



HATE CRIME – UK LEGAL PROTECTION

Hate Crime is a crime + proven or perceived bias motive

HATE SPEECH

HATE SPEECH – usually refers to *words or expressions* that insult, threaten, or incite hatred against a protected group. Not all hate speech is illegal – only certain forms that cross legal thresholds.

Key features

- It involves *expressions*, spoken or written slurs, offensive comments, hateful remarks.
- It becomes *illegal* only when it meets specific criteria, such as:
 - Intending to **stir up hatred** against a protected group
 - Using **threatening or abusive** words that can cause fear or violence.
- In the UK, this is covered by “stirring up hatred” under the Public Order Acts.
- HATE SPEECH IS ABOUT HARMFUL OR INCITING WORDS, NOT PHYSICAL CRIMES.

A hate crime is a criminal act (such as assault, vandalism, threats, or harassment) that is motivated wholly or partly by bias or prejudice against a person or group because of a protected characteristic.

While the exact legal definition varies by country or jurisdiction, hate crimes generally involve two elements:

- An underlying criminal offense — e.g., violence, property damage, intimidation.
- A motive based on bias — commonly against characteristics such as:
 - race or ethnicity
 - religion
 - nationality
 - sexual orientation
 - gender or gender identity
 - disability

In law, hate crimes often carry **enhanced penalties** because the bias-based motive is considered harmful to the broader community.

MAIN DIFFERENCES AT A GLANCE

Main Differences at a Glance

Feature	Hate Crime	Hate Speech
Type of act	A criminal offence (assault, damage, threats)	Speech or expression
Key issue	The motive is hostility	The message is threatening, abusive, or incites hatred
Requires a crime?	Yes	Not always — some hate speech is not illegal
Legal threshold	Hostility aggravates the offence	Speech must cross thresholds (threatening/intent to stir hatred)
Harm focus	Injury, damage, threats, or harassment	Psychological/social harm via words or advocacy

UK LEGAL EXAMPLES OF HATE CRIME

These involve a *criminal act* where hostility is motivating or demonstrated.

Examples

- Assault with racist or homophobic abuse
e.g., punching someone while shouting slurs.
- Vandalism of religious property
e.g., smashing windows of a mosque, synagogue, or gurdwara with anti-religious messages.
- Disability-targeted harassment
e.g., repeatedly threatening a disabled neighbour because of their disability.
- Threatening behaviour motivated by hostility
e.g., threatening a person because they are transgender.
- Arson or property damage due to bias
e.g., burning a Pride flag or defacing a cultural centre.

Speech becomes illegal only if it is:

- Threatening (and sometimes abusive/insulting, depending on characteristic)
 - Intended, or in some cases *likely*, to stir up hatred

Examples of Illegal Hate Speech (UK)

This involves *words or expressive acts* that meet specific criminal thresholds — not all offensive speech is illegal.

Examples under UK law

- Stirring up racial hatred
e.g., giving a speech telling others to attack a racial group.
- Publishing threatening material aimed at a protected group
e.g., posting a video threatening violence against Muslims, Jews, Sikhs, LGBT people, etc.
- Distribution of abusive or threatening leaflets
that are intended to stir up hatred based on race, religion, or sexual orientation.
- Threatening someone based on their identity on social media
when it crosses into criminal threat or incitement

HATE CRIME PROSECUTION

Hate crime prosecution generally involves two steps:

1. Prove the underlying offence

e.g., assault, harassment, damage, public order offence.

2. Prove hostility

Hostility can be proven by:

- Slurs used during the offence
- Evidence of prejudice motivation
- Symbols, gestures, or statements showing bias
- Past behaviour indicating hostility
- Perception of the victim (for reporting), though courts require actual evidence

Relevant Laws

- Crime and Disorder Act 1998 – creates *aggravated* forms of offences
- Criminal Justice Act 2003, s.146 – applies *sentence uplift* when hostility is proven
- Public Order Act 1986 – for threatening/abusive conduct tied to hostility

The Crown Prosecution Service (CPS) must decide that evidence supports both the crime and the hostile motive.

PROSECUTION OF HATE SPEECH

Illegal hate speech usually requires intent or likelihood to “stir up hatred”.

Laws Used

- Public Order Act 1986 (Part III) – stirring up racial hatred (lower threshold: threatening, abusive, or insulting words)
- Public Order Act 1986 (Part IIIA) – stirring up hatred based on religion or sexual orientation (higher threshold: threatening ONLY, and often requires intent)
- Communications Act 2003, s.127 – criminal communications that are grossly offensive or threatening
- Malicious Communications Act 1988 – sending threatening or abusive messages

Prosecution Factors

CPS must show:

- The speech was threatening / abusive / insulting (depending on characteristic)
- It was intended to stir up hatred, or
- It was likely to do so (racial hatred only)

This is a high bar — offensive comments alone are *not* a crime.

PENALTY DIFFERENCES (UK)

Hate Crime Penalties

Hate crimes carry higher penalties than the same crime without hostility.

Examples

- Assault (common assault)
Standard max sentence: 6 months
Aggravated (racially/religiously): up to 2 years
- Criminal damage
Standard: varies (up to 10 years)
Hate-motivated: sentence uplift applied
- Public order offences
Can rise from fine-level offences to years of imprisonment when aggravated

Courts must *announce the uplift* they added because of the hate motive.

Hate Speech Penalties - Penalties vary by statute:

Stirring up racial hatred

- Up to 7 years imprisonment + fine

Stirring up hatred (religion or sexual orientation)

- Up to 7 years imprisonment, but threshold for conviction is stricter
- Requires showing threatening behaviour and usually intent

Grossly offensive or threatening communications

- Under Communications Act 2003 or Malicious Communications Act
- Penalties include:
 - Fines
 - Community orders
 - Up to 2 years imprisonment in more serious cases

Summary Table

Category	Hate Crime	Hate Speech
Nature	Criminal act + bias	Criminal speech intended to stir hatred
Trigger	Hostility toward protected group	Threatening/abusive words crossing legal thresholds
Key Law	Crime and Disorder Act 1998, CJA 2003	Public Order Act 1986, Communications Acts
Prosecution	Prove crime + hostility	Prove intent/likelihood to stir hatred
Max Penalty	Uplifted penalties (e.g. assault → 2 years)	Up to 7 years (racial hatred)

IN SIMPLE TERMS

Many things that people find offensive, prejudiced, or wrong are still *legal*.
Speech becomes illegal only when it is:

- Clearly threatening
 - Intended (or likely) to stir up hatred
 - Directed at a protected group
- More than simply expressing a bad opinion

OFFENSIVE OR ABUSIVE COMMENTS THAT STOP SHORT OF “STIRRING UP HATRED”

UK law does not criminalise general offensiveness, **even if it is insulting or bigoted.**

Legal (but offensive)

- Using a racial or religious slur in a private conversation
- Posting an offensive opinion about a group without intending harm
- Saying something rude or discriminatory but not threatening

Under UK free-speech protections, these statements may be immoral but usually are *not crimes*.

Illegal - Speech becomes illegal only if it is:

- Threatening (and sometimes abusive/insulting, depending on characteristic)
- Intended, or in some cases *likely*, to stir up hatred

Because the threshold is high, many offensive statements do not qualify as hate speech offences.

WHEN SPEECH IS ABUSIVE BUT NOT THREATENING

This is a major grey area

For race

- The law is broader: *threatening, abusive or insulting* can be illegal **if** it stirs up hatred (even without intent).
- This means insulting racial speech can be criminalised **if hatred is likely to be stirred up.**

For religion or sexual orientation

- The bar is much higher: speech must be **threatening**, not just abusive or insulting.
- And usually, **intent** to stir up hatred must be proven.

This inconsistency creates grey areas where **the same statement may be illegal if racial, but legal if about sexual orientation or religion.**

“HOSTILITY” vs. “HATRED”

UK law treats these differently:

- Hate crime = hostility (a lower threshold)
- Hate speech = stirring up *hatred* (a much higher threshold)

A statement may show hostility — e.g., using slurs — but still not reach the level of stirring up hatred, so it is not hate speech, though it may be evidence in a hate-crime case.

JOKES, SATIRE, AND HUMOUR

Humour is context-dependent and subjective

Often legal

- Dark humour
- Sarcasm
- Offensive jokes about a protected group

Potentially illegal

- Jokes that **threaten** a group
- Jokes intended to **encourage violence**, even indirectly
- “Humour” used as a cover for targeted harassment

Courts look at the **context, intent, and audience**.

ONLINE SPEECH vs OFFLINE SPEECH

Online communication can be prosecuted under:

- Communications Act 2003
- Malicious Communications Act 1988

This creates grey areas because online posts:

- Spread faster
- Reach wider audiences
- Can be interpreted as more threatening due to lack of tone

For example:

- A racist slur online might be offensive but **not illegal**
- A *threatening* racist slur could trigger criminal liability
- Repeated abusive posts might become **harassment**, even if individually legal

“LIKELY TO STIR UP HATRED” vs ACTUAL INTENT

For racial hatred, the law allows prosecution if hatred was likely, even without intent.

This means:

- You didn't intend hatred
- You didn't want to encourage it
- But the speech was sufficiently inflammatory

This is one of the biggest grey areas. For other protected characteristics, intent usually must be proven.

“GROUP CRITICISM” vs “INCITEMENT”

Another common grey area

Generally legal

- Criticising a religion
- Criticising immigration policy
- Criticising gender ideology
- Criticising a cultural practice
- Saying a group's behaviour is harmful

Potentially illegal

- Calling for harm against a group
- Telling others to attack a group
- Threats directed at a protected group
- Statements likely to inflame hatred against a racial group

Courts draw a line between criticism of ideas and attacks on people.

Simplified difference

- Hate crime = harmful actions + prejudice motive
- Hate speech = harmful or inciting words directed at protected groups