SAFE TO BE:
TRAINING TOOLKIT
ON ANTI-LGBT + HATE CRIME

SAFE.TO.BE BY **SPEAK OUT** PROJECT

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About us

This toolkit was developed as part of *Safe To Be* by Speak Out, a European project involving nine EU member states. The partner organisations in the *Safe To Be* consortium are based within LGBT+ communities in their respective countries and have expertise on hate crime and hate speech that they wish to put into the service of their communities and of professional stakeholders.

The UK partner, Galop, is the UK's LGBT+ anti-violence charity. For the past 35 years it has provided advice, support and advocacy to LGBT+ victims and campaigned to end anti-LGBT+ violence and abuse. Galop works within three key areas; hate crime, domestic abuse and sexual violence. Its purpose is to make life safe, just and fair for LGBT+ people. It works to help LGBT+ people achieve positive changes through practical and emotional support to develop resilience and to build lives free from violence and abuse.

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galop lgbt+
safe | just | fair

Much progress has been made over the last 50 years in the advancement of LGBT+ rights and protection from hate crime. Recent polling showed that the majority of the UK population holds positive beliefs about LGBT+ people, with 4 in 5 believing that LGBT+ people should be free to live as they wish (Stray, 2019). However, a sizeable minority still hold anti-LGBT+ beliefs: 1 in 20 people said that LGBT+ people should not be free to live as they wish, 1 in 5 would be uncomfortable with an LGB+ neighbour, 1 in 4 with a trans neighbour, 1 in 5 said that being LGBT+ was against their morals or beliefs, 1 in 10 that being LGBT+ could be cured, and 1 in 10 thought that LGBT+ people were dangerous.

The threat of homophobia, biphobia and transphobia play a part in the majority of LGBT+ people's lives: the National LGBT Survey (Government Equalities Office, 2018) showed that around 70% of LGBT+ people modify their behaviour in public and/or are not open about their identity for fear of a negative reaction from others. 40% had experienced an incident because they were LGBT+ in the previous 12 months. However, more than 90% of the most serious incidents went unreported, including serious incidents of physical and sexual violence. Top reasons for not reporting included: respondents thought it happens all the time, it wasn't worth it, nothing would happen or change, and that it wouldn't be taken seriously enough. Satisfaction rates for reporting hate crime are consistently lower than for other rates of crime. Of the respondents that had reported to the police, only half said that it was very or somewhat helpful.

This toolkit aims to address this last point specifically, by providing police trainers with a step-by-step interactive workshop, to improve understanding of the barriers to, and impact of, reporting a hate crime. In the workshop, participants are shown real life cases that demonstrate both good and bad practice examples of the reporting process from the perspective of the victim.

8   By understanding the stress of the victim during the reporting process, participants are encouraged to create a safe atmosphere, which is necessary for victims of anti-LGBT+ hate crimes to provide all the relevant information when reporting a hate crime. Developing this trust is also essential to ensure on-going engagement throughout the whole criminal justice process if the incident can be prosecuted, as well as increasing victim satisfaction and improving outcomes even when prosecution is not feasible.

Increasing victim satisfaction when hate crimes are reported is vital in increasing overall reporting levels, to build a better understanding of the scale and nature of anti-LGBT+ hate crimes and enabling more effective responses across our communities.

ABOUT THIS TOOLKIT

This toolkit is intended for you, the trainer, to provide high quality, interactive LGBT+ training to police and other justice professionals. We recommend reading through the whole toolkit before starting the preparations for your workshop. Take some time to consider:

Pre-knowledge of participants: If possible, conduct a brief survey to assess the baseline knowledge of your participants, so that you can adjust the content accordingly.

Accessibility: Before the training, ask participants if they have any specific accessibility requirements and what helps them best to learn. Ensure that the setting you select meets these requirements and pre-prepare materials in a format accessible to your participants. Many people do not retain information through traditional teaching methods. Break talks or presentations into short chunks, interspersing these with a variety of interactive methods, such as exercises and small discussion groups, as well as providing materials to take away from the session. For more information on accessible resources, see the resources in the further reading section.

Number of participants: We suggest a group size of 20 or fewer to facilitate interactive learning and the discussion of sensitive topics.

Selection of participants: This toolkit is intended for delivery to all ranks of police, from senior officer to PCSO. Where possible, ensure participants are of a similar rank to best enable free discussion.

Duration: Depending on the content and exercises you choose to include, the workshop will take around 6 hours (including breaks).

Room layout: Consider setting up your room in a U-shape (horseshoe) with no tables to create an informal setting in which discussion is encouraged.

In **Part 1** of the workshop, introduce the topic and framework, and conduct some introductory exercises. These provide an opportunity for you as a trainer to further assess the pre-existing knowledge of your group. Start with an **icebreaker** and an introductory discussion in which you agree ground rules and frame your workshop in the context of underreporting and the importance of victim experience in the reporting process.

Follow this by showing the **first video**, titled "*Were you drunk?*". This video shows an anti-LGBT+ hate crime followed by a bad practice example of reporting at the police station. In this scenario, the police officer fails to ask the right questions, doesn't take the hate motive into account when recording the crime, and makes the victim feel as if they are to blame for the incident (secondary victimisation).

Follow this with exercises exploring the video and what **good practice** looks like. This toolkit includes two examples of **interactive exercises** around this content, intended to feed discussion and increase participation.

Part 2 of the toolkit contains sections on **LGBT+ identities, hate crime concepts** and the **UK legal framework**, for you to adapt as appropriate for the training needs of your participant group. It is up to you how long to spend on each topic and which parts are relevant. Present the information in a way that suits the learning styles of your group, with interactive exercises and small group discussion where possible.

Part 3 is based around **case study role play**. These exercises are based on real life cases and will allow your participants to step into the shoes of a victim of an anti-LGBT+ hate crime and reflect on their own interrogation techniques when dealing with vulnerable victims.

End your workshop by showing your participants the **second video** "*Take all the time you need*". This video shows the same hate crime as in the video "*Were you drunk?*" but is followed by a good example when the victim reports. At this point, your participants should have identified the bad practices in video one throughout the workshop, and see the improvements in the second video. Visit the *Safe To Be website* for a transcript of the scenarios.

PART 1

In the first part of your workshop, introduce the topic and its importance. After the ice breaker and the ground rules, conduct two interactive exercises: **Statements** and **Good Practices** based on the video *"Were you drunk?"*.

Ground rules

Work together with your group to agree a set of rules for the workshop, to enable everyone to participate fully. Display them somewhere visible throughout the training and refer back to them if necessary. It is important that everyone feels comfortable with the rules and commits to respecting them. Some examples of ground rules:

- **Privacy:** personal information is confidential and remains within the group
- **"I feel":** everyone speaks from their own perspective, experiences and views
- **Agency:** it is up to every individual to choose what they want to share
- **Listen:** everyone commits to listen to each other and hear what someone says
- **Respect:** insults or disrespect are not tolerated
- **Technology:** devices are switched off or on airplane mode if possible.

12   Icebreaker

This exercise is meant to warm up the participants and set the tone for the interactive nature of the workshop. By choosing an icebreaker that emphasizes both commonalities and differences, we draw attention to the diversity of the group, even when this is not apparent at first sight. This activity can be used as a low-risk icebreaker, a medium-risk bonding experience or a high-risk team builder and discussion starter. You will need to gauge the use of this activity depending on how well the group knows each other. Depending on these factors, select the appropriate statements.

Ask participants to stand in a circle facing each other. Join them in the circle and read out the statements below. If the statement applies, the participant will take one step forward towards the centre of the circle. If the statement does not apply, the participant will stay in place. Ask participants to reflect on each statement before making the decision to step forward or not. Give time for participants to make their decision, and time for discussion if needed, and then ask participants to step back to their starting position after each question. You can select statements that relate directly to your topic, or some low-risk statements such as those below:

- I had breakfast today.
- I like snow.
- I consider where I live to be my home.
- I like to cook.
- I was born in the UK.
- I speak more than one language.
- I have children.
- I like how I sing, even if other people don't.
- I have an unusual hobby.
- My background is multicultural or bicultural.
- Most of my friends are the same gender as me.
- Most of my friends identify as heterosexual.
- I have friends that are gay, lesbian, bisexual or transgender.

If you chose more sensitive statements, make sure you give time for a longer debrief afterwards. Ask the group how they felt during this exercise and if at some point they chose not to respond, even though the statement applied to them. What did they notice as they were going in and out of the circle? What was comfortable? What was uncomfortable? What surprised them?

Before moving on to the first video, highlight the value of exploring commonalities and differences.

Video: "Were you drunk?"

Begin by having the group watch the video titled "*Were you drunk?*".

This video contains abusive language, stalking, homophobic and transphobic violence, and assault. Please inform your participants before you begin.

Statements exercise

Once you have watched the video, draw an imaginary line through the middle of the room. One end of the line represents 'fully agree', the other end represents 'fully disagree'. Read the statements out loud and give the participants a chance to position themselves somewhere along the line. After everyone has chosen a spot, choose one of the participants positioned on one of the more extreme ends, and ask why they chose that position. Ask follow-up questions until you feel everything has been said. Allow participants to reposition themselves if at any point something has made them change their minds. If someone repositions themselves, ask them why.

This exercise is intended as a thematically and participatory warm-up and shouldn't take more than 20 minutes.

Statements and potential sub-statements:

- **This is a hate crime**.
  - This is a hate crime because the victim is part of the LGBT+ community.
  - This is a hate crime because the police officer puts in the file that Karl is gay.
  - This is a hate crime because the perpetrators who attacked Karl assumed that he is part of the LGBT+ community.
- **In my opinion, knowing the sexual orientation and gender identity of the victim is important to register this as a hate crime.**
  - Yes, if the victim is not part of the LGBT+ community, this can't be a hate crime.
  - No, it is not essential to know whether the victim is in fact LGBT+. A hate crime is about the perceived identity of the victim.
- **I think this is good police work.**
  - Yes, because the police file gets made and signed by the victim.
  - No, because the way it is handled leads the victim to shut down and not share all the necessary details.
  - No, because the officer did not dig deeper into potential bias indicators.
- **The police officer should have asked more about the outfit the victim was wearing.**
- **The police officer should have asked exactly how many drinks the victim had.**
- **It is the job of the victim to provide all the information.**
  - Yes, the burden of proof is on them. If they are not willing to share, there is nothing else an officer can do.
  - Yes, but the right setting needs to be created in which the victim feels safe sharing all the information.
  - In my opinion, the police officer asked all the right questions.
  - Yes, I don't think there are more questions she could have asked given the hesitation of the victim to speak up.
  - No, there are many other questions the police officer should have asked.

16   Good practices exercise
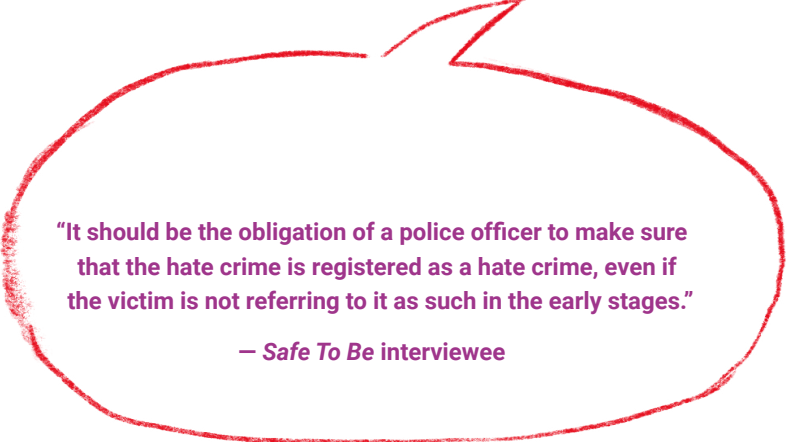
The *Safe To Be* partners worked together with the police and other justice professionals interviewed in the creation of this toolkit to identify best practices while assisting a victim of an anti-LGBT+ hate crime. See below for a printable list to distribute to participants after completing the exercise.

Make sure you know this list before you go into this exercise, but don't worry if the participants don't come up with all the items on the list. They will use the printed list again when conducting the role-playing exercise at the end of the workshop.

Split the participants into groups of 3 or 4, and give them 15 minutes to discuss the following questions. Provide 30 minutes after this for discussion and see how many of the items on the Good Practices PDF they could identify.

Discussion questions:
- What were some examples of bad practice in the video? Why were they bad?
- What would you have done differently?
- List 5 suggestions for improvement to share with the whole group.

> "It should be the obligation of a police officer to make sure that the hate crime is registered as a hate crime, even if the victim is not referring to it as such in the early stages."
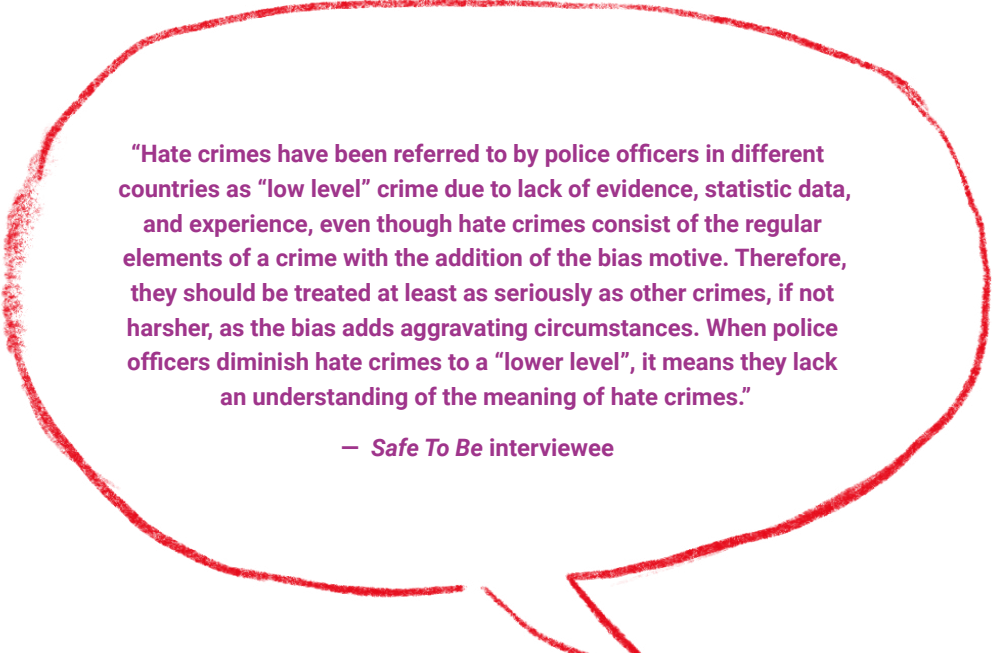>
> — *Safe To Be* interviewee

DO

- Make the victim feel safe and comfortable:
  - Ask if a victim is ready to talk, or whether they would like to postpone the interview to another time.
  - Allow breaks for the victim to collect their thoughts.
  - Choose an appropriate room that offers privacy.
  - Thank the victim for speaking up and providing details of the crime.
  - Use the correct name and/or gender of the victim when talking to them, even if this is not the same as what's on their identity card.
  - Sit at a 90° angle instead of right in front of them.
- Explain the reporting and investigative procedure in detail:
  - Provide clear and concise information about the procedure and what the victim can expect.
  - After taking their statement, go over it together a second time and allow them to offer corrections or add further detail.
  - Provide information about victim support services.
  - Provide your contact details so the victim can get in touch with you.
- Explain what a hate crime is and the importance of determining motive (briefly).
- Find out about the motive of the crime by asking the victim:
  - If they remember exactly which words and/or actions were used by the perpetrator. Ask them once and don't repeat the terms used. These words or actions will help you to identify motivation.
  - If they have injuries and/or experienced mental harm, and refer for medical care if necessary.
  - If they can identify the relationship between themselves and the perpetrator.
  - If they think the location of the crime is connected to the motive.
- Record the incident as a hate crime, or if it does not constitute a crime, record it as a hate incident.

- Ask the victim if they are a part of the LGBT+ community ("so, are you gay?"). Sexual orientation or gender identity does not necessarily need to be disclosed directly unless there is a specific need to know this. Hate crime identification is about the *perceived* identity of the victim.
- Ask the victim to repeat painful details like insults. Once is enough for the report.
- Undermine the victim by:
  - Asking them if they are sure they were attacked because of their perceived identity.
  - Asking them if it's possible that the perpetrator made a joke.
  - Referring to freedom of speech when illegal hate speech occurred.
- Blame the victim for the crime (secondary victimisation) by:
  - Asking them if they were wearing a provocative outfit. They are allowed to wear what they want without the risk of becoming the victim of a hate crime.
  - Asking them if they did or said anything that may have provoked the incident. They are allowed to be close to their partner and be themselves without the risk of becoming the victim of a hate crime.
  - Asking them why they were at that location at that time. They are allowed to walk around freely without the risk of becoming the victim of a hate crime.

"Hate crimes have been referred to by police officers in different countries as "low level" crime due to lack of evidence, statistic data, and experience, even though hate crimes consist of the regular elements of a crime with the addition of the bias motive. Therefore, they should be treated at least as seriously as other crimes, if not harsher, as the bias adds aggravating circumstances. When police officers diminish hate crimes to a "lower level", it means they lack an understanding of the meaning of hate crimes."

— *Safe To Be* interviewee

PART 2

You have now created a participatory space and highlighted the importance of positive interaction with the victim of an anti-LGBT+ hate crime. Now it is time to provide the theoretical backbone that supports the need for extra attention to LGBT+ hate crime. This section of the toolkit comprises 3 main topics:

- LGBT+ identities
- Hate crime
- UK Legal framework

The information provided in this part of the toolkit should be adapted to suit the pre-existing knowledge, training needs and learning styles of your participants.

LGBT+ identities

Understanding the basics of sexual orientation, gender identity & expression, and sex characteristics is crucial to prevent homophobia, biphobia, transphobia, and secondary victimisation. With good awareness of LGBT+ identities and the issues LGBT+ communities face, police officers can become conscious of the lived experience of an LGBT+ person reporting a hate crime and gain the proper skills to work with them.

If you have experience in teaching this topic, you might have your own resources to use. You are also welcome to use the resources from Nima from *KliQ* – a Belgian LGBT+ educational centre. These 4 videos will guide you through the basic terminology of Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIE(SC)), and familiarize you with LGBT+ identities.

Every video is accompanied by a short quiz to test the knowledge of the participants in your group. The questions are based on the content of the video, and can be adapted to best suit your audience. We recommend using *Mentimeter* or any other interactive quiz tool to keep your participants active and alert.

Hand out a copy of 'The Genderbread Person' at the end of this section to every participant before showing the videos.

Video: *Welcome*

Video: *The 'norm' and SOGIESC*

Quiz

— **What is 'the norm'?**
- A law on how to behave in a certain society
- What is normal
- An informal societal guideline about what is considered normal (a *majority* concept)

— **What does the acronym 'LGBTI' stand for?**
- Learning the Gay and Bisexual Terminology on Inclusion
- Lesbian, Gay, Bisexual, Transgender, Intersex
- Lesbian, Gay, Bigender, Transsexual, Intersex

— **What does the acronym SOGIESC stand for?**
- Sexual Orientation, Gender Inclusivity and Exclusivity and Sexual Chromosomes
- Sexual Originality, Gender Identity and Expression, and Sexual Cyborgs
- Sexual Orientation, Gender Identity and Expression, and Sex Characteristics

— **Why do some people prefer using the term SOGIESC over LGBTI?**
- Because the acronym LGBTI puts people into categories with assumptions about fixed identities. SOGIESC is a more inclusive alternative preferred in international human rights discourses
- Because it's easier to pronounce than LGBTI
- Because LGBTI kept getting longer and more complicated

─ What is the genderbread person?

- A person who eats a lot of gender bread
- A teaching tool for breaking down the concept of gender into bite-sized, digestible pieces (encompassing gender identity, expression, sexual orientation and anatomy)
- An approachable model for understanding the social construct of gender

Video: *Gender identity, sex characteristics and gender expression*

Quiz

─ What does the pronoun 'they/them' stand for?

- It means we're talking about multiple people
- It's an incorrect way to refer to a single individual. Everyone falls into the binary category of 'he' and 'she'
- It's used as a gender neutral pronoun when you either don't know someone's gender or this person's pronouns are they/them

─ Who assigns gender when a baby is born in most cases?

- The doctor who delivers the baby
- The parents of the baby
- The colour of the cake at the gender reveal party

─ What do we mean when we say *anatomical sex*?

- Chromosomal patterns (X and Y), internal and external reproductive organs, hormone levels, and secondary sexual features
- Internal and external reproductive organs
- Chromosomal patterns (X and Y) and hormone levels

— **What do we mean when we say *intersex*?**

- Someone who doesn't feel like a woman but was assigned female at birth, or someone who doesn't feel like a man but was assigned male at birth
- A wide range of physical traits or bodily variations that lie between binary notions of male or female bodies. Many forms of intersex exist; it is a spectrum rather than a single category
- Someone who positions themselves between or 'inter' male and female gender identities

— **Where would we place 'gender identity' on the genderbread person?**

- In the pants
- In the heart
- In the brain
- Across the entire diagram

— **What is a *cisgender* person?**

- Someone who's gender identity matches the gender identity they were assigned at birth
- Someone who's gender identity doesn't match the gender they were assigned at birth
- You can refer to someone's sister as a cisgender person

— **What does it mean to say the term *transgender* is an umbrella term?**

- It means the term *transgender* holds many different identities for people whose gender identity is different from the gender they were assigned at birth
- It can also include sexual orientation under the umbrella
- It means the term *transgender* holds many different identities, including non-binary, cross-dresser, agender and genderqueer.

— **What is *gender expression*?**

- Gender expression refers to the choices we make on a daily basis regarding what we wear, present and behave that indicates our gender.
- Gender expression is the role or behaviour learned by a person as appropriate to their gender, determined by cultural norms
- Gender expression is a way to express that you don't like your gender.

Video: *Sexual orientation*

Quiz

— **What distinction do we make when we talk about elements of sexual orientation?**

- Between sexual and romantic attraction to another person
- Between attraction to a person and attraction to gender
- Between sexual attraction and sexual behaviour

— **What is bisexuality?**

- Having the potential to be attracted to both men and women, but not transgender people
- A sexual orientation that does not exist. You are either attracted to men, or to women
- When a person can be romantically and/or sexually attracted to persons of more than one gender

— **What is biphobia?**

- The belief that biphobia does not exist
- An aversion toward bisexuality and toward bisexual people as a social group or as individuals both in the form of denial that bisexuality is a genuine orientation, or of negative stereotypes about people who are bisexual
- A fear of things appearing in pairs

24   — **Is it possible for every individual to position themselves on scales next to the genderbread person?**

- This is only possible for people who identify as gay or bisexual
- This is only possible for people who identify as transgender or non-binary
- This is not possible for people who identify as straight or cisgender
- Everyone can position themselves somewhere on the scales, regardless of their sexual orientation, gender identity, gender expression or sex characteristics

IDENTITY

ATTRACTION

EXPRESSION

SEX

	GENDER IDENTITY		GENDER EXPRESSION		ANATOMICAL SEX
	→ Women-ness		→ Femininity		→ Female-ness
	→ Man-ness		→ Masculinity		→ Male-ness
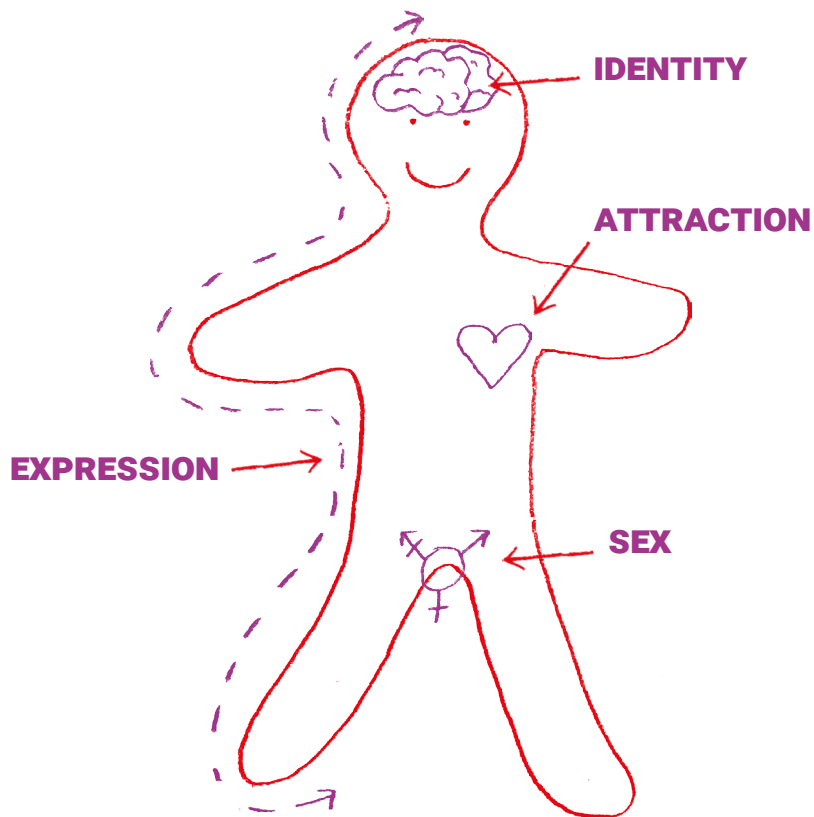
IDENTITY ≠ EXPRESSION ≠ SEX
GENDER ≠ SEXUAL ORIENTATION

SEXUALLY ATTRACTED TO...
→ Women / Feminine / Female People
→ Men / Masculine / Male People

ROMANTICALLY ATTRACTED TO...
→ Women / Feminine / Female People
→ Men / Masculine / Male People

SEX ASSIGNED AT BIRTH
☐ Female
☐ Intersex
☐ Male
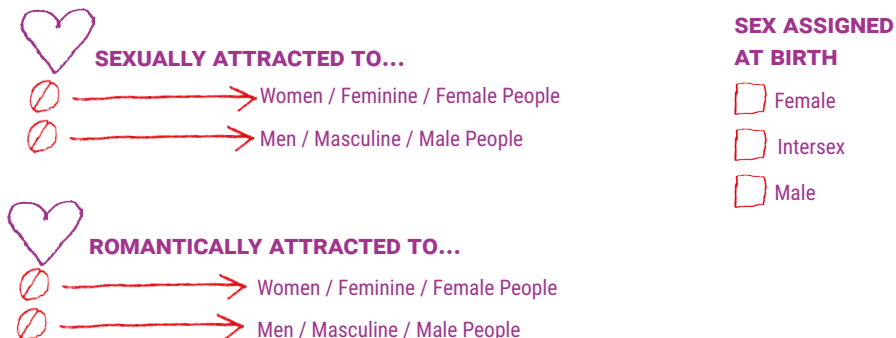
A hate crime is a criminal offence that is motivated by prejudice towards particular groups of people. They are 'message crimes' intended to spread fear and feelings of vulnerability among targeted communities. As such, they not only affect individuals directly, but the entire social group that the individual belongs to. Certain communities are disproportionally targeted, because of their race, belief, sexual orientation, gender, national origin, language, disability, social status, or other characteristics.

Perpetrators target LGBT+ people because of negative opinions, stereotypes, intolerance or hatred towards their sexual orientation, gender identity and/or sex characteristics.

> In recognizing a hate crime, it is paramount to be aware that it is about the *perceived* identity of the victim by the aggressor, not their actual identity. As such, anyone could become the victim of a hate crime, if they are perceived as belonging to a certain societal community.

Hate crimes consist of two elements: a criminal offence, and a bias motive.

Criminal offence: the act that is committed must constitute an offence under ordinary criminal law.

Bias motive: the act is committed because of a prejudicial bias against a particular societal group. This motive does not need to involve extreme 'hatred' toward the victim. Most hate crimes are driven by more everyday feelings such as hostility, resentment or jealousy towards the target group.

HATE CRIME = **CRIMINAL ACT** + **BIAS MOTIVE**

HATE SPEECH*

- **INCITEMENT TO VIOLENCE OR HATRED**
  + **BIAS MOTIVE**

- **PUBLIC INSULTS IN THE FORM OF TEXTS/IMAGES/ MEMES/…**
  + **BIAS MOTIVE**

HATE INCIDENT =

ANY INCIDENT OR ACT, ILLEGAL OR NOT, AGAINST PEOPLE OR PROPERTY
+ **BIAS MOTIVE**
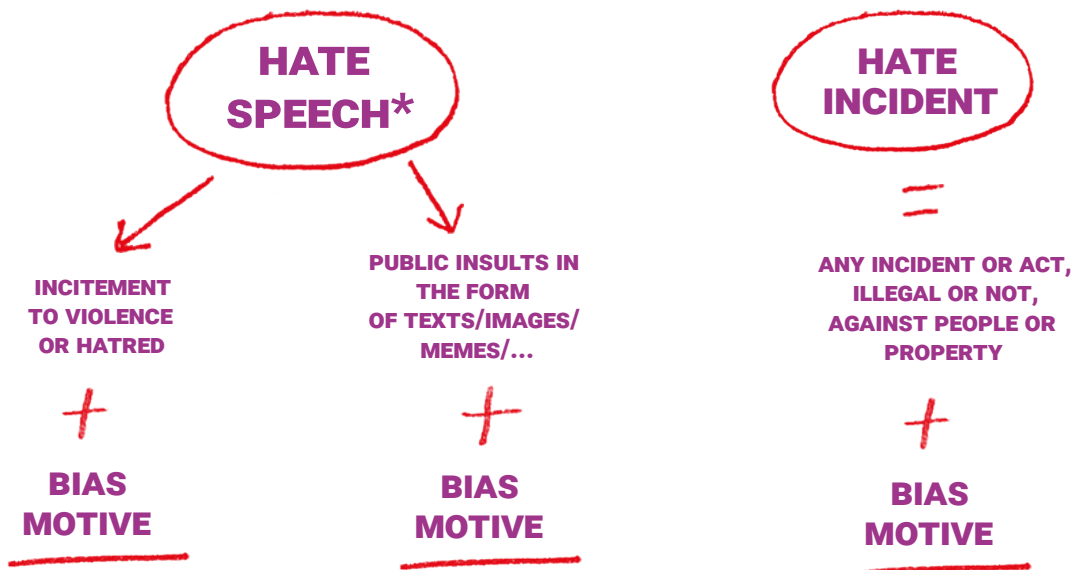
BIAS MOTIVE = target selected because of their real or perceived connection with, or membership of, a group

* As defined by FRA, the European Union Agency for Fundamental Rights

The UK records significantly more hate crime than any other European country. Comparative European research indicates that this is due primarily to improvements in reporting and recording rather than an indication that significantly more anti-LGBT+ hate crimes occur in the UK than elsewhere.

In 2018/19, the police recorded 14,491 sexual orientation hate crimes (up 25% from the previous year), and 2,333 transphobic hate crimes (up 37%) (Home Office 2019). Recorded hate crime has risen significantly every year since 2013/14, in which just 4,588 sexual orientation hate crimes and 559 transphobic hate crimes were recorded.

Whilst some of the increase is due to improvements in recording, the size of the increase suggests that hate crime itself is on the rise. Despite research suggesting that LGBT+ hate crime on average involves more serious injury than other types of hate crime (Walters and Krasodomski-Jones 2018:43), it has very poor outcomes in terms of charging. The percentage of offences resulting in charge or summons for LGBT+ hate crime is between a quarter and half of the percentage for other hate crime strands, across violence against the person, public order offences, and criminal damage and arson (Home Office 2018: 20).

People who experience hate crime are more than twice as likely to experience serious emotional impacts such as difficulty sleeping, anxiety, panic attacks or depression, compared with people who experience crime in general (Home Office 2018:28).

Secondary victimisation occurs when the criminal justice response further victimises a person who has experienced a crime, by making them feel as if they are to blame for what happened. It refers to behaviours and attitudes that are insensitive and which retraumatise the victim when they try to seek help, causing additional harm to an already vulnerable victim.

Fear of secondary victimisation and past experience of secondary victimisation has been identified, both within this project and in previous research (*Come Forward*), as a reason why people choose not to report hate crime. It is therefore crucial that this concept is addressed in your workshop.
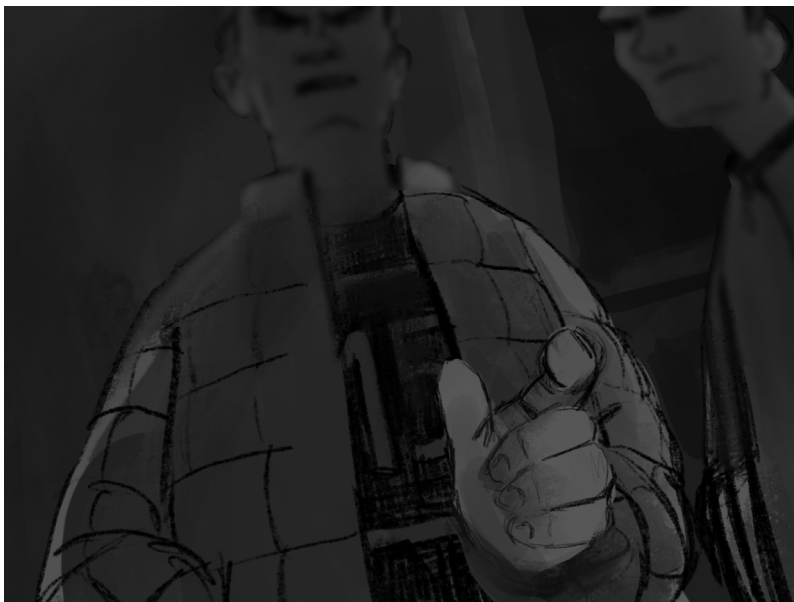
National legislation

The UK has well established anti-hate crime laws, but they have developed incrementally over two decades, resulting in disparities in protection afforded to different minority groups. These disparities are further complicated by the fact that the UK is split into 3 jurisdictions, England & Wales, Scotland and Northern Ireland. The provisions in each jurisdiction offer slightly different protections, meaning that not all people experiencing hate crime in the UK are protected equally.

Legislation in all three jurisdictions contain statutory aggravations in relation to the protected characteristics that can attach to any offence, as well as standalone offences for certain protected characteristics.

Sentence aggravation

In England & Wales, this is contained in sentencing provisions in the *Criminal Justice Act 2003, ss145 and 146* which state that a judge must enhance the penalty of a defendant convicted of a crime aggravated by racial, religious, sexual orientation, disability or transgender hostility. In Scotland, similar provisions are contained in the *Crime and Disorder Act 1998, s96 (race)*, the *Criminal Justice (Scotland) Act 2003, s74* (religion), and the *Offences (Aggravation by Prejudice) (Scotland) Act 2009, s1* (disability) and *s2* (sexual orientation and gender identity). In Northern Ireland, these provisions are contained in the *Criminal Justice (No 2) (Northern Ireland) Order 2004, art 2*, but crucially do not cover gender identity, and so offer no protection to trans people.

England & Wales have additional penalty enhancement legislation that applies only to race and faith hate crime. These offences carry higher maximum sentences than the basic offences and are recorded on an offender's criminal record as racially or religiously aggravated. There are also stirring up/ incitement offences in relation to race, religion and sexual orientation, but not for gender identity and disability.

In Scotland, the equivalent stirring up provisions only apply to race hate crime. In Northern Ireland, the equivalent provisions have been extended to cover sexual orientation and disability as well as race and religious hate crime, but again do not offer any protection on the basis of gender identity.

> "It should be the obligation of a police officer to make sure that the hate crime is registered as a hate crime even if the victim is not referring to it as such in the early stages."
>
> — *Safe To Be* interviewee

A key feature of the UK recording framework is "perception-based recording", which all police interview participants were familiar with and applied in their own work. Exact wording of policies vary slightly across the UK, though an example can be found in the hate crime definition utilised in England & Wales:

"Hate crime: Any criminal offence which is perceived by the victim or any other person, to be motivated by 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 hostility or prejudice against a person who is transgender or perceived to be transgender" (College of Policing, 2014).

The intention of the words "perceived by the victim" is to provide a victim-focused approach at the police recording stage in determining whether a bias element is present, so it can be considered during the investigative process. Other key elements in the UK recording model include: the perpetrator's perception (correct or incorrect) that the victim belongs to an protected group, the facility to record non-criminal hate incidents, and recording process improvements made by authorities and NGOs.

Prosecution of hate crime requires evidence that:

1. An offence has been committed, such as physical assault, some forms of verbal abuse, repeated harassment etc.
2. The crime was related to prejudice against a characteristic protected in that jurisdiction (the bias/ hate element).

Establishing the bias/ hate element

In the UK there are two legal tests used for the hate element: 'hostility', which is used in England, Wales and Northern Ireland (s.145 & 146 Criminal Justice Act 2003) and 'malice and ill-will', which is used in Scotland (s.2 Offences, Aggravation by Prejudice, Scotland, Act 2009). In practice both these tests are interpreted by courts in a similar way. Courts use an ordinary dictionary definition of this word, meaning: ill-will, ill-feeling, spite, contempt, prejudice, unfriendliness, antagonism, resentment, or dislike.

There are two ways for a court to establish that an offence was related to bias against a protected group:

1. Demonstration: Proving that someone showed hostility toward a protected group during the committing of a crime or immediately before or after. This often involves the use of offensive terms about that group.
2. Motivation: Proving that the person committed a crime wholly or partly because of hostility against a protected characteristic. Essentially this means the person's purpose for choosing to commit the crime was their internal thoughts and beliefs about that group. Motive can be established by evidence relating to what the defendant said or did on other occasions or prior to the current incident.

34   Bias indicators

Bias indicators are facts, circumstances, or patterns connected to a criminal act which suggest that the offender's actions were motivated by any form of bias. Indicators may include:

- Victim/witness perception
- Comments, written statements, or gestures
- Drawings, markings, symbols, and graffiti
- Involvement in organised groups
- Location
- Timing
- History of animosity
- Patterns/frequency of previous crimes or incidents
- Nature of violence
- Lack of other motives

The introduction of additional stand-alone offences was a welcome leap forward in recognizing the seriousness of hate crime. However, these protections do not extend to all protected characteristics equally, which makes the law very complicated, difficult to navigate, and sends the message that there is a hierarchy of importance between hate crime strands. All protected characteristics should receive equal protection from the criminal law.

There are three key deficiencies in the existing law in relation to anti-LGBT+ hate crime:

Trans and intersex exclusion

There is still no legislative provision for dealing with transphobic hate crime in Northern Irish law, and a lower degree of protection for trans people in the rest of the UK. Whilst Scottish hate crime laws explicitly cover hate crime against intersex people, no such provision exists in England, Wales or Northern Ireland.

Lower maximum sentence

Homophobic and transphobic hate crime offences carry a lower maximum sentence than race and faith crime in England & Wales. For instance, racially or religiously aggravated common assault can attract a sentence of up to 2 years, while for LGBT+ or disability the maximum penalty is 6 months. Meanwhile, in Scotland, a conviction for racial harassment carries a 7 year maximum sentence, while anti-LGBT+, faith or disability harassment has a maximum of 5 years.

Invisibility in criminal records

The hate element in a homophobic or transphobic hate crime cannot usually be recorded in an individual's criminal record, only the basic offence (e.g. assault), because there are no specific anti-LGBT+ hate crime offences. That means future trials and probation services cannot see if someone is a serial hate crime offender and no work can take place to manage any risk they pose.

PART 3

The case for cases

Case studies and role-plays are active and collaborative teaching techniques that are effective for deep learning. They can result in changed perspectives, increased empathy for others, and greater insights into challenges faced by others.

The following cases are based on real life incidents in participating partner countries of *Safe To Be* (Belgium, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Portugal, Spain and the UK). We have removed the country of origin and altered details where necessary to maintain anonymity.

By providing these cases to criminal justice professionals in a safe, educational setting, we hope to offer insight into the real lived experienced of LGBT+ people and the hate crime that they have faced.

Role-playing 'light'

Role-playing exercises provide participants with an experience they wouldn't normally encounter. However, asking participants to 'play' an LGBT+ victim is an unrealistic demand of your participants and could give rise to problematic group dynamics.

> **The focus of this role-playing exercise is on your participants practicing their 'role' as a police officer trained to work with LGBT+ victims of a hate crime, as opposed to 'playing' the victim.**

Note: facilitating a role-playing exercise can sometimes be challenging. Role-playing gains its own dynamic as it plays out. The success of this exercise relies on your assessment of the group and your skills as a trainer to guide and course-correct as needed to ensure that it is productive. Make sure you are confident in your own level of knowledge to facilitate this exercise.

Being the officer

The emphasis in this exercise is on your group member(s) who represent the police officer(s). When playing as the police officer in the cases below, encourage your participants to not 'act' as an officer, but to be themselves as much as possible. The only difference from their day-to-day activity is the inclusion of the recently gained knowledge on LGBT+ identities, hate crime and good practices.

As such, this exercise is more of a rehearsal of how to conduct an interview with a victim in a safe educational setting.

Representing the victim

Encourage the participants representing the victims to not 'act', but merely represent the victim. The idea is to include the character of the victim in such a way that other group members can practice their policing skills, but not as a vehicle for them to feel like the victim.

A caricatured representation of an LGBT+ victim should be addressed immediately since it could be counterproductive to the whole purpose of the workshop. If such an instance occurs, use it as an opportunity for reflection ('Why did you act like that when portraying an LGBT+ character?').

- Start by briefing your participants on the purpose of the exercise (see above).
- Divide your participants into smaller groups of 3 or 4.
- Provide each group the same number of case studies as they have group members, allowing every participant to represent the police officer at least once.
- There are 3 roles in every group:
  - One group member represents the victim
  - One (or two) group member(s) represents the police officer(s)
  - One group member takes up the role of observer. They take notes, analyse the progression of the role-play and lead the debriefing phase.
- The role-playing occurs in these smaller groups simultaneously, which avoids a large audience, as many participants may not feel comfortable doing this exercise in front of the whole group.
- Ask your groups to prepare one of the cases to present to the group afterwards. Depending on the time you have and preferences of your participants, either:
  - Ask them to role play in front of the group and discuss, or
  - Ask the observer to discuss the case with the whole group.

As your participants are conducting their role playing exercises, walk around the room and suggest improvements wherever you deem necessary, or when a question arises. These guidelines may help you to direct the exercise:

- Be alert to stereotyped representation and intervene whenever necessary.
- Ask participants how they would approach the interview with the victim. Which questions would they ask? How would they phrase them?
- Ask participants how they would conduct themselves and their body language.
- Depending on the specific case the group is working on, there might be other indicators that could produce further evidence of bias.
  - Investigate social media sites of perpetrators
  - Interrogate/consult neighbours or acquaintances of perpetrator/victim.
- What other steps you could take to investigate the bias motive?
- Is there a need to refer the victim to other agencies or organisations?
- How do you make sure that the victim knows that you're taking what happened seriously?
- How will you keep the victim updated about the progress of the case?

Debriefing

When debriefing, players should describe how they felt doing the exercise. If the role-play involved heated interaction, the debriefing must reconcile any difficult feelings that may otherwise persist due to the exercise. Reflection and discussion are key to learning from role-plays. Players should reflect on what they felt, perceived, and learned from the session. Review the key events of the role-play and consider what people would do differently and why. Include reflections of observers. Facilitate the discussion, but don't impose your own opinions, and play a neutral, background role. Be prepared to start with some of your own feedback if discussion is slow to start.

Case studies

The following section contains graphic language, violence, sexual abuse, homophobia, transphobia, and mention of suicide. Please inform your participants before you begin.

Case 1

Clara is a 45 year-old trans woman who's been out for 15 years. One day she walked into a women's toilet in a shopping centre. Another woman in the stalls noticed her and asked her why she's in there. Clara, who hadn't heard that question in a long time, replied perplexed she's just going to the toilet. When Clara left the toilet, the woman was waiting outside with her boyfriend. He came after her, insulted her and slapped her in the face before walking off. Clara went to report to the security officer at the mall, but he agreed with the aggressor that she probably shouldn't have used that toilet.

After a difficult internal debate, Clara decided to report the crime. She got a good look at the aggressor and would be able to identify him. She is however very nervous about having to disclose her trans identity to a stranger. Since she's been out for so long and doesn't get misgendered often, she is not used to talking about it anymore.

Case 2

The entrance to the office of the national LGBT+ rights organisation was badly damaged. The exterior door and door blinds were set on fire using an unknown flammable substance.

The incident was first noticed by a passing taxi driver. The taxi driver used a portable fire extinguisher and managed to extinguish the fire before the fire service, police and ambulance arrived to the crime scene.

The LGBT+ organisation shares the entrance with a clothes store. A representative of the organisation suspects that the incident was motivated by hate towards the local LGBT+ community. They decide to go to the police and hope they can help them.

An outreach event organised by a national LGBT+ association was crashed by members and supporters of a far-right party. As a result, the police got involved and the event was relocated and postponed. The association communicated this on their social media accounts.

Shortly thereafter, supporters of the far-right party gathered to protest against any LGBT+ event being held. This attracted the attention of more anti-LGBT+ protesters who publicly started threatening organisers (mostly youth workers), including threats to burn down the LGBT+ centre itself if the event was to take place again.

Two members of the national LGBT+ association decided to go to the police with these threats. They hope the police can help prevent an escalation of the situation and maybe provide extra assistance when organising events.

Case 4

Roxanne and Evi live in state housing with their teenage daughter Robin. Over the last six months they have experienced homophobic abuse from their neighbours. The harassment started with hateful looks and mutterings as they walked past.

Recently the situation has escalated. The words 'lez house' have been sprayed across their front door, and trash keeps being emptied in front of it. The wing mirrors of their car have been smashed, which left Evi unable to leave the house as she has mobility issues. They also found out about rumours that were spread about them abusing their daughter.

They have tried reporting to the police several times, but no action was taken. After another incident of trash being emptied in front of their house, Roxanne decides to go to the police one last time.

Dora is a 16-year-old girl who recently came out at school as transgender and bisexual. Since then she has been called transphobic slurs and has been attacked four times by classmates. On the last occasion, her injuries were so bad she had to go to hospital. One boy threatened her with sexual violence saying that she must "want it from everyone" because she is bisexual.

She is also facing transphobia at home from her parents so she cannot talk to them about what is happening. She does not want to go to the police as she thinks it will make everything worse, but her best friend convinces her to report the crime to prevent the situation from escalating. The friend encourages her to bring the hospital notes and some comments made by her classmates on social media (including hateful slurs).

Case 6

Johann and Nouredinne were walking down the street holding hands when a group of men sped past in a car and threw some garbage out the window at them. Johann called out to challenge them, the car stopped, and the men shouted 'fags' at them repeatedly. They drove toward them threateningly, before driving off. This happened near their home and they recognised one of the men as the son of a neighbour.

Johann is angry about what happened and generally suspicious of authorities. He is worried about Nouredinne as they have a history of depression and won't talk about what happened. They feel anxious when walking around in their neighbourhood and are worried there is more to come.

Johann decides to report to the police, but he doesn't tell Nouredinne about it as he does not want to cause them any more stress.

Edi is a 32-year-old non-binary person living in a big apartment building. For a while now they have been suffering from harassment from one of the neighbours on their floor. There haven't been any insults or actions specifically targeting their sexuality or gender identity, but Edi suspects that there's an anti-LGBT+ motive.

On the day of LGBT+ Pride, Edi hung a rainbow flag out of the window facing the street. The neighbour confronted Edi upon passing them in the hallway, saying that they should be ashamed and stop forcing their lifestyle onto others. The following day the same neighbour approached Edi in the communal corridor and said, 'where I'm from, we shoot people like you'. He then threw a glass bottle at Edi's head, narrowly missing.

In the following days Edi has avoided leaving their home and takes the threat made by their neighbour seriously. They faced homophobic violence several years ago, which traumatised them and left them with a limp. They were unhappy with the response of the police to that attack and are now very nervous about opening old wounds and facing more prejudice from law enforcement. They also feel that hanging the rainbow flag out of their window was a bad idea and blame themselves for what happened.

After 4 days of being unsure about what to do, they decide to report the incident to the police.

Jakob is a bisexual man who sometimes visits a cruising ground in a local wooded area (an outdoor space where people meet each other for sex). He goes there mainly to socialise and sometimes to meet other men.

One evening he was stopped by a man who asked him for a cigarette lighter. When Jakob reached for his pocket, the man accused him of being a "filthy queer" and told him to hand over his phone and wallet. Jakob was startled and gave them to him, before the man punched him in the face causing a broken nose.

Jakob felt very shaken but did not call the police after the event, afraid they would just blame it on him for being at a cruising ground. Instead he went straight to the hospital, where he stated he tripped on the street. He did contact a friend and told him about what happened. After describing what the man looked like, his friend stated he has heard of the same person attacking other men in the past and urges Jakob to go to the police to prevent worse from happening to someone else.

Jakob worries that reporting may cause information about his sexuality somehow reaching his family or colleagues, to whom he's not out. He decides to go to the police but hopes he can report while remaining anonymous.

Beatriz and Serafina were attacked on a night out in the city centre. Beatriz had her arm around Serafina and kissed her playfully, when a group of men walked past them and one asked for a kiss, saying "Don't worry, I like lesbians." They ignored the group and continued to walk in the opposite direction. The man got angry and shouted, "fat black dykes".

The group started to follow them, and the man grabbed Beatriz' arm. She pushed him away, but another man stepped forward and punched her. The whole group then became involved and Beatriz and Serafina were pushed to the ground and kicked repeatedly. They both sustained injuries. After a few minutes the men ran off.

A bystander called the police and the officer arrived at the scene soon after. After hearing they were displaying affection in public however, the officer asked them, "Why would you do that in a neighbourhood like this? That's just inviting a crime to happen". Feeling blamed for the crime committed against them, they decide not to go with the officer to report the crime, but instead asked him to just take them to the hospital to care for their injuries.

A few weeks passed when Serafina and Beatriz worked up the courage to report the crime to the police. They don't see the new officer that was at the scene at the police station, but make sure to mention them to the new officer taking their statement.

Trevor is a trans man whose Facebook page was hacked by someone who used it to send offensive and sexually explicit messages. He changed his password which stopped the messages, but other profiles were set up in his name. Facebook removed these profiles when Trevor flagged them, but new ones were continually set up in their place.

Messages such as "I have gay HIV and I'm going to rape you" were sent to work colleagues and family members, outing Trevor and causing some people to distance themselves from him. He started receiving messages too, calling him a 'faggot' and threatening to make intimate images of him public unless he paid money to the sender. Trevor had no idea who was targeting him, though a colleague at work disclosed that she'd heard another colleague making homophobic comments and bragging that it was him that was sending the messages.

He wants the abuse to stop but is too scared to confront the colleague and is not sure whether a crime has been committed. Trevor is extremely anxious about what they will do next. His ability to work was greatly impaired and he has been prescribed anti-depressants.

He finally decided to report the incidents to the police after being encouraged to by his manager.

Nicola is a trans woman who is currently homeless. She has been staying on friends' sofas for a few months now.

One night she went to the home of a man she met in a bar. The man started to sexually assault her, at which point he discovered that she was transgender. He repeatedly hit her in the head with a heavy object. Nicola managed to escape the scene and immediately called the police, who arrived shortly after. The perpetrator was arrested at the scene and Nicola was taken to hospital, where she stayed for 2 days to care for her injuries.

Police officers soon lost contact with her and she would not answer her mobile phone. Several days later a representative from the local LGBT+ organisation, Olga, went to the police station with Nicola's signed statement. Olga explains that Nicola has been in touch with her and has asked her to report the crime in her name, since she is very distrustful of authorities and traumatized by previous incidents with law enforcement.

Aleksis, a 25-year-old non-binary person posted pictures of their participation in Pride on Facebook. A little while after, they received message requests from a fake account calling them a lot of anti-LGBT+ slurs and telling them to stop showing off their sickness. Aleksis read the message but decided to just ignore it. This isn't the first time they have received messages like that.

The next day however, Aleksis got more messages from the same account, saying, "Hey! I just found out where you live. I might just come pay you a visit and show you how some blood and broken bones will help you overcome your sickness!" Shocked by how explicit the message was and the claim that the perpetrator had their address, they blocked the person immediately. A few hours later, Aleksis received messages on Instagram saying, "Do you think that blocking me will help? See you soon, faggot!" Aleksis also blocked the person on Instagram.

For a few weeks Aleksis was scared to leave the house. Their roommate finally convinced them to report the crime to the police. Aleksis kept the messages and takes them to the police station. They hope that the police can make them feel safe again.

Gregory was attacked by a group of men when exiting a night club with their friends. The attackers used anti-gay slurs and punched Gregory several times. Their friends begged the security to intervene, but they refused and called the police instead.

When the police and ambulance arrived their first remark to Gregory was that they're not surprised that they were attacked, since they were wearing a dress. Police officers asked for identification of the perpetrators. Being in shock from the attack however, Gregory couldn't describe them. The police told Gregory to get their injuries checked first and then come to the police station if they want the case to be investigated.

In the emergency room, the first care doctor made a similar comment, saying that in that country, they don't accept when people dress like this, suggesting it was Gregory's own fault they got attacked.

Gregory decided not to go to the police station at first, but when one sympathetic officer contacted them, they were convinced and went in to report.

End your workshop by showing your participants the second video, "*Take all the time you need*". This video shows the same hate crime as in the video "*Were you drunk?*" but is followed by a good practice example when the victim reports. At this point, your participants should have identified the bad practices in video one throughout the workshop, and see the improvements in the second video.

Leave time at the end of your workshop for any remaining questions from participants. You may choose to finish with a closing exercise asking everyone to share one thing that they have learned, and one thing that they will take into practice.

This toolkit is designed to enable trainers to help officers in recognising and overcoming the many barriers to reporting, investigating and prosecuting hate crime. It sets out the components necessary for building trust, avoiding secondary victimisation and collecting evidence about bias indicators. These are crucial steps to ensure a good response to reported anti-LGBT+ hate crimes. By delivering effective training on this topic, policing institutions are playing their part in making life safe, just and fair for LGBT+ people.

Hate crime

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