportion of successful outcomes.
- The proportion of cases failing due to key reasons fell from 74.1% of unsuccessful cases to 72.3% although this proportion has steadily increased since 2007/08 when the figure stood at 59.5% with acquittal after trial representing the largest proportion and the greatest volume.

## Crimes against older people

- The volume of cases referred to us by the police has risen year on year since 2008/09 from 1,494 to 2,987. The volume of defendants charged has also increased and now represents 75.1% of all pre-charge decisions.
- Since 2008/09, the number of prosecutions has steadily increased from 1,004 to 2,867. Successful outcomes last year accounted for 81.3% of all prosecutions compared to 80.0% the previous year.
- Since 2008/09, the number and rate of guilty pleas has increased from 707 (70.4%) to 2,118 (73.9%).
- Unsuccessful prosecutions represent a reducing proportion of concluded cases, 18.7% in 2011/12 as opposed to 21.3% in 2008/09.
- The proportion of cases failing due to key reasons has fallen slightly from 68.2% to 67.7% over the period with acquittal after trial and essential legal element missing representing the largest proportion and the greatest volume. All victim issues have increased from 14.0% to 16.8%.

# Introduction

This is the fifth CPS annual hate crime report and provides information on our performance in prosecuting the following crimes in 2011/12:

- Racist and religious hate crime
- Homophobic and transphobic hate crime
- Disability hate crime

The report also includes information about our performance in prosecuting crimes against older people.

The Association of Chief Police Officers (ACPO) and the CPS have agreed a common definition of 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; religion or perceived religion; sexual orientation or perceived sexual orientation; disability or perceived disability and any crime motivated by a hostility or prejudice against a person who is transgender or perceived to be transgender.”

The term hate crime provides a shorthand for police and prosecutors and many others in public institutions, community organisations and elsewhere. Key words in the definition are hostility and prejudice, words which are used in their ordinary, everyday sense. The prosecution does not therefore need to prove hatred as the motivating factor behind an offence. Nor does the whole offence need to be motivated by hostility; it can play a part only, provide one element of the offending behaviour or it can provide the sole reason.

The CPS aims to build confidence in communities affected by hate crime and improve transparency in its approach. The purpose of this report is to give the public and particularly affected communities clear information about the work we are doing in tackling hate crime and details of our performance in prosecuting hate crime. The best available data are presented and gaps identified.

CPS data are available through its Case Management System (CMS) and associated Management Information System (MIS). The CPS collects data to assist in the effective management of its prosecution functions. The CPS does not collect data which constitutes official statistics as defined in the Statistics and Registration Service Act 2007. These data have been drawn from the CPS's administrative IT system, which, as with any large scale recording system, is subject to possible errors with data entry and processing. The figures are provisional and subject to change as more information is recorded by the CPS.

The official statistics relating to crime and policing are maintained by the Home Office and the official statistics relating to sentencing, criminal court proceedings, offenders brought to justice, the courts and the judiciary are maintained by the Ministry of Justice.

Hate crime validation measures address attrition rates as a percentage of unsuccessful outcomes from charge to conviction for racist and religiously aggravated crimes, homophobic and transphobic crimes and disability hate crimes. The volume of disability hate crime is also measured as a percentage of total caseload as part of quarterly quality assessments. As a result, we can provide data at CPS Area and force area level (see Annex 1).

In 2011/12, the high-performing Areas in relation to attrition rates across all hate crime, i.e. the lowest proportion of unsuccessful cases, were as follows:

**Table1: All hate crime prosecutions by outcome highlighting the three top-performing CPS Areas against national figures**

	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
National	11,843	83.4%	2,353	16.6%	14,196
Eastern	619	88.7%	79	11.3%	698
West Midlands	1,226	86.7%	188	13.3%	1,414
South East	643	86.3%	102	13.7%	745

The national average for the number or volume of all cases of hate crime fell by 7.1% on the previous year. CPS Areas also saw a fall in the volume of prosecutions apart from London where there was a slight overall increase of 0.3%. Although there was a decrease in volume, the data for 2011/12 also show that the proportion of successful cases rose by 0.4%, indicating that the quality of our prosecutions is improving.

## Cross-Government work

We continued to contribute to the cross-Government action plan on hate crime including the Hate Crime Strategy Board convened by the Ministry of Justice and Home Office. Key responses this year have involved contributing to *'Challenge It, Report It, Stop It: the Government's Plan to Tackle Hate Crime (March 2012)'* and the joint government response to the Equality and Human Rights Commission's Inquiry into disability-related harassment, *'Hidden in Plain Sight (2011)'*.

## National lessons

The British Crime Survey report into hate crime highlighted the fact that hate crime is generally under-reported. This year the CPS took forward a number of activities to address this issue, including:

- The pilot Navigators' Workshop (see box below for details)
- As part of our draft equality data strategy, we have identified improved collection and use of sentence uplift data<sup>2</sup>, because we recognise that better

<sup>2</sup> Sections 145 and 146 of the Criminal Justice Act (2003) place a duty on the court to increase the sentence for any offence aggravated by hostility based on the victim's race, religion, disability and sexual orientation or perceived race, religion, disability and sexual orientation. It is anticipated that legislation will come into force in November 2012 that extends the list to include transgender or perceived transgender identity.

communication of this information can work both as a deterrent to would-be offenders and a confidence builder for victims of hate crime by letting individuals and communities know that prejudice and hostility based on personal characteristics will be challenged and will be punished as seriously as the law allows.

- Hate Crime Coordinators<sup>3</sup> play a vital part in ensuring that prosecution policy is widely understood across communities. They met in December 2011 and as part of the agenda looked at how the Disability Hate Crime Action Plan might best be put into practice. The value of providing these opportunities will be further considered in 2012.

## Working Together

In our response to the EHRC inquiry report into disability-related harassment, the CPS committed itself to addressing the barriers to under-reporting.

The pilot **Navigators' Workshop**\* targeted advice-giving agencies to assist them in better recognising disability hate crime and supporting its victims. Some 20 agencies took part in the pilot, which covered essential elements of key definitions and roles, investigation, support and sentencing.

The Navigators Workshop was well received and successfully evaluated. The proposed way forward is for the same team to deliver three further regionally based workshops, and for the Equality and Diversity Unit to work with ACPO and lead agencies to develop a frontline tool for assisting clients.

\* The term **Navigators' Workshop** was first used in the CPS a few years ago when domestic violence arrangements had changed significantly and prosecutors talked people through using case file illustrations to help them to help others navigate their way through a new and at times complex process.

## Victim issues

Data on unsuccessful outcomes still suggest that the victims of racist and religious hate crime and homophobic and transphobic hate crime are more likely than victims of crime overall to unexpectedly fail to appear at court. These data suggest that our support to some victims of hate crime might need to improve. This year the CPS conducted a wide-ranging review of victim and witness care services to ensure that our focus going forward is on victims and witnesses in greatest need, including those involved in hate crime. In addition, an internal study of special measures was concluded and is currently being considered in the wider context of CPS service to victims and witnesses.

<sup>3</sup> Each CPS Area has a designated Hate Crime Co-ordinator. The role involves performance management, community and stakeholder engagement and policy implementation.

## **Equality issues**

We can provide some detail on the equality monitoring data relating to victims, witnesses and defendants but the data are not comprehensive and suggest areas for improvement. The EDU are developing an equality data strategy that will identify what we need to record and why and the steps necessary for all relevant data to achieve a publishable standard.

## **CPS Area work**

CPS Areas continued to develop innovative and effective measures to engage with communities, identify and address priorities and above all to maintain continued improvement in relation to the prosecution of hate crime. Activities will be assessed to maximise the learning from available good practice and to share the benefits of Area development.

CPS North West developed a teachers' pack of material along with a DVD on understanding disability hate crime. The pack was developed in conjunction with community organisations following the identification of disability hate crime as a key priority by an Area community conference. The teachers' pack has been widely used by schools and extracts are now being used by the Judicial College to train magistrates.

In Wales, a comprehensive quality assurance system for maintaining prosecuting standards in line with policy and guidance has been devised and provides a benchmark approach for other Areas.

CPS North East has agreed with Durham Magistrates' Court that prosecutors will identify to the court at the earliest opportunity that a case is being prosecuted as a hate crime. The Court will then mark the court file "HC" to alert all legal advisers dealing with the case that it is a hate crime case. When the case is sentenced, information about section 146 Criminal Justice Act (2003) (sentence uplift) will be entered on to the database, to highlight the information for Witness Care Officers. Where a case has been flagged as a hate crime, the Witness Care Officer will send an explanatory leaflet to the victim with the introductory letter and with the results letter. The results letter will explain how section 146 has been applied.

# Racially and religiously aggravated hate crime

Since the CPS first started reporting on the prosecution of racist and religious hate crime in 2005, the number of prosecutions has generally increased. However, this year the overall number has fallen for the first time in three years. Nevertheless, the success rate for prosecuted cases of racist and religiously motivated hate crime has improved.

During the year, the Department for Communities and Local Government established the Anti-Muslim Hatred Working Group. The group aims to review trends in anti-Muslim hatred and to work with partners and Government Departments to make recommendations for Government, other agencies and organisations on steps that can be taken to reduce anti-Muslim hatred, including how to respond to local and international events. As part of its contribution to the work of the Group, the EDU has committed to reviewing our work of relevance to this issue, namely casework, community engagement and local scrutiny panel discussion.

An All Party Parliamentary Group on Anti-Muslim Hatred was also established this year. The Chief Crown Prosecutor for CPS North West, Nazir Afzal, addressed the group on the prosecution of this type of hate crime.

In our last annual report, we reported on the development of guidance for prosecutors relating to harassment via social networking sites. The issue had been raised during discussions at hate crime scrutiny panels and CPS Merseyside and Cheshire took the lead in developing advice for prosecutors and the police on how to handle the emerging phenomenon.

Over the past year, there have been a number of high-profile prosecutions amid an increase in complaints involving social networking sites. One example of a statement made by a CPS Area about the consequences of using social networking sites to make racist remarks following a successful prosecution can be found on our website.<sup>4</sup>

In December, the EDU issued an Advice Note on the application of CPS Policy and Guidance on Racist Crime in respect of Gypsy and Traveller Communities.

<sup>4</sup> [http://www.cps.gov.uk/northeast/cps\\_northumbria\\_news/racist\\_tweeter\\_sentenced/](http://www.cps.gov.uk/northeast/cps_northumbria_news/racist_tweeter_sentenced/)

## Case Study

In Thames and Chiltern, two community wardens were patrolling the town centre one evening when they heard shouting. When they arrived at the location, the defendant was waving a stick about and shouting racial abuse. There were two Asian men outside a shop opposite.

The CPS advised the police to charge the defendant with the offence of racially aggravated threatening words or behaviour contrary to section 5 Public Order Act 1986.

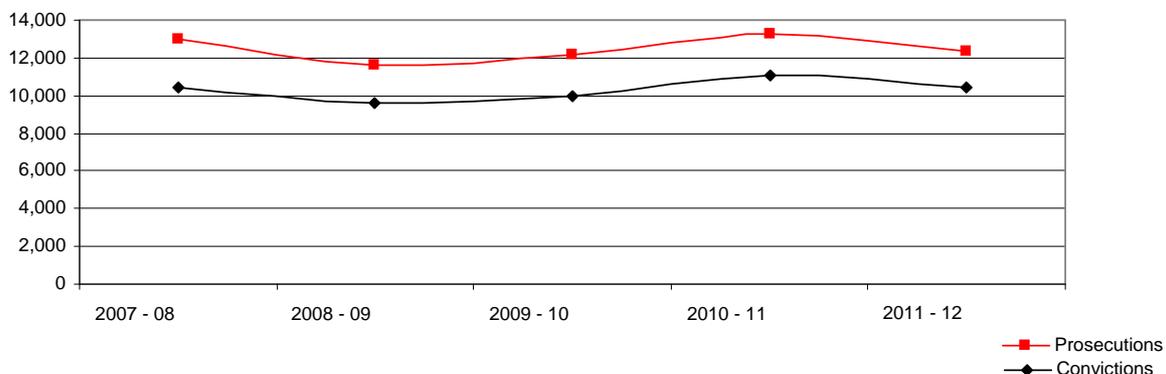
The defendant pleaded guilty and at the sentencing hearing, the Magistrates indicated that they would have imposed a conditional discharge if the offence had not been racially aggravated. The defendant was given a £75 fine and ordered to pay £15 towards the victims fund (compulsory for every defendant who is fined).

## Combined statistics and tables

In the year 2011/12, the number of defendants referred to the CPS for a charging decision by the police fell by 5% to 12,772 from the previous year. The total number of prosecutions completed during the year also fell by 7% to 12,367.

Despite the fact that the number of convictions dropped from 11,038 in 2010/11 to 10,412 in the reporting year, the proportion of successful outcomes increased by just over 1% to 84.2%. The proportion of successful outcomes has in fact continued to rise since 2007/08 when it stood at 79.9%. During the same period, the number and rate of guilty pleas has increased by almost 10 percentage points to 76.1% of all outcomes, a trend reflected in the figure for last year when the proportion of guilty pleas increased from 71.5% to 76.1%.

**Graph 2: Total racially and religiously aggravated hate crime**



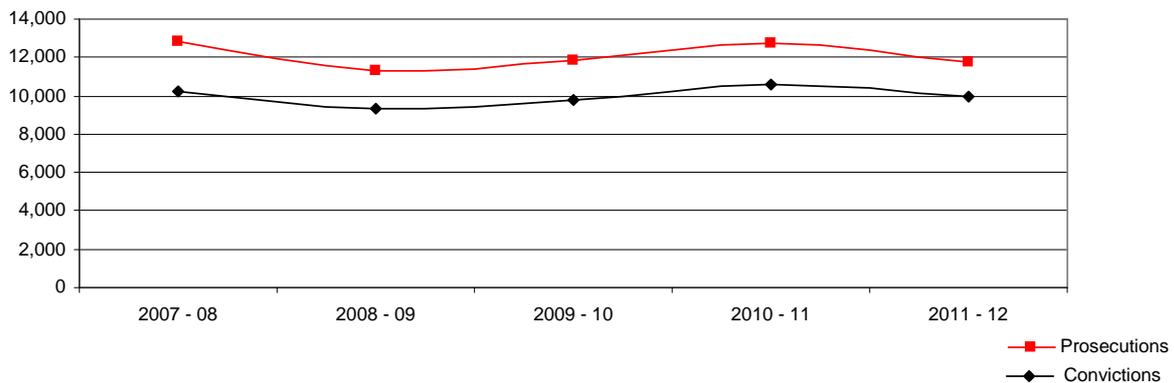
Unsuccessful prosecutions represent a smaller proportion of concluded cases, 15.8% this year compared to 20.1% in 2007/08. Unsuccessful outcomes have also fallen numerically over the same period by 25%, from 2,610 to 1,955. Last year, the number fell from 2,239 (16.9%) to 1,955 (15.8%)

The proportion of cases failing due to victim issues (a victim retracts, fails to attend court unexpectedly or his or her evidence fails to support the case) has declined over the period to 2010/11 from 22.5% to 19.7%. However, 2011/12 saw a significant increase of these cases from 19.7% to 23.6% of all unsuccessful prosecutions. Acquittal after trial represents the main reason for unsuccessful outcomes with 501 cases or 25.6% of unsuccessful cases.

### Racially Aggravated Hate Crimes

In terms of racist hate crime, the total of defendants referred to the CPS for a charging decision by the police decreased last year from 13,038 to 12,357 although the proportion of these who were charged increased from 72.4% to 73.8%. Of the 11,774 cases prosecuted in 2011/12, 9,933 or 84.4% were successful. Guilty pleas accounted for 76.3% of all prosecution outcomes compared with 71.5% in 2010/11.

**Graph 3: Total racially aggravated hate crime**



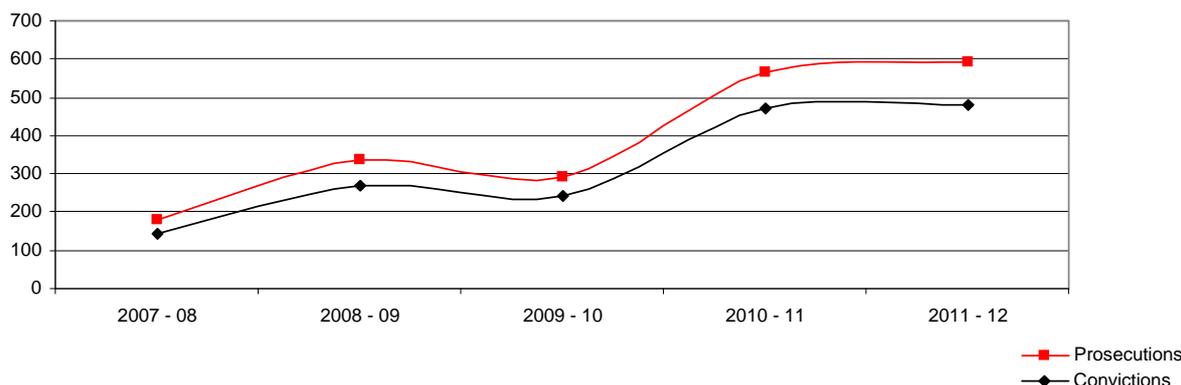
The proportion of unsuccessful prosecutions fell this year from 16.9% to 15.6% and by almost 5 percentage points since 2007. The number of such cases fell over the year from 2,145 to 1,841, a trend continued since 2007/08 when unsuccessful outcomes stood at 2,575.

The proportion of cases failing due to all victim issues increased from 19.8% to 23.2% in 2011/12. The proportion of cases failing due to key reasons has steadily increased since 2007/08 from 65.0% to 68.6% in 2010/11, but then fell back slightly last year to 67.6% with acquittal after trial representing the largest proportion (25.1%) and the greatest volume (463). 11.7% or 216 of cases were unsuccessful due to victims who unexpectedly did not attend court. This figure remains more than twice the average for all prosecutions in the year.

## Religiously Aggravated Hate Crimes

The total number of cases motivated by hostility on the grounds of religion that were referred to the CPS by the police increased from 407 to 415. The number of completed prosecutions also increased during the year from 566 to 593 and resulted in 479 (80.8%) successful outcomes. Guilty pleas increased from 398 (70.3%) in 2010/11 to 422 (71.2%) last year.

**Graph 4: Total religiously aggravated hate crime**



The proportion of cases failing due to victim issues increased from 17.0% in 2010/11 to 28.9% having declined steadily since 2007/08 from 25.7%. The numbers of recorded religiously aggravated hate crime remain small (593 prosecutions) and the number of unsuccessful cases even smaller (114); therefore it is difficult to identify meaningful trends. This can have a significant impact on the reading of data. Nevertheless, it was noted that two elements making up victim issues had both doubled during the year: victim non-attendance from 9 to 18 and evidence of victim does not support the case from 6 to 12.

The proportion of cases failing due to key reasons has also increased from 74.3% to 78.1% since 2007/08 and saw an increase in the reporting year from 69.1% to 78.1% due in large part of a significant fall in the category, All other reasons.

Separating prosecution data relating to racist and religious offences should provide a more detailed and informative picture of the experience of hate crime within communities as well as its impact in future. The currently low number of religiously motivated hate crimes should be taken into account when analysing the data. For racist hate crime, the trend identified in relation to reasons for unsuccessful cases suggests an issue for Areas to keep under review.

At the end of a prosecution, defendants are allocated a **principal offence category** (POC) to indicate the type and seriousness of the charges brought. Offences against the person and public order offences were the most common representing 82.1% of all racist and religiously aggravated crime prosecutions (49.6% and 32.5% respectively). The last two reporting years have seen a shift in the POCs with offences against the person increasing by 8 percentage points over the two years and public order offences decreasing by a similar amount.

**Defendants** in racist and religiously motivated hate crimes are mostly men (83.0%) and White British (73.6%). 54.2% were aged 25-59 and a further 29.1% were aged between 18-24. The proportion of both 10-13 year olds and 14-17 year olds defendants continues to decline from 2.6% and 20.2% respectively in 2007/08 to 1.5% and 12.6% last year.

**Victims** are mostly men (61.3%) and 24.3% are women. The proportion of victims for whom we have identified gender has continued to improve since 2007/08 when it stood at 44.0%, whereas last year, the figure had increased to 85.7%. We continue to work to improve this figure along with other demographic data relating to the victims of hate crime.

Most victims (58.4%) were aged between 25-59 with a further 13.6% aged between 18-24. Since 2007/08 the proportion of cases in which victim ages were recorded has increased by 41.0% to 78.7%.

The proportion of cases in which ethnicity data are available has increased from 22.8% in 2007/08 to 45.3% in 2011/12. Although there has been a significant increase in the amount of ethnicity data available, more progress is clearly required.

## Area performance

The north west of England had the highest number of reports of anti-Semitism in the UK in 2010/11. This led the Chief Crown Prosecutor and Hate Crime Coordinator of CPS North West to meet the Community Security Trust (CST) and discuss how the CPS could work more closely with the Jewish community to encourage reporting and to reduce the attrition rates in relation to anti-Semitic crimes. In speaking with the Police it was evident that work was ongoing between the CST and Greater Manchester Police to enable the CST (to whom members of the Jewish community will report hate crimes on occasion in the same way as a third party reporting centre) and police to share data on reported hate crime incidents. This enabled there to be a more accurate picture of reported crimes. In order to develop this approach further, the CPS have developed a memorandum of understanding with the CST to meet every six months and earlier if necessary, to discuss anti-Semitic cases that are of particular concern.

**Table 2: Racially and religiously aggravated hate crime prosecutions by outcome highlighting the top three performing CPS areas against national figures**

	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
National	10,412	84.2%	1,955	15.8%	12,367
Eastern	532	89.4%	63	10.6	595
West Midlands	1,106	87.4%	159	12.6%	1,265
South East	533	87.1%	79	12.9%	612

The two areas that saw an increase in volume over the year were London (1%) and West Midlands (2.3%).

### **Case Study**

A Gainsborough man was found guilty of religiously aggravated harassment for displaying offensive anti-Muslim posters in his front window.

The posters, 17 in total, some of which contained highly offensive words and images, were displayed in the defendant's windows, where they were clearly visible from outside. A local shop worker reported them to the police, saying that nobody should have to see the content displayed.

The defendant was arrested and charged with religiously aggravated harassment.

He was found guilty at Lincoln Magistrates Court and his case was committed to the Crown Court for sentence.

Judith Walker, the Chief Crown Prosecutor for the CPS East Midlands, said: "Everyone has the right to live free from harassment in a tolerant society. The defendant displayed highly offensive posters in his window targeted at the Muslim community. Although they were targeted at Muslims, they would cause offence to virtually anyone that saw them.

"Today's conviction sends a strong message that targeting groups in society in this deliberately offensive way has no place in our community and will not be tolerated. The words and images used were particularly disgusting, so it was important to bring this case to court and ensure that the defendant faced the full consequences of his actions.

"The Crown Prosecution Service will continue to treat cases based on hatred with the utmost seriousness. It is essential that everyone in our community is free to live without harassment and that anyone who jeopardises that freedom will face prosecution."

## Learning Lessons

In CPS Yorkshire and Humberside there is a large Gypsy and Traveller community in the north of the region. Mindful of the experience of discrimination and hate crime within the community, the area considered the options for benefiting from greater contact. The area successfully recruited a representative from York Travellers' Trust to the hate crime scrutiny panel in order to gain from the experience of this community, to increase understanding and awareness and to broaden the scope of future planning and casework considerations.

## Working Together

**Illustration one:** CPS Eastern liaised with Peterborough Race Equality Council (REC) in responding to community concerns over the legality and impact of an English Defence League (EDL) march through the town. Much anger and consternation had been expressed from the local authority, faith leaders and the minority ethnic community that the march had been allowed to go ahead despite its provocation to local residents and its wider impact on community cohesion. CPS Eastern and the REC convened a joint public meeting. The meeting was very well attended with over 100 community representatives present. The meeting began with an explanation of the law on 'incitement to racial/religious hatred' and the CPS's decision not to recommend that the march be banned. The meeting was challenging but it managed to take a great deal of the heat out of the situation and helped to improve understanding of the law and the role of the CPS.

**Illustration two:** Local Scrutiny and Involvement Panel (LSIP) members provide an invaluable resource to CPS operational areas. Whether in relation to assisting policy development or highlighting areas for improvement, the panels give the CPS a unique resource to tap into. Just one of the many examples of positive involvement comes from the North East where members of the Religious and Racist Hate Crime LSIP were involved in delivering training to Witness Care Officers. The training covered issues concerning victims and witnesses from different ethnic and faith communities. The response was very positive and the training session's evaluation recorded the benefits from involving panel members.

# Homophobic and transphobic hate crime

Since 2006/07, the number of homophobic and transphobic hate crime cases prosecuted has steadily increased year on year. However, 2011/12 saw a fall of 6.0% in cases prosecuted and of 8.7% in convictions. More positively, the proportion of guilty pleas accounted within successful outcomes increased by over 1.5%.

The Legal Aid, Sentencing and Punishment of Offenders Act (2012) introduced an amendment to the Criminal Justice Act (2003) to ensure that aggravation on the grounds of gender identity is taken into account when prosecuting hostility on the basis of transgender or perceived transgender identity. The law is likely to come into effect in November 2012.

As highlighted in our last annual report, we undertook a review of Transphobic hate crime and as a result identified a number of issues to take forward. We have also been revising the EDU Trans Equality Guide for Managers. A specially convened sub-group of the Community Accountability Forum has been convened which will provide a sounding board and consultative forum in the development of CPS policies and strategies in relation to transgender equality in prosecution and employment. At the same time, it is anticipated that a refresh of the policy/guidance on homophobic and transphobic hate crime will reflect the legal change and the specific experience of communities.

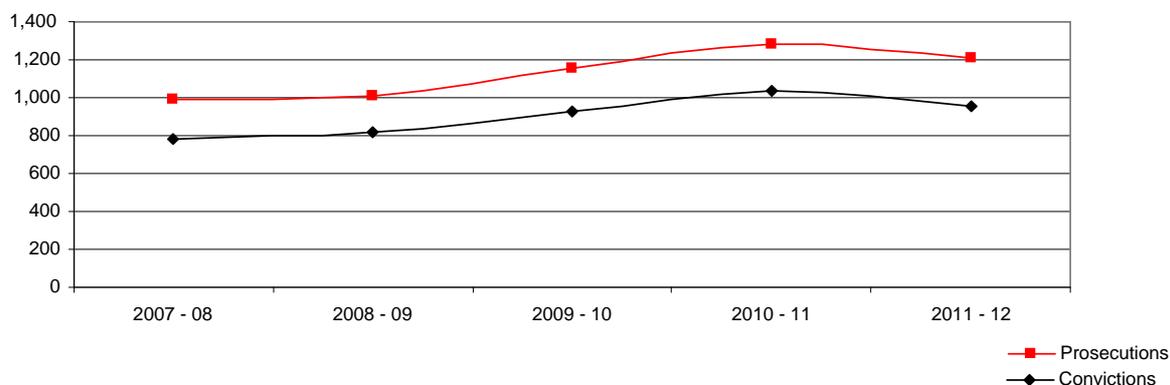
During the year, the EDU was invited to participate in the International Lesbian and Gay Association's conference on combating homophobic and transphobic violence in Europe and also to facilitate a workshop on homophobic and transphobic aggravation by the European Gay Police Association conference in Dublin.

## Combined statistics and tables

The volume of defendants referred to us by the police for decision fell slightly over the year from 1,384 to 1,366. A slightly higher proportion of these referrals resulted in a decision to charge: 966 or (70.7%). The volume and proportion of decisions to charge has continued to increase since 2007/08 when it stood at 758 (62.2%).

The number of convictions for homophobic and transphobic hate crime rose from 778 or 78.2% of concluded cases in 2007/08 to 951 (78.7%) in 2011/12. However, over the reporting year volume and proportion fell from 1,034 (80.7%). The proportion of guilty pleas also increased over the year from 66.8% (856) to 68.5% (827).

## Graph 5: Homophobic and transphobic crime



The proportion of cases failing due to victim issues is broadly similar to the previous year at 24.5% (63) compared to 24.3% (60) in 2010/11.

Year on year, the proportion of cases failing due to key reasons fell by 1.5 percentage points from 69.6% to 68.1%. Since 2007/08, the figure had been increasing from 64.5%. Acquittal after trial represented the largest proportion and the greatest volume last year with 26.8% or 69 unsuccessful outcomes. Almost 9% of such case outcomes were due to victims who unexpectedly did not attend, which remains more than twice the average for all prosecutions in 2011/12.

The relatively small number of reported cases suggests that further confidence-building measures within communities may be required. The increasing rate at which victim issues are cited as a cause for unsuccessful cases may also be linked to lack of confidence or trust in the criminal justice process.

At the end of a prosecution, cases are allocated a **principal offence category** to indicate the type and seriousness of the charges brought. In 2011/12, offences against the person and public order offences were the most common representing 83.9% of all homophobic and transphobic crime prosecutions (52.2% and 31.7% respectively).

The majority of **defendants** were men (84.2%) and White British (72.6%) and those who were aged between 25-59, accounted for 54.6% with a further 28.0% aged between 18-24. Of interest is the fact that the proportion of both 10-13 year olds and 14-17 year olds involved as defendants has declined from 2.3% and 24.8% respectively in 2007/08 to 1.7% and 11.8% in 2011/12.

What we know about **victims** is that 57.6% were men and 29.8% were women. The number of victims whose gender was recorded (87.4%) has steadily improved since 2007/08 when it stood at 47.7%. However, we are still working to improve these data along with others relating to the victims of hate crime.

Most victims (52.2%) were aged between 25-59 and a further 22.0% were aged between 18-24. Since 2007/08 the proportion of “age not provided” had dropped from 56.8% to 19.3%.

With regard to ethnicity, the disclosure rate has improved from 25.7% in 2007/08 to 49% in 2011/12. Progress is being made but clearly a lot more needs to be done by all concerned to improve this aspect of data collection.

## Area Performance

A case from Humberside was correctly identified as a having a transphobic motivation. The defendant repeatedly referred to the female trans complainant as “boy” in a taunting fashion and said “you are not right”, “you are queer” and “come here boy”. He then said to the library janitor “I’m going to bang him”, before leaving the library and punching the complainant.

Special Measures had been granted and as the defendant was unrepresented, an order was made appointing an independent solicitor to conduct any cross-examination. A Bad Character application was also made covering the defendant’s conviction for a similar offence.

On the morning of the hearing, the dedicated prosecutor talked to the victim about the court procedure. During the discussion it was clear that she wanted to give evidence in open court to show the defendant she was not intimidated by him. The use of Special Measures that had already been granted was discussed and she decided to dispense with them, reassured that the prosecutor and District Judge would curb any inappropriate behaviour by the defendant.

The trial itself was quite straightforward. The complainant gave her evidence well and the only cross-examination by the defence solicitor related to the victim’s identification of the defendant.

The sentence imposed by the court was the maximum available, and took into account the fact that the case was proven after trial and the defendant’s similar conviction. The case received positive media coverage and the victim’s statement was covered by the press urging others to report their experience of hate crime.

**Table 3: Homophobic and transphobic hate crime prosecutions by outcome highlighting the three top-performing CPS Areas against national figures**

	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
National	951	78.7%	257	21.3%	1,208
East Midlands	93	88.6%	12	11.4%	105
Merseyside & Cheshire	62	88.6%	8	11.4%	70
Wessex	64	85.3%	11	14.7%	75

The four Areas that saw an increase in the volume of Homophobic and Transphobic hate crime during the year were: East Midlands (28%) South West (12.5%) London (4.3%) and Eastern (2.8%).

### **Working Together**

In the West Midlands, the Senior Thematic Lead on Hate Crime reviewed a sample of discontinued cases on hate crime. The unsuccessful cases of homophobic and transphobic hate crime were forwarded to a member of the Local Involvement and Scrutiny Panel. Following further discussion, the prosecutor developed guidance to staff on aggravated factors to be brought to the court's attention. The guidance was circulated as part of the Area Legal Bulletin so highlighting the approach to be adopted in order to increase the chances of a successful prosecution.

### **Lessons Learned**

**Illustration one:** There has been regular engagement in Avon and Somerset with Educational Action Challenging Homophobia (EACH), an advocacy and advice service to support people of all ages who are subject to homophobic bullying or hate crime. The Director of EACH has contributed to the development of the Local Scrutiny and Involvement Panel and given training to Witness Care Officers on homophobic issues and victim experience in relation to homophobic hate crime in order to improve awareness of the services offered to victims of homophobic crime. In November 2011, the Director of EACH and the local CPS EDCM spoke to the EACH AGM about the work of the LSIP. This work has contributed to improved awareness and reporting in the South West. In 2009/10, the Area dealt with 47 cases. In 2010/11, the Area handled 64 cases and 72 in 2011/12.

**Illustration two:** During 2011-12 CPS Merseyside-Cheshire developed its first Transgender Hate Crime Action Plan. This is being underpinned by the development of knowledge and experience of Transgender issues, through links with a:gender, the national Civil Service Trans network. Consultation on the action plan has been progressed with the support of an LSIP member who coordinates a local Transgender support service.

## Case study

In a case handled by CPS West Midlands, the victim, a transgender male, was assaulted by his employer who shouted, 'You're neither a man nor a woman! Why are you so proud, you know what you deserve?' The Defendant then commenced kicking the victim about his body until a witness intervened allowing the victim the opportunity to escape and report the matter to the police. The Defendant was charged with Assault by Beating and Criminal Damage and pleaded not guilty to all charges.

The charges reflected the victim's original birth name and gender as female as the relevant documentation relating to his change of name had been lost. The victim was supported by Press for Change who helped him obtain a Statutory Declaration relating to name change and evidence that the victim had previously attended a Gender Reassignment Clinic. This enabled the CPS to make a Special Measures application and apply for reporting restrictions, to prevent the feared backlash from the Asian community against the victim.

Reporting restrictions were granted and the case was held in a closed courtroom. The defendant then changed his plea to guilty on the full facts. He was sentenced to 23 weeks custody. The lawyer reminded the court of the aggravating features of the case as s146 uplifts are not available yet in cases of transphobic aggravation.\*

\* New legislation extending s146 to transphobic aggravation is expected to be enacted in November 2012.

# Disability hate crime

The number of disability hate crime prosecutions has steadily increased since 2007/08 but fell by almost 17.5% last year. The success rate also fell back but at least to the average rate for the past five years. We will continue to watch our progress closely over the coming months and look forward to the work described below having a tangible impact on performance to be reported next year.

In September 2011, the Equality and Human Rights Commission (EHRC) launched its inquiry report into disability-related harassment. The CPS had provided extensive written and oral evidence to the Inquiry and staff in the EDU have represented the CPS on the Inquiry's External Advisory Group since the outset of the inquiry.

In addition to its formal response to the EHRC, the CPS developed a disability hate crime action plan drafted and shared with the Community Accountability Forum and CPS Areas. The action plan will remain a draft until the publication of the joint thematic inspection report on disability hate crime being carried out by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSP), Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Inspectorate of Probation (HMIP) and the finalisation of the CPS Equality data strategy later this year.

The CPS response to the Inquiry made clear commitments to taking steps to encourage increased levels of reporting, including more targeted community engagement work. The Navigator's Workshop also aimed to address the issue by helping agencies to support clients to better understand disability hate crime and what the prosecution process involved. (see box on page 10)

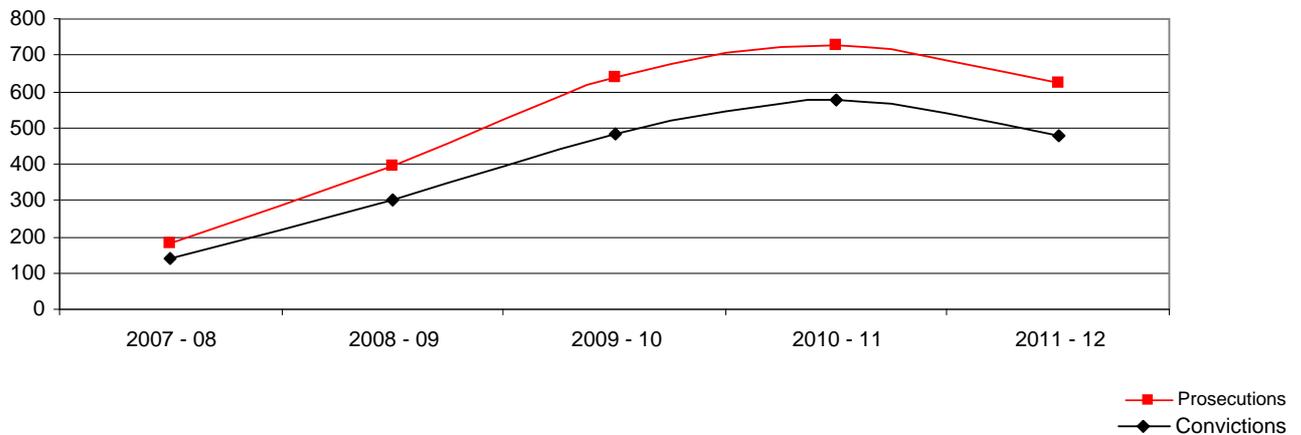
In December 2011, the EDU organised a conference for all Area Hate Crime Coordinators. The conference sought to highlight current sources of guidance and support, to consider how lessons learnt are improving practice, to discuss the role of quality assurance in improving performance and to consider the steps needed to effectively implement the CPS response to the EHRC Inquiry into disability-related harassment.

Some of the practical actions flowing from the day's discussions included: a clarification of the Minimum Standards for Hate Crime Coordinators, the production of a quarterly Hate Crime Newsletter, a refreshed Disability Hate Crime Live Board and Frequently Asked Questions for prosecutors.

## Combined statistics and tables

The volume of cases referred to the CPS by the police for a charging decision fell in 2011/12 to 643 from 690 in 2010/11. Broadly 70.0% of all such referrals have resulted in a charge over the last three years. The total number of completed prosecutions fell from 726 in 2010/11, to 621 in 2011/12. Of these, a smaller number and proportion (480 or 77.3%) resulted in successful outcomes compared to 529 and 79.8% in 2010/11. The proportion of all outcomes that produced a guilty plea increased by almost three percentage points to 68.3%.

**Graph 6: Disability hate crime**



The proportion of cases failing due to victim issues increased last year from 15.6% (23) to 19.1% (27).

The proportion of cases failing due to key reasons fell over the year from 74.1% to 72.3% but the proportion has steadily increased from 59.5% in 2007/08 with acquittal after trial normally representing the largest proportion and the greatest volume. 4.3% of victims unexpectedly did not attend trial in 2011/12 which is slightly below the national average for all prosecutions of 5.2%.

At the end of a prosecution, cases are allocated a **principal offence category** to indicate the type and seriousness of the charges brought. Offences against the person and public order offences were the most common representing 53.8% of all disability hate crime prosecutions (41.7% and 12.1% respectively). There was a more significant range of other offence categories represented within disability hate crime prosecutions than for any other strand of hate crime, perhaps reflecting the exploitative nature of much disability hate crime.

**Table 4: Principal offence category for each hate crime strand**

Principal offence category	DHC	H&T	R&R
Homicide	0.3%	0.6%	0.1%
Offences against person	41.7%	52.2%	49.6%
Sexual offences	6.2%	0.2%	0.2%
Burglary	7.4%	0.6%	0.5%
Robbery	9.5%	1.7%	0.8%
Theft & Handling	9.0%	2.9%	3.6%
Fraud & Forgery	5.0%	0.1%	0.1%
Criminal Damage	3.2%	3.5%	4.9%
Drugs Offences	0.8%	0.6%	1.1%
Public Order Offences	12.1%	31.7%	32.5%

**Notes:** DHC: Disability hate crime; H&T: homophobic & transphobic; and R&R: racist and religious

Most **defendants** are men (77.0%), but there were a significantly higher proportion of women (22.9%) compared to other strands of hate crime (16.9% in racially and religiously aggravated hate crime and 15.7% in homophobic and transphobic hate crime). Most defendants were White British (82.0%) and those between 25-59 accounted for 53.3% and a further 26.7% were between 18-24. Of interest is the fact that the proportion of both 10-13 year olds and 14-17 year olds involved as defendants has declined from 4.9% and 23.5% respectively in 2007/08 to 0.8% and 15.0% in 2011/12.

What we know about **victims** is that 45.4% were men and 38.4% were women while 16.2% of victims did not have their gender identified. Most victims (43.7%) were aged between 25-59. The declaration rate for age has improved from 43.7% in 2007/08 to 77.1% last year.

As regards the ethnicity of victims, the declaration rate has improved slightly to 49.7% with White British the most common category at 44.2%. However, more work is needed to improve victim data.

## Area performance

CPS West Midlands delivered a training package on mentally disordered offenders' fitness to plead to frontline prosecutors to improve casework quality. The session focused on cases involving victims and witnesses who have mental health and or learning disabilities. The implications arising for prosecutors were tracked through court processing and sentencing making use of relevant case studies, indicators of Learning Difficulties and sharing protocols between the NHS and the CPS. Examples of good practice on multi agency working in Mental Health in the West Midlands were highlighted such as the Wolverhampton Court Pilot and Wolverhampton Youth Justice Pilot and working with defendants and offenders with Mental Health Problems. The CPS aide m emoire for prosecutors dealing with cases involving

victims and witnesses who have mental health issues and/or learning disabilities and the MIND prosecutor’s toolkit were also disseminated.<sup>5</sup>

**Table 5: Disability hate crime prosecutions by outcome highlighting the three top-performing CPS Areas against national figures**

	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
National	480	77.3%	141	22.7%	621
Eastern	26	86.7%	4	13.3%	30
North East	53	84.1%	10	15.9%	63
Wales	23	82.1%	5	17.9%	28

The CPS Areas that saw the largest increases in disability hate crime prosecutions in 2011/12 were North West (35.9%) North East (12.5%) and South East (5.3%).

### Working Together

In discussion with Local Scrutiny and Involvement Panel (LSIP) members and multi-agency groups, such as the Pan Dorset Prejudice Free group, the lack of reporting of disability hate crime and the drop in the number of prosecutions were both noted. The Area therefore decided to prioritise the work around disability hate crime. A number of factsheets were produced and widely distributed within the community at community events by the local authorities. The factsheets detailed prosecution statistics, case studies and the relevant hate crime legislation. The aim was to increase awareness of hate crime within the community and thereby increase reporting, prosecutions and confidence.

The Chief Crown Prosecutor for Wessex gave an interview on the subject to BBC Wiltshire. LSIP members reported back to the Area that they were pleased that they were focussing on disability hate crime in this way.

<sup>5</sup> The aide-mémoire to assist prosecutors dealing with cases involving victims and witnesses who have mental health issues and/or learning disabilities aims to assist prosecutors with charging advice and case management. It complements the public policy statement, Supporting victims and witnesses who have mental health issues and Supporting Victims and Witnesses with learning disabilities which can be both found on the CPS website at: [www.cps.gov.uk/publications/docs/supporting\\_victims\\_and\\_witnesses\\_with\\_a\\_learning\\_disability.pdf](http://www.cps.gov.uk/publications/docs/supporting_victims_and_witnesses_with_a_learning_disability.pdf) and [www.cps.gov.uk/publications/docs/supporting\\_victims\\_and\\_witnesses\\_with\\_mental\\_health\\_issues.pdf](http://www.cps.gov.uk/publications/docs/supporting_victims_and_witnesses_with_mental_health_issues.pdf) The MIND prosecutor’s toolkit can be found at: [www.mind.org.uk](http://www.mind.org.uk)

## Case study

**Illustration one:** In a West Yorkshire case, the three victims were all men with learning disabilities. During a visit to the town centre in the company of their support worker, they were approached by the defendant who demanded money from them. When they refused, the defendant became very aggressive and started shouting, calling the men retards and other abusive terms. The support worker took the three men to a nearby church and called the police.

The defendant then followed the men into the church where he was identified by the support worker and arrested on suspicion of a disability aggravated section 4a Public Order Offence.

Statements were not taken from the three men as they were too distressed so the support worker made a witness statement. The defendant pleaded not guilty but was convicted after trial and sentenced to a 12 month community order with 12 months supervision as well as attendance on a 6 month alcohol treatment course.

**Illustration two:** In the North East, a man with a fluctuating condition that meant that he needed to use a wheelchair on occasion, was subjected to a three-month campaign of harassment and abuse by the defendant (his neighbour) who accused him of being a benefits scrounger. The defendant encouraged his own and other local children to shout abuse at the victim, spray graffiti on his fence and throw stones at his windows. Much of this behaviour was caught on CCTV which the victim had had installed at his home.

The defendant pleaded guilty to harassment, criminal damage and attempted criminal damage and was given a 10 week prison sentence, suspended for 12 months and ordered to carry out 80 hours of unpaid community work. He was also made the subject of a restraining order not to approach the victim or his family for 12 months. The Court uplifted the sentences from a community order to a suspended sentence with a restraining order.

## Lessons learned

In the North West, a review of a case not prosecuted as a disability hate crime, found that it should have been prosecuted as such. The finalised case file was shared with the Hate Crime Scrutiny Panel. One issue they highlighted was the fact that from the file it appeared that evidence of hostility towards a disabled person, had not been considered. Feedback from the panel together with that from disabled people's organisations now means that every case involving a disabled victim must now be looked at for any evidence of hostility. In addition, the reasons as to why it is or is not to be considered are to be written on the file and at full file review.

In order to support prosecutors in doing this, the Hate Crime Coordinator had short form guidance laminated for every Prosecutor in the Area and every month Branch Crown Prosecutors are sent a list of all live hate crime cases to check that cases have been flagged correctly.

# Stirring up hatred

Hate crime focuses on hostility or prejudice against the groups in question. Hostility carries the ordinary, everyday meaning of the word and its dictionary definition captures ill-will, unfriendliness, spite, ill-feeling, contempt, prejudice, resentment, dislike and hatred. The public order offences of stirring up hatred focus on hatred itself and the intention or likely effect of the offence in question. This is the first year that we have reported on these prosecutions; therefore we have included an overview of the law on this issue.

## Stirring up racial hatred

Article 10 of the European Convention on Human Rights [ECHR] allows freedom of expression save in certain limited circumstances. These circumstances include the offences contained within Part III of the Public Order Act 1986.

Additionally, Article 17 of the Convention states: "Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention." Relevant case law includes *Glimmerveen and Hagenbeek v Netherlands* 18 DR [1987] and *Kuhnen v Germany* 56 DR [1988].

For an offence to be committed under any of these sections of the Public Order Act 1986, there has to be one of the acts described therein: it has to be "threatening, abusive or insulting", and it has to be intended to or likely in all the circumstances to stir up racial hatred.

The words "threatening, abusive or insulting" are to be given their ordinary meaning and case law dealing with other provisions of the Public Order Act 1986 can assist with this.

Racial hatred is defined in Section 17 of the Act. The prosecution must prove that hatred was intended to be stirred up or that it was likely to be stirred up. 'Likely' does not mean that racial hatred was simply possible. We therefore have to examine the context of any behaviour very carefully, in particular the likely audience, as this will be highly relevant.

These offences appear in the Public Order Act 1986, which is generally designed to prevent acts of violence, disorder, harm or threats. Although it will often be present, the risk of commission of a criminal act of this nature is not essential to prove the commission of an offence of stirring up hatred on the grounds of race.

When people hate others because of race, such hatred may become manifest in the commission of crimes motivated by hate, or in abuse, discrimination or prejudice. Such reactions will vary from person to person, but all hatred has a detrimental effect on both individual victims and society, and this is a relevant factor to take into account when considering whether a prosecution is appropriate.

It is essential in a free, democratic and tolerant society that people are able robustly to exchange views, even when these may cause offence. However, we have to balance the rights of the individual to freedom of expression against the duty of the state to act proportionately in the interests of public safety, to prevent disorder and crime, and to protect the rights of others.

All such allegations are by their very nature highly sensitive. For that reason, and to ensure a consistent approach, any allegation under this legislation must be referred to the Special Crime and Counter Terrorism Division in CPS Headquarters. If the Division deals with a case, it can only proceed with the consent of the Attorney General.

## **Stirring up religious hatred and hatred on the grounds of sexual orientation**

The Racial and Religious Hatred Act 2006 came into force on 1 October 2007. It created new offences of stirring up religious hatred, which are significantly different from the race hate offences contained within Part III of the Public Order Act 1986.

The Public Order Act was amended by the Criminal Justice and Immigration Act 2008 to create the offence of intentionally stirring up hatred on the grounds of sexual orientation. This complements the offences of intentionally stirring up hatred on religious grounds.

The offences are committed if a person uses threatening words or behaviour, or displays any written material which is threatening, if he intends thereby to stir up religious hatred and hatred on the grounds of sexual orientation. Threatening is the operative word, not abusive or insulting.

Possession, publication or distribution of inflammatory material is also an offence. Offences can be committed in a public or private place, but not within a dwelling, unless the offending words and behaviour were heard outside the dwelling, and were intended to be heard. The defendant must intend to stir up religious hatred or hatred on the grounds of sexual orientation; recklessness is not enough.

So using abusive or insulting behaviour intended to stir up religious hatred or hatred on the grounds of sexual orientation does not constitute an offence, nor does using threatening words likely to stir up religious hatred or hatred on the grounds of sexual orientation.

There is a freedom of expression defence enshrined in Section 29J of the Act, which "... prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult, or abuse of particular religions or the beliefs or practices of its adherents."

Prosecution of these offences requires the consent of the Attorney General and is dealt with under the same arrangements as offences of inciting racial hatred.

## The Data

In light of the potential conflict with an individual's right to freedom of expression and speech, there is in effect a higher standard of proof of impact involved in incitement cases. One consequence of this is that the number of incitement cases brought is much lower than for hate crime offences.

In 2011/12, we prosecuted 9 relevant public order cases: 10 relating to distributing written material intended to stir up hatred on the grounds of sexual orientation; 6 of publishing racially inflammatory material or possession of racially inflammatory material with the intention of distributing it and one of publishing written material with the intention of stirring up religious hatred.

In total 17 charges were brought resulting in 13 guilty verdicts and 4 not guilty.

More detail on these cases can be found in the associated press statements on the [Counter Terrorism Division's page](#) on the CPS website.

### Case study

This year saw the first successful prosecution of stirring up hatred on the grounds of sexual orientation. A jury at Derby Crown Court convicted three men in January 2012 of going beyond the legitimate promotion of religious values because they intentionally set about stirring up hate on the grounds of sexual orientation by producing and distributing a leaflet which was threatening.

The prosecution made use of lay witnesses, from the gay community who received the leaflet and gave evidence about the effect of its receipt and the fact that they were threatened by its content. Special measures (screens) were applied for in respect of the lay witnesses and, due to the level of press interest, a press direction was obtained so that the names and addresses of witnesses could not be published.

The law says: "for the avoidance of doubt, the discussion or criticism of sexual conduct or practices, or the urging of people to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred." This is the freedom of expression defence which means if a juror concludes the document may amount to no more than criticism of homosexuality and/or urging people to refrain from homosexual activity, then it would not be threatening.

The judge in passing sentence said: "Our population is made up of people of all colours, creeds and cultures. For the vast majority of the time, the vast majority of us get along together very well and the greatest freedom that we all enjoy is to live in peace and without fear.

The law has evolved and adapted to protect that freedom. In particular, laws have been passed to prevent written material being distributed which is intended to stir up hatred. This has proved necessary because a small minority of our broad community sometimes seeks to stir up hatred against their fellow citizens merely because those fellow citizens are perceived to be different in some way."

# Crimes against older people

There is no statutory definition of a crime against an older person (CAOP) and no general statutory offence. The CPS applies the CAOP flag to crimes:

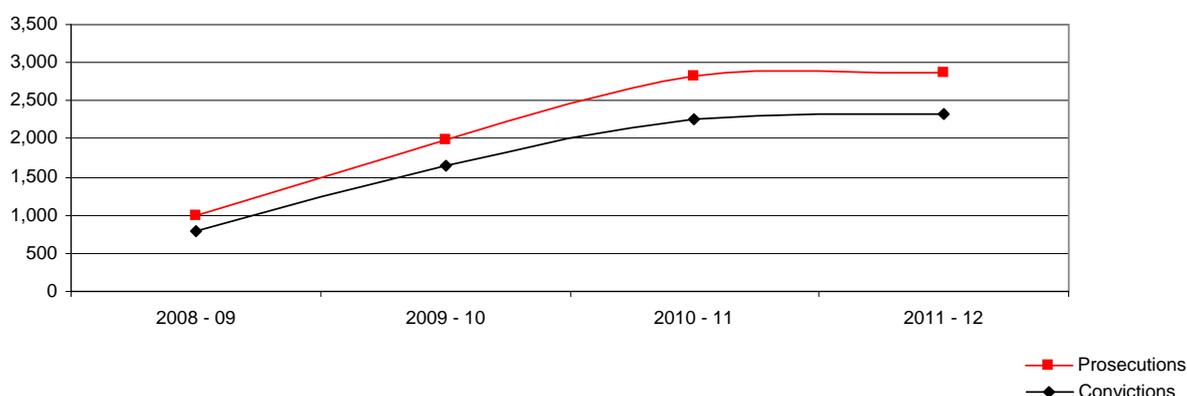
- Where there is a relationship and an expectation of trust e.g. assault/theft by a carer or family member;
- Which are specifically targeted at the old person because they are perceived as being vulnerable or an 'easy target' e.g. a distraction burglary or a mugging;
- Which are not initially related to the older person's age but later do so e.g. a burglary where the burglar does not know the age of the householder but later exploits the situation on discovering that the householder is an older person; and;
- Which appear to be in part, or wholly motivated by hostility based on age, or perceived age e.g. an assault, harassment or antisocial behaviour involving derogatory statements associated with the victim's age.
- Where an offender deliberately targets an older person because of his/her hostility towards older people this will amount to an aggravating factor as will targeting anyone who is vulnerable

## Combined statistics and tables

2011/12 saw improvement in our performance on crimes against older people. The volume of cases referred to us by the police has risen each year since 2007/08 and now stands at 2,987. Of these, 2,242 (75.1%) resulted in a charge.

Completed prosecutions in 2011/12 produced some 2,332 convictions or 81.3% of all prosecutions. For 2010/11, these figures were 2,259 and 80.0%. Since 2007/08, prosecutions have steadily increased from 790 or a 78.7% success rate. Guilty pleas in 2011/12 accounted for 73.9% of all prosecutions, an increase over 2010/11 of 0.7 percentage points. In 2007/08, the same figure was 70.4%.

**Graph 7: Total crimes against older people**



The proportion of cases failing due to all victim issues has increased from 14.0% in 2007/08 to 16.8% last year. The proportion of cases failing due to key reasons increased slightly from 65.7% in 2010/11 to 67.7% last year, although overall, the trend since 2007/08 has been downwards when it stood at 68.2% with acquittal after trial and essential legal element missing representing the largest proportion and the greatest volume.

76.4% of **defendants** were men, a figure that has remained consistent over the past three years.

Recording of victim gender has improved from 60% of all victims in 2008/09 to 84% in 2011/12. As a result of improvements in both the identification of crimes against older people and the accuracy of recording we have enhanced our understanding of these crimes. We now know that the proportion of women victims is almost 50% with men identified as the victim in 35% of cases. In 2007/08, these figures had been 36% and 24%. The challenge remains to identify not only the gender of all victims but other personal characteristics as defined under the Equality Act 2010 in order to improve our understanding of this crime and to improve our services to its victims.

## Area performance

### Case study

A CPS South East case shows how a robust, committed, sensitive and proactive approach can achieve justice despite considerable evidential and practical challenges. The victim in this case was not prepared to give either a written or video recorded statement against her daughter, the defendant. There was no question of seeking to persuade her to do so against her wishes. The only way that the drunken defendant could be brought to justice for violently attacking her 95 year old mother was by the successful application of the Hearsay provisions in section 114(1)(d) Criminal Justice Act (2003) and the common law *res gestae* to provide the Court with the account of the assault given by the victim to a social worker and a police officer. The offence came to light when a driver who delivered meals to the elderly noticed injuries to the victim in the course of a delivery and alerted social services. This application was opposed by the Defence but allowed by the Justices who found the defendant guilty at trial and committed her for sentence to the Crown Court.

As more cases of abuse within residential care homes come to light, it is important for everyone involved to be aware of the potential for criminal behaviour as well as the need to provide appropriate support.

## Case Studies

**Illustration one:** A care assistant ill-treated those in her care by holding a blanket over the head of one woman in one instance and a pillow over the face of another. The care worker was found guilty of the ill-treatment of two vulnerable elderly people.

The District Crown Prosecutor for CPS North Cumbria, said: "This was a very disturbing case. The care assistant has today been found guilty of two serious offences against elderly patients who were in her care. She was in a position of trust and responsibility and abused that position in a terrible way. Instead of caring for these two vulnerable patients when they were in pain and needed help, as she was employed to do, she ill-treated them in view of other members of staff.

"Her actions were callous and difficult to believe. They are likely to have caused distress to the patients themselves and it has been distressing for their families to hear about them. In finding her guilty today, the jury has agreed with the prosecution case that her willful ill-treatment of these elderly patients was criminal."

**Illustration two:** In a Yorkshire case, the defendant subjected his grandmother and her husband to a campaign of harassment, bullying them out of many thousands of pounds to feed his drug addiction. The defendant removed possessions from the complainant's house and pawned them, including the engagement and wedding rings off her fingers. Left destitute, the complainant had insufficient money to heat her home or buy groceries and was reliant on charity food parcels to survive.

The reviewing lawyer considered the circumstances, advised the police in their investigation and advised the most appropriate charge. The case was prosecuted robustly in the Magistrates' Court. The defendant pleaded guilty to harassment and was sentenced to 200 hours' unpaid community work, ordered to pay £500 compensation, to obey a three month curfew, attend a nine month drug rehabilitation programme and to comply with a restraining order prohibiting any contact with his grandmother, indefinitely.

Thanks to the ongoing support the complainant received from the police and advice from the CPS, she had the courage to go through with a prosecution. With the support of a police liaison officer, she was able to go to court and see the defendant convicted.

**Table 6: Prosecutions by outcome for all crimes against older people highlighting the three top-performing CPS Areas against national figures**

	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
National	2,332	81.3%	535	18.7%	2,867
South East	172	85.1%	30	14.9%	202
Yorkshire & Humberside	240	84.2%	45	15.8%	285
West Midlands	309	83.7%	60	16.3%	369
Eastern	144	83.7%	28	16.3%	172

There were six Areas that recorded increases in the volume of crimes against older people during the year. The top three performing Areas were: East Midlands (34.5%), West Midlands (16.4%) and Cymru/Wales (14.4%).

### Learning lessons

CPS East Midlands Community Engagement priorities were developed through a combined analysis of performance data, local community profile and CPS business priorities. Community engagement with older adults was prioritised due to the fact that the East Midlands has a higher percentage of residents aged between 55 and 64, relative to the UK average for both genders. The number of elderly people in the region is expected to grow at an even higher rate than the total population particularly in the population of those aged 65 and over. The Area therefore worked closely with the Older Peoples Advisory Group, and scrutinised ‘crimes against older adults’ within the programme of hate crime scrutiny panel themes for the year.

### Working together

As a result of community engagement activity, the Area has developed a strategic alliance with several local and national organisations that represent and support the interest of older adults: the Age Action Alliance including East Midlands Later Life Forum and the national Change AGEnts.

A number of presentations to both organisations have been made, raising awareness of the role of the CPS and its policy on crimes against older people. Feedback was provided from the hate crime scrutiny panel discussion, and information distributed to members. The Chief Crown Prosecutor attended the Change AGEnts Board meeting and support has also been provided to its strategic advisory panel that informs their Executive Board.

Both of these organisations provided very useful support when the Area’s Hate Crime Scrutiny Panel focused on crimes against older people. The contacts have also contributed to an increase in understanding and confidence in handling issues facing older members of the community.

<b>Hate Crime</b>	<b>CPS Prosecutions 2011 - 2012</b>				
	<b>Convictions</b>		<b>Unsuccessful</b>		<b>Total</b>
	Volume	%	Volume	%	
<b>42 Areas</b>	<b>11,843</b>	<b>83.4%</b>	<b>2,353</b>	<b>16.6%</b>	<b>14,196</b>
<b>Cymru Wales</b>	<b>552</b>	<b>82.3%</b>	<b>119</b>	<b>17.7%</b>	<b>671</b>
Dyfed Powys	51	87.9%	7	12.1%	58
Gwent	97	80.8%	23	19.2%	120
North Wales	156	81.3%	36	18.8%	192
South Wales	248	82.4%	53	17.6%	301
<b>Eastern</b>	<b>619</b>	<b>88.7%</b>	<b>79</b>	<b>11.3%</b>	<b>698</b>
Cambridgeshire	111	86.7%	17	13.3%	128
Essex	244	88.1%	33	11.9%	277
Norfolk	153	89.5%	18	10.5%	171
Suffolk	111	91.0%	11	9.0%	122
<b>East Midlands</b>	<b>968</b>	<b>85.3%</b>	<b>167</b>	<b>14.7%</b>	<b>1,135</b>
Derbyshire	194	83.6%	38	126.4%	232
Leicestershire	326	84.5%	60	15.5%	386
Lincolnshire	84	84.8%	15	15.2%	99
Northamptonshire	98	91.6%	9	8.4%	107
Nottinghamshire	266	85.5%	45	14.5%	311
<b>London</b>	<b>2,215</b>	<b>78.9%</b>	<b>594</b>	<b>21.1%</b>	<b>2,809</b>
<b>Merseyside &amp; Cheshire</b>	<b>573</b>	<b>83.5%</b>	<b>113</b>	<b>16.5%</b>	<b>686</b>
Cheshire	168	87.0%	25	13.0%	193
Merseyside	405	82.2%	88	17.8%	493
<b>North East</b>	<b>625</b>	<b>84.0%</b>	<b>119</b>	<b>16.0%</b>	<b>744</b>
Cleveland	132	84.1%	25	15.9%	157
Durham	103	83.7%	20	16.3%	123
Northumbria	390	84.1%	74	15.9%	464
<b>North West</b>	<b>1790</b>	<b>83.4%</b>	<b>355</b>	<b>16.6%</b>	<b>2,145</b>
Cumbria	98	83.8%	19	16.2%	117
Greater Manchester	1,194	83.1%	243	16.9%	1,437
Lancashire	498	84.3%	93	15.7%	591
<b>South East</b>	<b>643</b>	<b>86.3%</b>	<b>102</b>	<b>13.7%</b>	<b>745</b>
Kent	268	85.9%	44	14.1%	312
Surrey	121	84.6%	22	15.4%	143
Sussex	254	87.6%	36	12.4%	290
<b>South West</b>	<b>616</b>	<b>84.7%</b>	<b>111</b>	<b>15.3%</b>	<b>727</b>
Avon & Somerset	342	85.1%	60	14.9%	402
Devon & Cornwall	161	81.7%	36	18.3%	197
Gloucestershire	113	88.3%	15	11.7%	128
<b>Thames &amp; Chiltern</b>	<b>646</b>	<b>82.9%</b>	<b>133</b>	<b>17.1%</b>	<b>779</b>
Bedfordshire	92	82.1%	20	17.9%	112
Hertfordshire	207	88.8%	26	11.2%	233
Thames Valley	347	80.0%	87	20.0%	434
<b>Wessex</b>	<b>543</b>	<b>84.4%</b>	<b>100</b>	<b>15.6%</b>	<b>643</b>
Dorset	82	78.8%	22	21.2%	104
Hampshire & IOW	412	87.5%	59	12.5%	471
Wiltshire	49	72.1%	19	27.9%	68
<b>West Midlands</b>	<b>1,226</b>	<b>86.7%</b>	<b>188</b>	<b>13.3%</b>	<b>1,414</b>
Staffordshire	182	88.8%	23	11.2%	205
Warwickshire	67	87.0%	10	13.0%	77
West Mercia	179	87.3%	26	12.7%	205
West Midlands	798	86.1%	129	13.9%	927
<b>Yorkshire &amp; Humberside</b>	<b>827</b>	<b>82.7%</b>	<b>173</b>	<b>17.3%</b>	<b>1,000</b>
Humberside	167	90.8%	17	9.2%	184
North Yorkshire	60	80.0%	15	20.0%	75
South Yorkshire	180	84.1%	34	15.9%	214
West Yorkshire	420	79.7%	107	20.3%	527

Race and religious hate crime	CPS Prosecutions 2011 – 2012				
	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
<b>42 Areas</b>	<b>10,412</b>	<b>84.2%</b>	<b>1,955</b>	<b>15.8%</b>	<b>12,367</b>
<b>Cymru Wales</b>	<b>477</b>	<b>84.4%</b>	<b>88</b>	<b>15.6%</b>	<b>565</b>
Dyfed Powys	40	90.9%	4	9.1%	44
Gwent	84	82.4%	18	17.6%	102
North Wales	129	84.3%	24	15.7%	153
South Wales	224	84.2%	42	15.8%	266
<b>Eastern</b>	<b>532</b>	<b>89.4%</b>	<b>63</b>	<b>10.6%</b>	<b>595</b>
Cambridgeshire	101	87.8%	14	12.2%	115
Essex	212	89.1%	26	10.9%	238
Norfolk	123	89.8%	14	10.2%	137
Suffolk	96	91.4%	9	8.6%	105
<b>East Midlands</b>	<b>842</b>	<b>85.4%</b>	<b>144</b>	<b>14.6%</b>	<b>986</b>
Derbyshire	170	84.2%	32	15.8%	202
Leicestershire	284	84.5%	52	15.5%	336
Lincolnshire	71	85.5%	12	14.5%	83
Northamptonshire	78	91.8%	7	8.2%	85
Nottinghamshire	239	85.4%	41	14.6%	280
<b>London</b>	<b>2016</b>	<b>79.6%</b>	<b>517</b>	<b>20.4%</b>	<b>2,533</b>
<b>Merseyside &amp; Cheshire</b>	<b>476</b>	<b>83.5%</b>	<b>94</b>	<b>16.5%</b>	<b>570</b>
Cheshire	133	87.5%	19	12.5%	152
Merseyside	343	82.1%	75	17.9%	418
<b>North East</b>	<b>526</b>	<b>84.2%</b>	<b>99</b>	<b>15.8%</b>	<b>625</b>
Cleveland	111	86.0%	18	14.0%	129
Durham	83	84.7%	15	15.3%	98
Northumbria	332	83.4%	66	16.6%	398
<b>North West</b>	<b>1,575</b>	<b>84.8%</b>	<b>283</b>	<b>15.2%</b>	<b>1,858</b>
Cumbria	84	86.6%	13	13.4%	97
Greater Manchester	1,057	84.5%	194	15.5%	1,251
Lancashire	434	85.1%	76	14.9%	510
<b>South East</b>	<b>533</b>	<b>87.1%</b>	<b>79</b>	<b>12.9%</b>	<b>612</b>
Kent	230	86.8%	35	13.2%	265
Surrey	104	84.6%	19	15.4%	123
Sussex	199	88.8%	25	11.2%	224
<b>South West</b>	<b>541</b>	<b>86.1%</b>	<b>87</b>	<b>13.9%</b>	<b>628</b>
Avon & Somerset	301	85.8%	50	14.2%	351
Devon & Cornwall	139	82.2%	30	17.8%	169
Gloucestershire	101	93.5%	7	6.5%	108
<b>Thames &amp; Chiltern</b>	<b>586</b>	<b>83.4%</b>	<b>117</b>	<b>16.6%</b>	<b>703</b>
Bedfordshire	80	81.6%	18	18.4%	98
Hertfordshire	187	90.3%	20	9.7%	207
Thames Valley	319	80.2%	79	19.8%	398
<b>Wessex</b>	<b>463</b>	<b>84.6%</b>	<b>84</b>	<b>15.4%</b>	<b>547</b>
Dorset	72	76.6%	22	23.4%	94
Hampshire & IOW	345	88.2%	46	11.8%	391
Wiltshire	46	74.2%	16	25.8%	62
<b>West Midlands</b>	<b>1,106</b>	<b>87.4%</b>	<b>159</b>	<b>12.6%</b>	<b>1,265</b>
Staffordshire	158	88.8%	20	11.2%	178
Warwickshire	63	90.0%	7	10.0%	70
West Mercia	159	90.9%	16	9.1%	175
West Midlands	726	86.2%	116	13.8%	842
<b>Yorkshire &amp; Humberside</b>	<b>739</b>	<b>84.0%</b>	<b>141</b>	<b>16.0%</b>	<b>880</b>
Humberside	145	90.6%	15	9.4%	160
North Yorkshire	54	80.6%	13	19.4%	67
South Yorkshire	170	85.9%	28	14.1%	198
West Yorkshire	370	81.3%	85	18.7%	455

Homophobic & transphobic hate crime	CPS Prosecutions 2011 - 2012				
	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
<b>42 Areas</b>	<b>951</b>	<b>78.7%</b>	<b>257</b>	<b>21.3%</b>	<b>1,208</b>
<b>Cymru Wales</b>	<b>52</b>	<b>66.7%</b>	<b>26</b>	<b>33.3%</b>	<b>78</b>
Dyfed Powys	8	72.7%	3	27.3%	11
Gwent	11	68.8%	5	31.3%	16
North Wales	15	68.2%	7	31.8%	22
South Wales	18	62.1%	11	37.9%	29
<b>Eastern</b>	<b>61</b>	<b>83.6%</b>	<b>12</b>	<b>16.4%</b>	<b>73</b>
Cambridgeshire	7	70.0%	3	30.0%	10
Essex	23	82.1%	5	17.9%	28
Norfolk	20	90.9%	2	9.1%	22
Suffolk	11	84.6%	2	15.4%	13
<b>East Midlands</b>	<b>93</b>	<b>88.6%</b>	<b>12</b>	<b>11.4%</b>	<b>105</b>
Derbyshire	13	81.3%	3	18.8%	16
Leicestershire	31	86.1%	5	13.9%	36
Lincolnshire	9	90.0%	1	10.0%	10
Northamptonshire	17	100.0%	0	0.0%	17
Nottinghamshire	23	88.5%	3	11.5%	26
<b>London</b>	<b>157</b>	<b>72.4%</b>	<b>60</b>	<b>27.6%</b>	<b>217</b>
<b>Merseyside &amp; Cheshire</b>	<b>62</b>	<b>88.6%</b>	<b>8</b>	<b>11.4%</b>	<b>70</b>
Cheshire	20	83.3%	4	16.7%	24
Merseyside	42	91.3%	4	8.7%	46
<b>North East</b>	<b>46</b>	<b>82.1%</b>	<b>10</b>	<b>17.9%</b>	<b>56</b>
Cleveland	5	71.4%	2	28.6%	7
Durham	11	84.6%	2	15.4%	13
Northumbria	30	83.3%	6	16.7%	36
<b>North West</b>	<b>126</b>	<b>75.9%</b>	<b>40</b>	<b>24.1%</b>	<b>166</b>
Cumbria	10	62.5%	6	37.5%	16
Greater Manchester	85	79.4%	22	20.6%	107
Lancashire	31	72.1%	12	27.9%	43
<b>South East</b>	<b>62</b>	<b>84.9%</b>	<b>11</b>	<b>15.1%</b>	<b>73</b>
Kent	17	73.9%	6	26.1%	23
Surrey	9	100.0%	0	0.0%	9
Sussex	36	87.8%	5	12.2%	41
<b>South West</b>	<b>54</b>	<b>75.0%</b>	<b>18</b>	<b>25.0%</b>	<b>72</b>
Avon & Somerset	30	81.1%	7	18.0%	37
Devon & Cornwall	16	84.2%	3	15.8%	19
Gloucestershire	8	50.0%	8	50.0%	16
<b>Thames &amp; Chiltern</b>	<b>41</b>	<b>80.4%</b>	<b>10</b>	<b>19.6%</b>	<b>51</b>
Bedfordshire	9	81.8%	2	18.2%	11
Hertfordshire	13	86.7%	2	13.3%	15
Thames Valley	19	76.0%	6	24.0%	25
<b>Wessex</b>	<b>64</b>	<b>85.3%</b>	<b>11</b>	<b>14.7%</b>	<b>75</b>
Dorset	8	100.0%	0	0.0%	8
Hampshire & IOW	54	84.4%	10	15.6%	64
Wiltshire	2	66.7%	1	33.3%	3
<b>West Midlands</b>	<b>81</b>	<b>82.7%</b>	<b>17</b>	<b>17.3%</b>	<b>98</b>
Staffordshire	18	94.7%	1	5.3%	19
Warwickshire	3	75.0%	1	25.0%	4
West Mercia	11	57.9%	8	42.1%	19
West Midlands	49	87.5%	7	12.5%	56
<b>Yorkshire &amp; Humberside</b>	<b>52</b>	<b>70.3%</b>	<b>22</b>	<b>29.7%</b>	<b>74</b>
Humberside	10	100.0%	0	0.0%	10
North Yorkshire	5	71.4%	2	28.6%	7
South Yorkshire	8	61.5%	5	38.5%	13
West Yorkshire	29	65.9%	15	34.1%	44

Disability hate crime	CPS Prosecutions 2011 - 2012				
	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
<b>42 Areas</b>	<b>480</b>	<b>77.3%</b>	<b>141</b>	<b>22.7%</b>	<b>621</b>
<b>Cymru Wales</b>	<b>23</b>	<b>82.1%</b>	<b>5</b>	<b>17.9%</b>	<b>28</b>
Dyfed Powys	3	100.0%	0	0.0%	3
Gwent	2	100.0%	0	0.0%	2
North Wales	12	70.6%	5	29.4%	17
South Wales	6	100.0%	0	0.0%	6
<b>Eastern</b>	<b>26</b>	<b>86.7%</b>	<b>4</b>	<b>13.3%</b>	<b>30</b>
Cambridgeshire	3	100.0%	0	0.0%	3
Essex	9	81.8%	2	18.2%	11
Norfolk	10	83.3%	2	16.7%	12
Suffolk	4	100.0%	0	0.0%	4
<b>East Midlands</b>	<b>33</b>	<b>75.0%</b>	<b>11</b>	<b>25.0%</b>	<b>44</b>
Derbyshire	11	78.6%	3	21.4%	14
Leicestershire	11	78.6%	3	21.4%	14
Lincolnshire	4	66.7%	2	33.3%	6
Northamptonshire	3	60.0%	2	40.0%	5
Nottinghamshire	4	80.0%	1	20.0%	5
<b>London</b>	<b>42</b>	<b>71.2%</b>	<b>17</b>	<b>28.8%</b>	<b>59</b>
<b>Merseyside &amp; Cheshire</b>	<b>35</b>	<b>76.1%</b>	<b>11</b>	<b>23.9%</b>	<b>46</b>
Cheshire	15	88.2%	2	11.8%	17
Merseyside	20	69.0%	9	31.0%	29
<b>North East</b>	<b>53</b>	<b>84.1%</b>	<b>10</b>	<b>15.9%</b>	<b>63</b>
Cleveland	16	76.2%	5	23.8%	21
Durham	9	75.0%	3	25.0%	12
Northumbria	28	<b>93.3%</b>	2	6.7%	30
<b>North West</b>	<b>89</b>	<b>73.6%</b>	<b>32</b>	<b>26.4%</b>	<b>121</b>
Cumbria	4	100.0%	0	0.0%	4
Greater Manchester	52	65.8%	27	34.2%	79
Lancashire	33	<b>86.8%</b>	5	13.2%	38
<b>South East</b>	<b>48</b>	<b>80.0%</b>	<b>12</b>	<b>20.0%</b>	<b>60</b>
Kent	21	87.5%	3	12.5%	24
Surrey	8	72.7%	3	27.3%	11
Sussex	19	76.0%	6	24.0%	25
<b>South West</b>	<b>21</b>	<b>77.8%</b>	<b>6</b>	<b>22.2%</b>	<b>27</b>
Avon & Somerset	11	78.6%	3	21.4%	14
Devon & Cornwall	6	66.7%	3	33.3%	9
Gloucestershire	4	100.0%	0	0.0%	4
<b>Thames &amp; Chiltern</b>	<b>19</b>	<b>76.0%</b>	<b>6</b>	<b>24.0%</b>	<b>25</b>
Bedfordshire	3	100.0%	0	0.0%	3
Hertfordshire	7	63.6%	4	36.4%	11
Thames Valley	9	81.8%	2	18.2%	11
<b>Wessex</b>	<b>16</b>	<b>76.2%</b>	<b>5</b>	<b>23.8%</b>	<b>21</b>
Dorset	2	100.0%	0	0.0%	2
Hampshire & IOW	13	81.3%	3	18.8%	16
Wiltshire	1	33.3%	2	66.7%	3
<b>West Midlands</b>	<b>39</b>	<b>76.5%</b>	<b>12</b>	<b>23.5%</b>	<b>51</b>
Staffordshire	6	75.0%	2	25.0%	8
Warwickshire	1	33.3%	2	66.7%	3
West Mercia	9	81.8%	2	18.2%	11
West Midlands	23	79.3%	6	20.7%	29
<b>Yorkshire &amp; Humberside</b>	<b>36</b>	<b>78.3%</b>	<b>10</b>	<b>21.7%</b>	<b>46</b>
Humberside	12	85.7%	2	14.3%	14
North Yorkshire	1	100.0%	0	0.0%	1
South Yorkshire	2	66.7%	1	33.3%	3
West Yorkshire	21	75.0%	7	25.0%	28

Crimes against older people	CPS Prosecutions 2011 - 2012				
	Convictions		Unsuccessful		Total
	Volume	%	Volume	%	
<b>42 Areas</b>	<b>2,332</b>	<b>81.3%</b>	<b>535</b>	<b>18.7%</b>	<b>2,867</b>
<b>Cymru Wales</b>	<b>191</b>	<b>80.3%</b>	<b>47</b>	<b>19.7%</b>	<b>238</b>
Dyfed Powys	22	88.0%	3	12.0%	25
Gwent	37	82.2%	8	17.8%	45
North Wales	41	89.1%	5	10.9%	46
South Wales	91	74.6%	31	25.4%	122
<b>Eastern</b>	<b>144</b>	<b>83.7%</b>	<b>28</b>	<b>16.3%</b>	<b>172</b>
Cambridgeshire	34	91.9%	3	8.1%	37
Essex	59	78.7%	16	21.3%	75
Norfolk	24	85.7%	4	14.3%	28
Suffolk	27	84.4%	5	15.6%	32
<b>East Midlands</b>	<b>179</b>	<b>80.6%</b>	<b>43</b>	<b>19.4%</b>	<b>222</b>
Derbyshire	29	70.7%	12	29.3%	41
Leicestershire	43	87.8%	6	12.2%	49
Lincolnshire	40	83.3%	8	16.7%	48
Northamptonshire	7	58.3%	5	41.7%	12
Nottinghamshire	60	83.3%	12	16.7%	72
<b>London</b>	<b>252</b>	<b>76.8%</b>	<b>76</b>	<b>23.2%</b>	<b>328</b>
<b>Merseyside &amp; Cheshire</b>	<b>91</b>	<b>83.5%</b>	<b>18</b>	<b>16.5%</b>	<b>109</b>
Cheshire	42	87.5%	6	12.5%	48
Merseyside	49	80.3%	12	19.7%	61
<b>North East</b>	<b>133</b>	<b>76.4%</b>	<b>41</b>	<b>23.6%</b>	<b>174</b>
Cleveland	32	76.2%	10	23.8%	42
Durham	31	72.1%	12	27.9%	43
Northumbria	70	78.7%	19	21.3%	89
<b>North West</b>	<b>263</b>	<b>83.2%</b>	<b>53</b>	<b>16.8%</b>	<b>316</b>
Cumbria	19	79.2%	5	20.8%	24
Greater Manchester	137	81.5%	31	18.5%	168
Lancashire	107	86.3%	17	13.7%	124
<b>South East</b>	<b>172</b>	<b>85.1%</b>	<b>30</b>	<b>14.9%</b>	<b>202</b>
Kent	49	86.0%	8	14.0%	57
Surrey	35	77.8%	10	22.2%	45
Sussex	88	88.0%	12	12.0%	100
<b>South West</b>	<b>91</b>	<b>74.6%</b>	<b>31</b>	<b>25.4%</b>	<b>122</b>
Avon & Somerset	44	68.8%	20	31.3%	64
Devon & Cornwall	22	78.6%	6	21.4%	28
Gloucestershire	25	83.3%	5	16.7%	30
<b>Thames &amp; Chiltern</b>	<b>147</b>	<b>80.8%</b>	<b>35</b>	<b>19.2%</b>	<b>182</b>
Bedfordshire	24	75.0%	8	25.0%	32
Hertfordshire	45	78.9%	12	21.15	57
Thames Valley	78	83.9%	15	16.1%	93
<b>Wessex</b>	<b>120</b>	<b>81.1%</b>	<b>28</b>	<b>18.9%</b>	<b>148</b>
Dorset	31	73.8%	11	26.2%	42
Hampshire & IOW	73	85.9%	12	14.1%	85
Wiltshire	16	76.2%	5	23.8%	21
<b>West Midlands</b>	<b>309</b>	<b>83.7%</b>	<b>60</b>	<b>16.3%</b>	<b>369</b>
Staffordshire	30	73.2%	11	26.8%	41
Warwickshire	11	100.0%	0	0.0%	11
West Mercia	73	83.0%	15	17.0%	88
West Midlands	195	85.2%	34	14.8%	229
<b>Yorkshire &amp; Humberside</b>	<b>240</b>	<b>84.2%</b>	<b>45</b>	<b>15.8%</b>	<b>285</b>
Humberside	65	87.8%	9	12.2%	74
North Yorkshire	19	86.4%	3	13.6%	22
South Yorkshire	44	78.6%	12	21.4%	56
West Yorkshire	112	84.2%	21	15.8%	133

# Glossary

## Hate crimes

Racial & religious incident:	any incident which appears to the victim or any other person, to be motivated by hostility towards a person's race or religion, or perceived race or religion.
Homophobic and transphobic incident:	any incident which is perceived to be homophobic or transphobic by the victim or by any other person.
Disability incident:	any incident where disability is a factor in the offence. This includes any incident which is perceived by the victim or any other person to be based upon prejudice or hostility towards the victim because of their disability and/or where the victim is targeted because of their perceived vulnerability.
Monitoring flags	Sensitive case types are identified using a number of monitoring flags, applied to relevant cases at the pre-charge stage. The flags allow managers to monitor proceedings during the life of the prosecution, and enable reporting of outcomes following the conclusion of the case. Flags are applied in cases of hate crime and to crimes against older people.
Crime against older people:	offences in the categories below, where the victim is aged 60 or older: <ul style="list-style-type: none"><li>• where there is a relationship and an expectation of trust , for example, theft or assault by a carer or family member</li><li>• which are specifically targeted at the older person because they are perceived as being vulnerable or an easy target, for example, a distraction burglary or a mugging</li><li>• which are not initially related to the older person's age but later becomes so, for example, a burglary where the burglar does not know the age of the householder, but later exploits the situation on discovering that the householder is an older person</li><li>• which appear to be in part or wholly motivated by hostility based on age, or perceived age. For example, an assault, harassment or antisocial</li></ul>

behaviour involving derogatory statements associated with the victim's age.

## Case outcomes

**Pre-charge decisions:** In all but minor cases, and those where a guilty plea is anticipated, Crown Prosecutors are responsible for deciding whether a person should be charged with a criminal offence and, if so, what that offence should be, in accordance with the Director's Guidelines.

**Charged:** cases where the CPS's decision is to charge.

**Request for further evidence:** where further information or action is requested or deemed necessary.

**No prosecution:** those cases where the CPS's decision is not to prosecute, for evidential or public interest reasons.

**All other decisions:** where a caution, reprimand or final warning are given; where the offence has been taken into consideration in relation to other charges; or where the defendant has failed to answer to bail and a warrant is outstanding.

**Prosecutions:** All defendants charged or summonsed whose case was completed in magistrates' or in the Crown Court during the period, including those proceeding to a trial or guilty plea, those discontinued and those which could not proceed.

Unsuccessful outcomes: all completed prosecutions where the defendant is not convicted, comprising the following:

**Discontinued and withdrawn:** consideration of the evidence and of the public interest may lead the CPS to discontinue proceedings at any time before the start of the trial. Included here are cases formally discontinued in advance of the hearing, those in which no evidence was offered, and those withdrawn at court. Also included are cases in which the defendant was bound over to keep the peace.

**Dismissed after full trial:** cases in which the defendant pleads not guilty and proceedings are dismissed by the magistrates after hearing the defence case.

**Judge directed acquittal:** cases where at the close of the prosecution case

against the defendant, a successful submission of 'no case' or 'unsafe' is made on behalf of the defendant, and the judge directs an acquittal rather than allow the case to be determined by the jury.

Jury acquittal: when the defendant pleads not guilty and, following a trial, is acquitted by the jury.

All other unsuccessful outcomes: comprising administrative finalisations, discharged committals and no case to answer.

Administrative finalisation: when a prosecution cannot proceed because a defendant has failed to appear at court and a Bench Warrant has been issued for his or her arrest; or the defendant has died, or is found unfit to plead; or where proceedings are adjourned indefinitely.

Discharged committals: committal proceedings in which the defendant is discharged.

No case to answer: cases in which the defendant pleads not guilty and prosecution evidence is heard, but proceedings are dismissed by the magistrates without hearing the defence case.

Convictions: cases where the defendant is convicted following a prosecution, comprising:

Guilty plea: where the defendant pleads guilty.

Conviction after trial: cases in which the defendant pleads not guilty, but is convicted after the evidence is heard.

Proof in absence: these are lesser offences - mostly motoring matters- which are heard by the court in the absence of the defendant.

### **Reason categories for unsuccessful outcomes**

Evidential: where the prosecutor decides there is insufficient evidence to provide a realistic prospect of conviction.

Public interest: where there is considered to be sufficient evidence but the prosecutor decides that public interest factors weigh against prosecution.

Unable to proceed:	where the evidence and the public interest support a prosecution, but circumstances make it impossible for the case to proceed.
Other reasons:	where the defendant is bound over, acquitted or dismissed after trial, or no other option is appropriate.
Administrative finalisation:	when a prosecution cannot proceed because a defendant has failed to appear at court and a Bench Warrant has been issued for his or her arrest; or the defendant has died; or is found unfit to plead: or where proceedings are adjourned indefinitely.

### **Reasons for unsuccessful outcomes**

Victim retraction:	where the evidence of the victim supports the prosecution case, the victim refuses to be called as a witness, or retracts, or withdraws a complaint.
Victim non-attendance:	the victim is called as a witness in a trial, but fails to attend court.
Victim evidence does not support case:	the evidence of the victim of an offence does not support the prosecution of the defendant, leading to an unsuccessful outcome, but the victim however, has not retracted.
Conflict of evidence:	contradictions in prosecution evidence leads to an unsuccessful prosecution.
Essential legal element missing:	the prosecution cannot continue because an essential legal element is missing from the prosecution case.
Other indictment or sentence:	the case does not proceed because the same defendant is the subject of either other indictments, or sentences in respect of other proceedings.
Acquittals after trial:	the defendant is found not guilty by the magistrates or jury after a contested hearing in which the defence is called on to present its case.
Principal offence category:	charged offences are allocated one of twelve offence categories to indicate the type and seriousness of the charges brought against the defendant.

**Equality and Diversity Unit**

**[www.cps.gov.uk](http://www.cps.gov.uk)**

October 2012