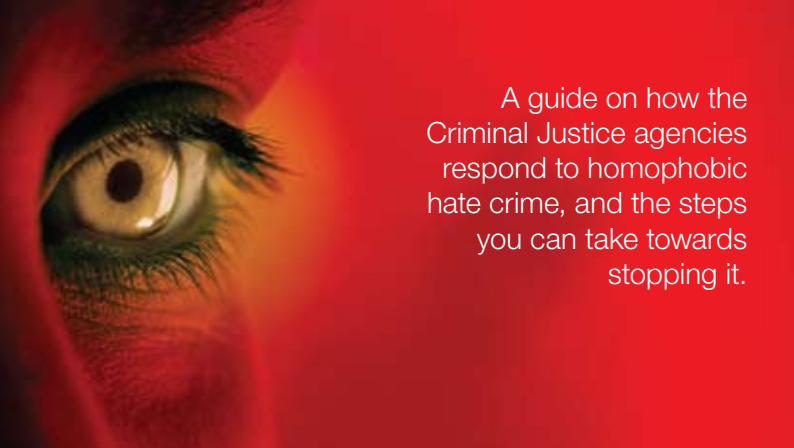


Have you experienced **homophobic** hate crime?



A guide on how the
Criminal Justice agencies
respond to homophobic
hate crime, and the steps
you can take towards
stopping it.

Hate crime is any incident committed against a person or property which is motivated by the offender's hatred of people who are seen as being different. This difference could be a person's race, ethnic origin, religion, disability, gender, gender identity or sexual orientation.

Any incident which is perceived to be homophobic by the victim or any other person witnessing the incident

Hate crimes and incidents can include:

- Physical Attacks
- Threat of Attack
- Verbal Abuse or Insults
- Graffiti
- Hate Mail
- Name Calling
- Spitting
- Damage to Property

**A homophobic hate crime incident is NOT acceptable
Action will be taken**

You should REPORT it.

“The 2007 Stonewall Cymru Conference focused on tackling Homophobic Hate Crime and we found that lesbian, gay and bisexual (LGB) people often did not report their experiences of homophobic incidents to the police, or if they did they were confused by what happened next.

This booklet will help LGB people understand how the Police and Crown Prosecution Service respond to homophobic incidents. It also includes information about the support that is available from Victim Support and the Court Services.”

Jenny Porter, Community Liaison Officer Stonewall Cymru

“We welcome this booklet as an opportunity to support all victims of Homophobic Hate Crime in Wales to understand, and have confidence in, the Criminal Justice System. All 4 Local Criminal Justice Boards in Wales take the issue of homophobic Hate Crime extremely seriously. We are committed to ensuring that should you ever come into contact, with the criminal justice system, you will be treated with respect and fairness. If you do experience Hate Crime, we urge you to report it – the criminal justice system is here to support you.”

Clare Pillman, Her Majesty's Court Services Director for Wales



some myth busting facts

*People in Wales **do** report homophobic incidents – 429 incidents were reported in 2006 and 369 in 2007 across Wales

And people **do get convicted of offences with a homophobic element – 29 successful prosecutions in Wales in 2006 and 47 in 2007

You **don't** have to give your name and address when reporting a homophobic incident – all police forces have anonymous self-reporting systems. Any report detailing an incident, anonymous or otherwise, will be recorded and examined

You **don't** have to be lesbian, gay or bisexual to be the victim of homophobic hate – victims don't have to prove their sexual orientation. Homophobic hate is defined by how the offence was perceived by the victim, a witness or the motivation of the offender

*Totals **do not** include reports of homophobic incidents that are: anonymous, have no offender identified, or are about discrimination in employment or service provision.

You **can** get help from Victim Support - even if you have not reported the incident to the police

You **may not** have to give your address in court - those accused of crimes are entitled to know the name of their accuser however, addresses do not have to be disclosed unless essential to the evidence in the case

The court **can** prevent the media from reporting on aspects of a case - in certain circumstances and if the courts consider a victim or witness to be vulnerable or intimidated

The court **can** increase the sentencing of an offender if homophobic hate is proved to be a motivational factor

You **don't** have a right to a day in court just because you report an incident – success needs a victim, an offender and evidence.

** **Not every homophobic incident that is reported is a crime**, and even when a crime can be proved there may not be sufficient evidence to prove to a court that it was motivated by homophobia.

POLICE

The Police have 2 roles: to investigate reports of crime for presentation to the Crown Prosecution Service, and to protect people and their property.

Reporting:

You can report to the Police all homophobic incidents

eg: verbal abuse, spitting, offensive graffiti as well as criminal offences in **2 ways:**

- 1** Contact your Police force directly – by phoning your local police station or 999 in an emergency
- 2** Self-reporting Form - all Welsh Police forces have Self-reporting Forms that can be found in public places and on their websites.

When you report a homophobic incident the Police will:

- **Make a record** of the incident
- **Record** your witness statement
- **Investigate** to see if there is sufficient evidence
- **Interview** any suspects
- **Inform** you of decisions by Police and by the Crown Prosecution Service (CPS) to charge a person or not
- **Keep you updated** on how the case is progressing.

www.dyfed-powys.police.uk
www.gwent.police.uk
www.north-wales.police.uk
www.south-wales.police.uk

Regardless of whether a person is charged with an offence or not the police can also:

- **Inform** you of decisions to issue a caution, reprimand, Anti Social Behaviour Order, final warning or penalty notice for disorder
- **Offer support** by contacting Victim Support or other agencies
- **Discuss evidence collection** eg: installing a CCTV camera or spit-kits, focused Police patrols or tracing malicious mobile phone calls
- **Provide general Crime Prevention Advice**
- **Inform the local authority** in the event of offensive graffiti to ensure it is removed promptly
- **Analyse** reported incidents to identify trends
- **Advise** support groups and networks of any issues for concern or 'hot spot' areas for crimes and incidents for crime prevention and protection.

Telling the police

is the **FIRST** step
towards **STOPPING**
homophobic hate crime

CROWN PROSECUTION SERVICE

The Crown Prosecution Service (CPS) has 2 roles:

to assess a prospective case, and to prosecute people charged with a criminal offence.

www.cps.gov.uk

Assessing:

The CPS uses the Code for Crown Prosecutors to assess a prospective case. A case has to pass 2 tests before it can proceed as a prosecution:

Evidential test: there needs to be sufficient evidence for a realistic prospect of conviction against each defendant on each charge. If the case does not pass this test on the strength of the evidence it must not go ahead, no matter how important or serious it may be.

Public interest test: this considers the consequences for the public. Cases that feature a homophobic element are likely to pass the public interest test.

The CPS will almost always prosecute cases that involve a homophobic element and which pass the evidential test and have a victim willing to give evidence.

When prosecuting cases with a homophobic element the CPS will offer the following to a victim and/or witness:

- **Meet and explain** any decision taken not to charge, drop, or alter a charge
- **Be sensitive** to the possible consequences for LGB people of being in the public eye
- **Consider not calling the victim to court** - there may be other ways of proving the case
- **Consider ways of enabling the victim** to give their best evidence to court – there may be indirect ways of giving evidence
- **Provide an opportunity for a Victim Statement** to be presented to court
- **Provide support** in court.

Providing evidence is the **SECOND** step towards **STOPPING** homophobic hate crime



GOING TO COURT

There are 2 main types of court:

the Magistrates Court and the Crown Court

Magistrates Court

- This has a duty to speed the process through early identification of any contested issue and necessary witnesses
- It is able to sentence up to 6 months imprisonment.

All cases start in the Magistrates Court but move to Crown Court if the Magistrates Court direct the case as suitable for the Crown Court or:

- The offence is so serious that it is triable only in the Crown Court
- The defendant elects to go to Crown Court and it is an offence that can be dealt with in the Crown Court.

Sentencing:

Sentences include custodial sentence, fines, community penalties, conditional discharge, or an absolute discharge.

When a homophobic motivation is

acknowledged as an aggravating feature of the crime then the sentence can be increased.

When a case with a homophobic feature goes to Court:

- **Witness Care Officers** can provide support throughout the court procedures and information for child care and access needs
- **There is the opportunity for a Victim's Statement** to be read out in court detailing the impact of the offence on the victim
- **Witness evidence may be read out in court** - if it is not being contested
- **Special measures can be taken to support intimidated or vulnerable witnesses** giving evidence – this could be by TV link or an intermediary person
- **There is the possibility of passing over a minor offence committed by a witness** if the prospect of conviction of a major offence is dependent on their evidence
- **Reporting restrictions can be put in place to protect a witness from publicity** - but this does not guarantee anonymity to the victim.

Giving evidence to a court is the **THIRD** step towards **STOPPING** homophobic hate crime

VICTIM SUPPORT

Victim Support offers support at 2 points: after the experience of a crime (whether or not the Police have been involved) and when a witness attends court.

www.victimsupport.org.uk

Victim Support is a national charity of trained volunteers. It provides free and confidential support to a victim and their family and friends, it does this whether or not the crime has been reported to the police. Police forces make referrals of victims of crime to Victim Support then trained staff will contact you to assess your support needs. Volunteers with enhanced training in the needs of victims of homophobic crime will provide emotional support if requested. Trained volunteers in the Witness Service provide support before, during and after a trial.

The **Victim Support + Help Line** is
0845 2412410
open: **8am – 8pm Monday to Friday**

Victim Support can offer trained volunteers to:

- **Give emotional support**
- **Provide practical help** and local information eg: replacing windows, installing new locks etc
- **Explain how courts work**
- **Provide witness / victim support** in court
- **Give guidance** on addressing insurance issues
- **Assist or represent the victim** claiming Criminal Injuries Compensation.

Getting SUPPORT is a step towards **RECOVERY** from **homophobic hate crime**



HELPING YOUR CASE

Report to the Police as early as possible - if the incident has just happened the police may find evidence easier than if it happened days ago

Write your own notes of the incident soon after it happened - include the date and time and the exact words and actions used, and keep it safe

Get the contact details of any potential witness - their perspective of an incident is often the critical factor for the CPS. In a direct conflict of evidence the defendant is entitled to the benefit of the doubt and the burden of proof rests on the Prosecution

Check your Police Statement carefully before signing - take your time, and do not be afraid to add or amend, to ensure that your complaint is properly and fully recorded, in your own words

Use the opportunity to provide a Victim Personal Statement and describe the impact that the incident has had on your life. Express your feelings if you are distressed and feel vulnerable or fearful in pursuing your complaint, this additional information will be taken into account by the Crown Prosecution Service

Contact your landlord - landlords have a duty of care to their residents and can work in partnership with the police and other agencies to take action for breach of tenancy against a tenant offender.

LGB SUPPORT HELP LINES:

Wales:

LGBT Cymru Help Line 0800 023 2201

open Mon to Fri from 9am – 6pm,
also Mon and Wed from 7pm – 9pm

www.lgbtcymruhelpline.org.uk

England:

London Lesbian & Gay Switchboard

Help line **020 7837 7324**

open **daily** 10am – 11pm

www.llgs.org.uk

Manchester LGF Help line 0845 3 30 30 30

open **daily** 6pm – 10pm

www.lgf.org.uk

Stonewall free Infoline: 08000 50 20 20

open Mon to Fri from 9.30am -5.30pm

www.stonewall.org.uk/info

Provides information, guidance and referrals on issues affecting lesbian, gay and bisexual life

COMPLAINTS PROCEDURE:

If you feel let down by any of the agencies covered in this leaflet contact the office that dealt with your case outlining your complaint and you should receive a response within 3 to 10 working days.

STONEWALL CYMRU

www.stonewallcymru.org.uk

Stonewall Cymru works in partnership with agencies to challenge discrimination and achieve equality and social justice for lesbian, gay and bisexual people in Wales.

Stonewall Cymru would like to thank the 4 Welsh Criminal Justice Boards for funding this booklet.

***“North Wales Police** are extremely pleased to work with Stonewall Cymru in the production of this booklet.”*

Greg George, North Wales Police Diversity Development Manager.

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