

What is online anti-LGBT+ hate speech and hate crime?



www.galop.org.uk

What is online anti-LGBT+ hate speech and hate crime?

This information sheet answers questions for lesbian, gay, bisexual and trans (LGBT+) people about online hate speech and hate crime. You don't have to know whether something you experienced was a crime to report it, though it can be useful to know what kinds of behaviour are against the law and which are not.

What is online anti-LGBT+ hate speech?

Online anti-LGBT+ hate speech is any online communication or expression which advocates, promotes, or incites hatred, discrimination or violence, against any individual or group, because of their sexual orientation, or gender identity.

Examples of online hate speech include:

- threats to an individual or group
- online abuse and cyberbullying
- words, images and videos that call for or glorify violence against a group
- encouraging others to commit hate crimes
- grossly offensive posts or comments
- trolling (posting offensive, upsetting or inflammatory comments online in an attempt to hurt and provoke a response)
- other online communication which could incite hatred towards a particular group or person.

Hate speech can happen:

- publicly, for example on public social media posts and comments, websites and forums
- privately, for example through social media, messaging apps, dating apps and emails.

Hate speech does not necessarily involve a crime being committed, but all of it can be harmful regardless of whether it is illegal or not.

'The online incident made me feel the same as when I was attacked on the street. It's scary to think that someone can also get to you psychologically, on-line,

in addition to physically attacking you on the street.'
(A gay man in his 40s)

The majority of LGBT+ people who experience online hate crime do not report it.

What is online anti-LGBT+ hate crime?

Online anti-LGBT+ hate crime is any crime that is targeted at a person because of hostility or prejudice based on a person's perceived sexual orientation or gender identity that takes place online.

- It's your perception of the motivation that matters - if you think that you were targeted because of your actual or perceived sexual orientation or gender identity, the crime must be recorded as a hate crime.
- If an online crime is motivated by homophobia, biphobia or transphobia, it is a hate crime regardless of whether the person targeted identifies as LGBT+.
- Bullying, abuse, harassment, hostility or hatred that may not be a crime but is homophobic, biphobic or transphobic can still be reported to the police to record it as a non-criminal 'hate incident'.
- It is possible for a hate crime to be recorded as having more than one motivating factor, for example, if you are targeted because of your race, religion and/or disability as well as your sexual orientation and/or gender identity.

Examples of online behaviour that may be hate crime:

- hate speech
- trying to damage your reputation by making false comments
- accusing you of things you haven't done
- tricking other people into threatening you
- stealing your identity
- setting up profiles in your name
- electronic sabotage
- doxxing: publishing personal information about you (including sex videos and photos, which is sometimes called 'revenge porn')
- cyber-stalking
- blackmail
- encouraging other people to be abusive or violent towards groups of people.

Is it a crime?

There are a number of criminal offences that someone may commit in being abusive online. For example:

- **The Malicious Communications Act 1988:** it is an offence to send an electronic communication in any form that is indecent or grossly offensive, conveys a threat, or is false, with intent to cause distress or anxiety to the recipient.
- **The Communications Act 2003:** it is an offence to send messages using any public electronic communications network, such as Twitter or Facebook, which are grossly offensive or of an indecent, obscene or menacing character.
- **The Criminal Justice and Courts Act 2015:** it is an offence to disclose private sexual images online or offline without the person's consent with the effect of causing the person distress.

- **The Gender Recognition Act 2004:** it is an offence to disclose information received in an official capacity about a person's gender identity or history if the person has, or is applying for, a Gender Recognition Certificate.
- **The Protection from Harassment Act 1997:** contains a range of other offences including harassment, harassment when someone fears violence and stalking. Harassment is 'oppressive and unreasonable' behaviour that causes 'alarm or distress', including 'repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person'.

For further information, see the Crown Prosecution Services' guidelines on prosecuting cases involving communications sent by social media here: www.cps.gov.uk/consultations/social_media_consultation.pdf

Privacy and outing without consent

LGBT+ people have the right to decide who knows about their sexual orientation and gender identity, and if, when or how they choose to come out. Outing someone without their consent is wrong, and sometimes unlawful. If someone 'outs' you or discloses your gender history, sexual orientation or HIV status when you have disclosed these things online, it may be unlawful, if their actions are prohibited by a specific law or it is done to harass, blackmail or threaten you. For example, if someone posts your address and phone number online as a threat or incitement to violence against you, or as part of ongoing harassment against you, then this is unlawful.



Connection between Online and Offline Worlds

Online life is so enmeshed in our day-to-day lives that increasingly the online and offline world are not separate. Sometimes online hate speech is a part of wider pattern of harassment and abuse that is happening in other areas of our life, for example a neighbour that is targeting you in your home and online.

You may also experience a link between online communication leading to face-to-face violence and abuse, for example through dating apps, but feel less able to get help because you fear others knowing about how they've been meeting people for sex, and who with. No one should have to just put up with violence or abuse, online or face-to-face, because they are worried about disclosing their sexual orientation, gender identity or sexual behaviour.

Other crimes that may be motivated by hate include physical violence, threats, verbal abuse, unwanted touching and sexual violence, harassment, damage to property and theft.

Isn't it just free speech?

Abusers often hide behind the idea that all they are doing is expressing an opinion or a belief, but

no-one has the right to behave in a way that is abusive towards others. The Human Rights Act 1988 protects our rights, including the freedom of expression. This freedom carries with it a duty to respect other people's rights. Everyone has the right to be protected from discrimination and violence. Use of offensive language or expressing an offensive opinion or belief itself is not unlawful, only where it causes alarm and distress, such as a threat of violence. The freedom of expression does not cover speech and expression that incites violence, hatred or discrimination.

What to do if you are being targeted by LGBT+ online hate speech or hate crime?

If this is happening to you, Galop can help. Report to us via <http://www.galop.org.uk/report-hate/>.

For more information, see our factsheet: *A Practical Guide to Tackling Online anti-LGBT+ Hate Crime*.

Always dial 999 if it is an emergency and you think you are in immediate danger.