Hate Crime
Operational Guidance

Consultation
8 October to 5 November 2019
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Introduction

This guidance is for police officers and staff at all levels of the police service, working alongside partners, where appropriate, to deliver a consistent, proportionate and robust policing response to hate crime and non-crime hate incidents.

These crime and non-crime incidents may have a disproportionate psychological, and in some cases physical, impact on victims and the wider community as compared to equivalent ‘non-hate’ crimes (Hall, 2005), (Home Office (2018) Hate Crime, England and Wales, 2017/18, page 28).

Hate crimes can be socially divisive, potentially heightening tensions between communities (Hall, 2005). They are more likely than many other crimes to involve repeated victimisation (Home Office (2018) Hate Crime, England and Wales, 2017/18, page 24), and they can increase the risk of civil disorder through retaliatory disorder (Hall, 2005).

Hate crimes may be, or may become critical incidents regardless of how trivial an incident may initially appear.

In all cases of hate or hostility victims should be treated sensitively in a way that is appropriate to their needs.
1 Responding to hate

1.1 Police officers and staff should respond positively to allegations, signs and perceptions of hostility and hate crime. Victims should be supported to make their allegation, they should be directed to sources of ongoing support and the matter should be recorded and flagged as a hate crime or non-crime hate incident.

1.2 Supervisors and managers should check reports of hate crime and non-crime hate incidents to ensure that the appropriate action has been taken to support the victim and that allegations are investigated in a consistent and proportionate manner.

1.3 Chief officers should ensure that supervisory, management and performance processes support an effective response to hate crimes and non-crime hate incidents. Chief officers should also ensure that there are clear pathways to support organisations, raising concerns with the police and crime commissioners if there is insufficient support among other statutory and non-statutory partners.

1.4 Chief officers should ensure that hate crimes and non-crime hate incidents are recorded and included as part of the force intelligence and demand assessments.

1.5 There are five monitored strands:

- disability
- race
- religion
- sexual orientation
- transgender.

1.6 Although these strands are monitored, it is important to recognise that there are victims who are targeted with hostility against other personal characteristics, see Data recording and Non-monitored hate crime.

Agreed definitions

1.7 The following definitions are shared by all criminal justice agencies and form the basis for national hate crime data recording. This data underpins analysis for use in government documents (eg, HM Government (2012) Challenge it, Report it, Stop it: The Government’s plan to tackle hate crime), and statistical returns (eg, Home Office, Hate Crime, England and Wales, 2017/18). This does not deny hate as a motivating factor in other crimes.
1.8 The definitions are inclusive and apply to both majority and minority groups. They support a basic human right to be free from crime fuelled by hostility because of personal characteristics.

1.9 **Hate motivation**

Hate crimes and incidents are taken to mean any crime or incident where the perpetrator’s hostility or prejudice against an identifiable group of people is a factor in determining who is victimised.

This is a broad and inclusive definition.

A victim does not have to be a member of the group. In fact, anyone could be a victim of a hate crime or non-crime hate incident.

**Hate incident**

Any non-crime incident 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, or
  - any racial group or ethnic background including countries within the United Kingdom and Gypsy and Traveller groups

- a person’s **religion** or perceived religion, or
  - any religious group including those who have no faith

- a person’s **sexual orientation** or perceived sexual orientation, or
  - any person’s sexual orientation

- a person’s **disability** or perceived disability, or
  - any disability including physical disability, learning disability and mental health

- a person who is **transgender** or perceived to be transgender,
  - including people who are transsexual, transgender, transvestite and those who hold a Gender Recognition Certificate under the Gender Recognition Act 2004.

See also **Responding to non-crime hate incidents**.
Hate crime

A hate crime is 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, or
  - any racial group or ethnic background including countries within the United Kingdom and Gypsy and Traveller groups

- a person’s **religion** or perceived religion, or
  - any religious group including those who have no faith

- a person’s **sexual orientation** or perceived sexual orientation, or
  - any person’s sexual orientation

- a person’s **disability** or perceived disability, or
  - any disability including physical disability, learning disability and mental health

- a person who is **transgender** or perceived to be transgender,
  - including people who are transsexual, transgender, transvestite and those who hold a Gender Recognition Certificate under the Gender Recognition Act 2004.

While a crime may be recorded as a ‘hate crime’, it may only be prosecuted as such if evidence of hostility is submitted as part of the case file.

Hate crime prosecution

A hate crime prosecution is any hate crime which has been charged in the aggravated form or where the prosecutor has assessed that there is sufficient evidence of the hostility element to be put before the court when the offender is sentenced.
Hostility

The term ‘hate’ implies a high degree of animosity. The definition, and the legislation it reflects, require that the crime must demonstrate or be motivated (wholly or partially) by hostility or prejudice.

The Crown Prosecution Service (CPS) gives the following guidance to prosecutors:

In the absence of a precise legal definition of hostility, consideration should be given to ordinary dictionary definitions, which include ill-will, ill-feeling, spite, contempt, prejudice, unfriendliness, antagonism, resentment, and dislike.

See also Evidencing hostility.

Perception-based recording

1.10 The perception of the victim, or any other person, determines whether an incident should be flagged as a hate crime (where circumstances meet crime recording standards), or non-crime hate incident.

1.11 The victim does not have to justify or provide evidence of their belief, and police officers or staff should not directly challenge this perception. Evidence of the hostility is not required for an incident to be recorded as a hate crime or non-crime hate incident.

1.12 The actions of the perpetrator must amount to a crime under normal crime recording rules. If this is the case, the perception of the victim, or any other person, will decide whether the crime is also recorded and flagged as a hate crime. If the facts do not identify a recordable crime but the victim perceived it to be a hate crime, it should be recorded as a non-crime hate incident.

1.13 This will help to reduce under-recording, highlight the hate element and improve understanding about hate-motivated offending.

1.14 To allow the courts to apply enhanced sentencing, it is important to provide sufficient evidence to prove the hostility element and collecting this evidence is a key element of any investigation. However, this is not required when considering the perception of the victim or any other person.
Any other person

1.15 A crime should be recorded as a hate crime or non-crime hate incident if it is perceived by the victim or any other person to be motivated by hostility. It should not, however, be recorded as such if it is based on the perception of a person or group who has no knowledge of the victim, crime or area, and who may be responding to media or internet stories, or who is reporting for a political or similar motive.

1.16 Anyone can be the victim of a hate crime or non-crime hate incident, including people from majority groups and police professionals.

1.17 For example: A heterosexual man who is verbally abused leaving a venue popular with the LGBT+ community may perceive the abuse is motivated by hostility based on sexual orientation, although he himself is not gay.

1.18 Any other person could refer to any one of a number of people, including:

- police officers or staff
- witnesses
- family members
- members of civil society organisations who know the victim, the crime or hate crimes in the locality, such as a third-party reporting charity
- a carer or other professional who supports the victim
- someone who has knowledge of hate crime in the area – this could include many professionals and experts, eg, the manager of an education centre used by people with learning disabilities who regularly receives reports from students who have been victims of abuse
- a person from within the group targeted by the hostility.

Malicious complaints

1.19 Some victims, particularly celebrities or political figures, may be subject to malicious behaviour from people who are influenced by a grudge they hold against the victim’s politics or lifestyle. On occasion, these allegations may amount to harassment behaviour. The victim may allege that this was motivated by hostility towards them because of a personal characteristic.
1.20 This type of incident should be dealt with sensitively and investigating officers should seek support from senior colleagues and the CPS hate crime coordinator.

1.21 Some groups or individuals may try to challenge the police service, using complaints or litigation against the police response (actions or inactions) to hate crime or non-crime hate incident allegations. They may allege political bias or disproportionate infringement of human rights. It is important that all police actions are proportionate, taking into account human rights, reflect national and local policy, and that decision-making is appropriately recorded. Investigating officers should seek the advice of senior colleagues where they suspect a complaint may be vexatious or politically motivated.

1.22 If a report of a malicious complaint identifies that a crime has been committed, this should be recorded as such. Where the victim or any other person perceives it was motivated wholly or partly by hostility, it should be recorded as a hate crime. If no crime has taken place, but the victim or any other person still perceives that the incident was motivated wholly or partly by hostility, it should be recorded as a non-crime hate incident.

1.23 See also Data recording, Responding to hate crimes, and Responding to non-crime hate incidents.

Non-monitored hate crime

1.24 The five strands of monitored hate crime are the minimum categories that police officers and staff must record and flag. There are, however, many other groups and individuals who may be targeted due to their personal characteristics.

1.25 Forces, agencies and partnerships can extend their local policy response to hate crime and non-crime hate incidents to include additional types of hostilities they believe are prevalent in their area or that are causing the greatest concern to their community.
Case study – Sophie Lancaster

In August 2007, a group of teenage boys attacked Sophie Lancaster and her boyfriend Robert Maltby without provocation. Both suffered serious head injuries during a violent and sustained attack. Sophie's injuries were so severe that she died 13 days after the attack.

This hate crime was motivated by the fact that Sophie and Robert looked and dressed differently from their attackers. They were perceived to be Goths, and were part of an 'alternative' subculture. As such, they wore distinctive clothing and make-up associated with their lifestyle. To their attackers they were known as ‘Moshers’ and, therefore, a target.

In sentencing the perpetrators, the judge said that he was convinced that the murder was a hate crime. The law did not provide for a specific enhanced sentencing provision, but the court was able to take into account the hostility when calculating the seriousness of the offence for sentencing purposes.

Greater Manchester Police and later others identified this hostility as common in their communities, and after local consultation they added such crimes to their hate crime recording policy.

Caste-based crimes

1.27 Some communities have a historical culture of caste definition where some sections of communities are considered to be less worthy than others. This can lead to isolation of subgroups within broader communities and may lead to discrimination in relation to, for example, employment and relationships. It can, on occasion, lead to hostility within communities. These incidents can be recorded and flagged as race or religious hate crimes or non-crime hate incidents, but that may not be appropriate in all cases and each incident should be considered on its facts and the perception of the victim.

1.28 If the victim perceives that a hate crime has been committed, it should be recorded and flagged as such and the case file should be referred to the CPS to allow them to make an appropriate charging decision and to ask the court to apply enhanced sentencing.

1.29 See Responding to hate crime and Responding to non-crime hate incidents for further information.
Identifying trends in hate crime

1.30 Where a trend is identified or a community reports concerns about a new type of hate crime or non-crime hate incident, in particular relating to non-monitored hate crime, action should be taken to address this. This may include:

- including it in local policy
- seeking more information on the extent of the hostility
- community engagement activity
- media strategies
- problem-solving approaches with education services or other stakeholders
- including it in the threat assessment process within the National Intelligence Model (NIM).

1.31 Case study – attacks on street sex workers

Merseyside Police and partners recognised they had a significant problem of violent attacks against street sex workers and that there were similarities with other types of hate crime. Some believed the attacks were fuelled by gender hostility, and were able to show a significant problem of under-reporting.

Merseyside Police introduced crimes against sex workers into the locally monitored strands of hate crime to demonstrate their commitment to addressing these issues. Merseyside Police led some partnership activity and played a key role in providing a more victim-focused multi-agency response.

Repeat victimisation

1.32 The first time an incident or crime comes to the notice of the police is not necessarily the first time it has happened. Victims may be too frightened to report earlier incidents or may not realise that the abuse they are suffering is a crime, or an incident the police will record and/or respond to.

1.33 The Home Office Circular 19/2000 on Domestic Abuse defines repeat victimisation as ‘being the victim of the same type of crime (eg, hate crime) more than once in the last 12 months’.
1.34 Repeat incidents must be recorded as they may demonstrate a course of conduct, e.g., harassment, or an escalation in behaviour or increased community tension, and are likely to increase the threat of further attacks.

**Secondary victimisation**

1.35 The *1999 Stephen Lawrence Inquiry* highlighted that a victim may suffer further harm because of insensitive or abusive treatment from the police service or others. This may include, for example, perceived indifference or rejection from the police when reporting a hate crime or non-crime hate incident. This harm will amount to secondary victimisation and may increase the victim’s psychological harm caused by the initial incident.

1.36 Secondary victimisation is based on victim perception and it is immaterial whether it is reasonable or not for the victim to feel that way. An open and sensitive policing response can prevent escalation. Police decision-making and actions should be clearly explained to the victim. This is particularly important where the outcome is not what the victim was expecting.

1.37 Secondary victimisation can cause an incident to escalate into a *critical incident*. Where this has happened, a senior officer should be notified and the incident managed appropriately.

**Legislation**

1.38 Legislation provides three specific options to support the successful prosecution of hate crime:

- racially or religiously aggravated offences
- specific offences that will always be classified as a hate crime
- enhanced sentencing legislation for any offence.

1.39 Note: see also *The Criminal Justice (No. 2) (Northern Ireland) Order 2004* for legislation that applies in Northern Ireland only.

**Racially or religiously aggravated offences**

Act to include religiously aggravated offences.

1.41 Sections 29–32 of the 1998 Act identify a number of offences, which if motivated by hostility or where the offender demonstrates hostility, can be treated as racially or religiously aggravated. These offences can be the preferred charge where there is evidence of racial or religious aggravation when committing the offence.

1.42 For any other offence where there is evidence it was motivated by hate, or for any other strand of hate crime not covered by the 1998 Act, the CPS can request enhanced sentencing. See also Enhanced sentencing for other crimes motivated by hostility.

Definitions

1.43 Section 28 of the 1998 Act defines the terms ‘racially aggravated’ and ‘religiously aggravated’.

1.44 A racial group is any group of people defined by reference to their race, colour, nationality (including citizenship), ethnic or national origins. See R v Rogers [2007] UKHL 8 for further explanation of the term ‘racial group’.

1.45 A religious group is any group of people defined by reference to religious belief or lack of religious belief.

Specific hate crime offences

1.46 A number of specific offences have been created by legislation, which when the relevant points have been proved, will always be considered as hate crime.

1.47 Incitement to hatred – race: Part III of the Public Order Act 1986

1.48 Incitement to hatred – religion or sexual orientation; section 29B of the Public Order Act 1986

1.49 Incitement offences contained in the Public Order Act 1986 also include offences of distribution, broadcasting, performance, public display and possession of inflammatory material.

1.50 See also Inciting hatred.
Racist chanting

1.51 Section 3 of the Football (Offences) Act 1991 makes it an offence to engage or take part in chanting of an indecent or racialist nature at a designated football match.

1.52 Chanting means the repeated uttering of any words or sounds, whether alone or in concert with one or more others.

1.53 Of a racialist nature means consisting of, or including, matter which is threatening, abusive or insulting to a person because of their colour, race, nationality (including citizenship), ethnic or national origins.

Sentencing for hate crime

1.54 Section 145 of the Criminal Justice Act 2003 requires the courts to consider racial or religious hostility as an aggravating factor when deciding on the sentence for any offence that has not been identified as a racially or religiously aggravated offence under the 1998 Act.

1.55 Section 146 of the Criminal Justice Act 2003 provides for increased sentences for aggravation related to sexual orientation, disability or transgender identity.

Enhanced sentencing for other crimes motivated by hostility

1.56 Where the hostility is aimed, for example, at the victim’s age, gender or lifestyle choice, the courts may consider the targeted nature of the crime when calculating the seriousness of the offence under section 143 of the Criminal Justice Act 2003. The Sentencing Council for England and Wales includes advice when calculating the seriousness of an offence, for example:

- offence motivated by hostility towards a minority group, or a member or members of it
- deliberate targeting of vulnerable victim(s).
Witness intimidation
1.57 Witness intimidation is an offence under section 51(1) and 51(2) of the Criminal Justice and Public Order Act 1994. It can also constitute a common law offence of perverting the course of justice.

1.58 Witness intimidation in a hate crime case is particularly damaging. Witnesses who have been subjected to, or are at risk of, intimidation should be afforded the same level of service as the original victim.

1.59 See also Risk management.

Officer discretion
1.60 It may not always be appropriate or proportionate to impose a criminal sanction where hate is a motivating factor and a crime has been committed, especially where the victim does not support a prosecution but simply wants the criminal behaviour to stop.

1.61 To consider the full range of alternative remedies or sanctions available, officers should consult their local hate crime unit, community safety partnerships (CSPs) or CPS hate crime coordinator.

1.62 See also Alternative outcomes.

Under-reporting of hate crimes
1.63 Many people, particularly those in isolated communities, may find it difficult or be reluctant to report to the police directly, but may be more willing to report to a community resource. The need to provide facilities for victims to report to a third party was one of the key findings of the Stephen Lawrence Inquiry in 1999.

1.64 This recommendation has had consistent support from successive governments and criminal justice agencies. It remains as a significant part of the broad police response. Chief officers should consider how to encourage increased reporting of non-crime hate incidents and hate crimes in their force.
Third-party or assisted reporting

1.65 Hate crime remains significantly under-reported (Home Office (2018) Hate Crime, England and Wales, 2017/18, page 10). Third-party reporting services aim to increase hate crime reporting and the flow of intelligence from a community by providing alternative methods of contacting the police and reporting a crime.

1.66 If the police are proactive and deliver effective third-party reporting services tailored to meet the needs of victims, more victims can be encouraged to come forward.

1.67 The most successful schemes are ones that target individuals or groups who face the highest risk of victimisation, and/or those who are least likely to report crimes to the police.

1.68 Those with knowledge of the community and its challenges are best placed to decide what may be the most effective method to reach these groups/communities. Creativity is important and the best response may not follow the traditional approaches to crime reporting.

1.69 True Vision has a range of web-based and physical resources to help forces develop third-party reporting services, eg, ‘easy-read’ information or translated reporting forms.

1.70 The effectiveness of third-party services should be periodically measured to ensure they have and retain the expected impact. Where appropriate, different approaches may need to be tried to achieve the best effect. Community partners involved in third-party reporting services should agree on the method and timescales for monitoring performance. Victims are primarily encouraged to report crimes directly to the police, so in addition to measuring the number of reports submitted to the police through the service, it is also important to consider a scheme’s impact on community confidence and the broader support it offers to victims, professionals and communities.
Recommended review process for third-party reporting services/schemes

Local Partnerships consider success of current schemes → CSPs members evaluate existing schemes

Consider areas of greatest under-reporting through available research and considering nationally identified targets → Engagement with partners and community groups

Agree most appropriate methods of increasing reporting considering tools available through True Vision or by developing local ones → Engagement with partners and community groups

Monitor performance throughout year → Monitor response of CJS agencies and partners

Evaluate success of schemes and refer new tools and best practice to True Vision to assist other areas

Data sharing with third-party reporting facilities

1.71 An information sharing and data-security protocol must be established between the third-party service and the police taking into account the Data Protection Act 2018, so that those using the site are confident about what will happen to the information they provide and its security.

1.72 Specimen information-sharing agreements and other support material can be found at True Vision.
1.73 One example of a successful third-party service is the national charity Stop Hate UK, which also produces resources available in 40 languages, including: Braille, large print, words into pictures/easy read, a British Sign Language DVD and audio recording, and has a number of specific materials on sexual orientation, mental health hate crime and young people.

Data recording

1.74 Since April 2011 all forces have been reporting hate crime data as part of the Home Office annual data requirement.

1.75 Police managers should have systems in place to monitor this process and to ensure that staff know how to report crimes and incidents accurately.

1.77 See also Performance management.

National Standard for Incident Recording

1.78 The National Standard for Incident Recording (NSIR) ensures that policing records all incidents, whether crime or non-crime, consistently and accurately. This allows the resulting data to be used at a local and national level and to meet the management and performance information needs of all stakeholders. It also allows the UK to meet its international commitments, which include transparency about the collection of hate crime data. The NSIR includes the National Incident Category List (NICL) and counting rules. It provides recording guidance for incidents where hate is identified as a qualifying element.

1.79 Where an incident record is created in accordance with the NSIR, certain information must be recorded.

Crimes

1.80 The majority of hate crimes are both recordable and notifiable. See the Home Office counting rules for further information.

1.81 Hate crime is not recorded as a single category of crime. Instead, it occurs as a feature of different types of crime. The counting rules include a number of crime types where the racially or religiously aggravated forms of hate crime might commonly be recorded. However, some forms of hate crime fall outside these specific categories. The 2019 counting rules include the following specific crimes
where racial or religious aggravation commonly occur:

- 8M racially or religiously aggravated harassment
- 8P racially or religiously aggravated assault with injury
- 105B racially or religiously aggravated assault without injury
- 58J racially or religiously aggravated criminal damage
- 9B racially or religiously aggravated public fear, alarm or distress.

Management of police information

1.82 Under *Home Office (2005) Code of Practice on Management of Police Information*, the police are authorised, and should have clear guidelines, to manage information, including personal information, for a police purpose.

1.83 In making a record, particularly where the incident is a non-crime hate incident, police must also apply the *Data Protection Act 2018 (DPA)* and *General Data Protection Regulation (GDPR)*. The information held must take into account the six data protection principles for law enforcement and general processing, in particular the first principle of lawfulness, fairness and transparency.

1.84 Records must be held consistently, identifying the nature of the information and its purpose. Any information must be managed in line with the Code of Practice and supporting *APP on information management for the retention and disposal of police records*. 
Community engagement and tension

2.1 Effective community engagement can help to mitigate community tension caused by hate crimes or non-crime hate incidents. Conversely, failing to engage will undermine community confidence in law enforcement and make positive policing outcomes more difficult to achieve.

2.2 Ministry of Justice guidance defines a community as a group of people who interact and share certain characteristics, experiences or backgrounds, and/or are located in proximity to each other.

2.3 A community can be large or small, concentrated in a specific geographical location or widespread throughout a larger geographical community. For further information, see Engagement.

2.4 Police officers and staff should identify potentially ‘susceptible’ communities and proactively make efforts to build relationships with those communities and relevant partners. These relationships will provide a structure and network, which can be used when tensions rise, an investigation occurs or a critical incident is identified.

2.5 Strong relationships will also inform strategic analysis of community risks and issues, partnership development and day-to-day community policing activity.

Building community relationships

Spending time in a day-centre for people with learning disabilities will help officers and staff to build positive relationships and trust in the police. It will also help the police to learn about potential communication challenges those using the centre may have.

Building relationships with centre-managers and commissioning agencies will also help to identify emerging risks and potential tensions, and will help to provide a means of identifying and managing risks and implementing long-term problem-solving activity.
Independent advisory groups

2.6 The purpose of an independent advisory group (IAG) is to give the victim a voice in police decision-making; they can also provide advice on developing successful partnerships. This is particularly important when responding to hate crimes and non-crime hate incidents. They provide an independent perspective to monitor, observe or participate in police activity but importantly they do not have responsibility for the outcomes. They make observations both within the force and to the communities they represent. This includes helping to address problems affecting particular groups, eg, gay, lesbian, transgender, Gypsies and Travellers.

2.7 Effective and well-structured groups will reduce the time needed to seek community views. The police need to be willing to consider their views and respond to constructive criticism in a positive way. Group members need to understand that they do not have a role in ‘directing’ decisions.

2.8 Officers and staff are not obliged to follow the advice of an IAG, but they should be prepared to explain why they chose not to follow its advice.

2.9 See also APP on Communication and Independent Advisory Groups: Advice and Guidance on the Role Function and Governance of IAGs.

Police and crime commissioners

2.10 Police and crime commissioners (PCCs) (or deputy mayors for policing and crime in London and Greater Manchester) will canvass the views of the public about policing in their area. They undertake consultation and engagement events with community groups to understand community views and concerns. Chief officers should work closely with their local PCC to ensure that these views are reflected in the police service response to hate crime and non-crime hate incidents.

Community tension

2.11 Symptoms of community tension which may give rise to hate crimes or non-crime hate incidents should be identified at the earliest opportunity – see Engagement and communication and Intelligence management.
2.12 Significant events or incidents, both within and outside the local force area, may affect or indicate increased community tension. This information should be used to inform community engagement activity, and force strategic threat, risk and harm assessments.

2.13 General indicators may include:

- incidents of disorder and a noticeable increase in critical incidents
- significant anniversaries
- public events (e.g., meetings, demonstrations, carnivals, concerts, fairs)
- elections (e.g., far-right candidates) and other significant political events
- deaths in police custody
- other police-generated events (e.g., crime initiatives, raids)
- religious festivals
- extremist activity
- anti-social behaviour
- critical incidents
- unusual or serious assaults on police personnel
- use of offensive weapons against police
- hostility or resistance to normal police activity (e.g., stops, patrol, arrests).

2.14 Incidents of inter-group rivalry may affect or indicate community tensions, such as:

- racially motivated incidents (e.g., assaults, criminal damage)
- rivalry between or within gangs with different ethnic membership
- rivalry between LGBT+ communities and those who seek to condemn their sexual orientation, e.g., on religious grounds
- rivalry between or within religious groups
- rivalry between different gangs, schools, colleges.
2.15 Other factors which may indicate or cause changes in community tension include:

- hate crime (eg, racial and homophobic attacks)
- vigilante patrols
- police raids on sensitive premises (eg, cultural or religious buildings)
- threats to community safety (eg, potentially problematic additions to the sex offenders register)
- inter-community threats (eg, between religious sects)
- repeated incidents of serious antisocial behaviour
- strong media interest in community issues (eg, asylum seeker issues)
- global conflict, particularly where UK populations have heritage in affected regions
- political unrest or terrorist activity overseas, particularly where it affects UK-based populations or where it receives extensive media coverage.

2.16 For further information, see the True Vision website.
3 Partnership working

3.1 Statutory partnerships are at the core of joint working. Statutory organisations share the same legal duties under section 149 of the Equality Act 2010, which states that:

- a public authority must, in the exercise of its functions, have due regard to the need to:
  - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

3.2 Partnerships require a strong police contribution, as the expertise of staff and exposure to victims are key components for an effective partnership response.

Benefits

3.3 Statutory partnerships can:

- facilitate information and intelligence sharing, helping to quantify the hate crime geographically or within a specific section of a local population
- prompt agencies with community safety responsibilities to develop and deliver a coordinated safety package for actual and potential victims of hate crime
- prevent duplication of service delivery by different agencies
- produce a consolidated approach to accessing additional resources.
Practice example – Partnership working

Some police forces and partners have established a public protection partnership similar to the domestic abuse multi-agency risk assessment conference (MARAC) process, so that partners can work together to share information, assess risk and agree actions to reduce the risk associated with serious or repeat hate crime. This structure can be especially useful in responding to repeat victims, high-risk individuals or emerging trends in hate crimes.

Because of the nature of hate crime, particularly in serious cases, a swifter, more flexible approach may be needed than in other areas of crime reduction. Formally scheduled meetings may be too infrequent to be effective and not responsive to risks. Partnerships meetings are however still valuable, but may need flexibility to facilitate early interventions.

3.4 Partnership activity in communities to encourage collaborative working beyond statutory limits can also have benefits. The key to this is involving a spread of partners, including groups and individuals that other agencies cannot reach. This will help to achieve:

- sustainable relationships between the police and minority communities to work together to address local hate crime problems
- ongoing dialogue to increase community confidence and generate a flow of community intelligence
- openness and transparency, providing the police with a better understanding of the impact hate crime has on the community. It also helps the community to understand the constraints and legal requirements within which the police are required to work
- joint ownership of problems and solutions, providing an opportunity for partners to share hate crime initiatives, promoting further collaborative effort.

3.5 Joint training and secondment opportunities can enhance understanding of all stakeholders and improve the effectiveness of the police response to hate crime. Internal staff support networks can also offer a valuable link between the police and the local communities they live in.
3.6 The **True Vision** website has a range of downloadable tools (based on good practice developed across policing) that can assist in developing partnerships. These products include guidance on how non-statutory groups can be engaged to establish effective partnerships.

Practice example – ‘Punish a Muslim’ letters

In March 2018, a spate of letters that promoted a national day of extreme violence against Muslim citizens, encouraging like-minded offenders to join in, were posted on social media and received significant media coverage.

The National Hate Crime Policing Lead established a multi-agency ‘Gold Group’ to address the potential harms caused by the letters. The Gold Group included partners, such as Tell MAMA, academics and the national Independent Advisory Group, as well as government and law enforcement representatives.

The Group determined that the most significant risk was that an unknown individual would be motivated by the letters and would commit an act of violence. It was recognised that normal mass communications seeking to reassure the Muslim community may increase the risk, and undermine the investigation to identify the perpetrator.

Drawing on advice from partners, the national lead agreed a number of actions. These included a specialist media strategy that targeted only affected communities, reducing the risk of wider media coverage. This was supported by the use of existing local police networks and community coordinators to distribute messages to affected local communities, seeking to reassure communities that the police were taking the matter seriously.

Community tension and fear was high, but using partners to shape the policing response helped to mitigate the risk and fear of harm. Subsequently the perpetrator was identified, convicted and received a lengthy prison sentence.

Leadership

3.7 Chief officers, with their police and crime commissioners, can use their influence to build effective partnership working, particularly with individuals and groups who have real influence within communities.

3.8 Different approaches are required to meet geographical and demographic circumstances. The abilities of partners and the influence they have will vary, but local policy should allow sufficient flexibility for good practice to be developed.
3.9 Leadership at chief officer level must be reflected at area command, hate crime specialist, sector and individual officer levels. All can offer leadership in securing the expertise and enthusiasm of partners.

3.10 See also **Strategic leadership** and **Supervision and oversight**.

### Problem solving in partnerships

3.11 Difficulty in securing a conviction, because of evidential or jurisdictional issues, does not mean the problem has gone away. The police need to tackle the underlying problem using new and innovative methods. Partnership approaches to the reduction of hate crime lend themselves to problem-solving methods.

#### Scan analysis response assessment

3.12 The scan analysis response assessment (SARA) approach is one method used for problem solving in the police service. Applying this will help to ensure that hate crime problems are effectively identified and tackled without wasting time and resources. Its use should be explained to partners to help them work with the police to tackle local problems.


### Specialist advice

3.14 It is unrealistic to expect every operational officer to have detailed knowledge of every subject area, or of every monitored strand.

3.15 Officers and staff must, therefore, establish and build professional relationships with those organisations and individuals who have comprehensive knowledge and expertise concerning specific aspects of the monitored or non-monitored strands relevant to their area, or even sub-sets of particular monitored strands, eg, autism as opposed to physical disabilities.
3.16 Setting up, for example, a disability independent advisory group at force or agency level, or having disability representation on independent advisory groups at BCU or borough level should be considered.

3.17 Local user-led organisations or voluntary sector groups can also offer expertise and independent advice.

3.18 See also Community engagement and tension.
4  Responding to hate crime

4.1 Investigators responding to a hate crime must:

■ recognise the crime and undertake a quality investigation that supports an outcome which satisfies the victim and the community
■ reduce repeat victimisation.

4.2 **APP Investigation** sets out a core model for an investigation. There are, however, a number of factors, which should be highlighted when an allegation of hate crime is made.

4.3 Hate crimes have significant potential to develop into **critical incidents**.

**Call takers**

4.4 Because hate crimes and non-crime hate incidents can cause **victims and communities higher levels of distress** (Hall, 2005), (Home Office (2018) Hate Crime, England and Wales, 2017/18, page 28), police responders should consider how their language and conduct may affect victims and witnesses.

4.5 Officers and staff taking a report of a hate crime or non-crime hate incident should in all cases:

■ ask the victim or witness how they wish to be addressed – do not assume gender identity
■ gather information sensitively and reassuringly, recording an accurate first account
■ assess the initial risk and response required.

4.6 Any hate crime that has the potential to become a **critical incident** should also be notified to a senior officer.

4.7 See also **APP Investigation**.

**Priority response**

4.8 Chief officers must ensure that their force has a clear force policy that sets out minimum standards for the priority response and investigation of an allegation of hate crime.
4.9 The initial response to a hate crime should be treated as a priority incident. A national audit carried out by ACPO in 2009–10 found that levels of service tended to deteriorate when a crime report was deferred.

4.10 There are occasions where an immediate call for service may not be appropriate or possible. It may not be proportionate to the crime report, there may be high incident workload where calls for service are having to be prioritised, or the victim may not be immediately available. Where there are such delays in responding to a hate crime, a supervisor should consider the reasons given and set out a clear plan for how and when the incident will be responded to. This should be communicated to the victim.

Positive action should be taken, not just a record made

4.11 Forces should implement policies that require a priority response to hate crimes, and the notification or attendance of supervisors or CID officers. It is a matter for forces when developing their deployment policies, but investigations and broader problem-solving activity can be improved where there is supervisory oversight.

Specialist support

4.12 Assistance from internal and external partners may be required to provide a service that meets the victim’s needs. See also partnership working.

4.13 Police officers and staff in force may have additional skills, knowledge or experience that can be used to assist the initial response or subsequent investigation. For example, the MPS Cultural and Communities Resource Unit (CCRU) uses the skills and diverse backgrounds of its police officers and staff to support investigations.

Risk assessment

4.14 At all stages of an investigation, police officers and staff must be aware of potential risks to the safety, vulnerability and wellbeing of victims and witnesses.

4.15 An important risk factor is the potential for further victimisation. Many victims are targeted either because they are perceived to be less likely to have the confidence to defend themselves physically or because they lack the confidence or ability to stand up to the offender.
4.16 Factors may include:

- the victim lives alone
- they are particularly vulnerable, by virtue of age, disability, language or immigration status
- there are particular issues that leave them susceptible to intimidation.

4.17 The College of Policing is currently undertaking a review of evidence to develop evidence-based guidelines for Recognising and Responding to vulnerability-related risks.

4.18 Until these guidelines are available it is suggested that forces use the THRIVE risk assessment model and vulnerability matrix to assess and manage risks. (This link is available to authorised users who are logged on to the College of Policing managed learning environment (MLE)).

4.19 Some of the most vulnerable victims may find it difficult to communicate the impact a crime has had on them, particularly if they have a learning disability, are not fluent in English or have a distrust of the police or the criminal justice process. It is essential that they are given the opportunity to explain the harm that has been caused and the risks they face.

4.20 In all cases, a risk assessment should be undertaken and identified risks managed through appropriate interventions. The perceptions of victims and witnesses of their own risk are necessary considerations.

4.21 See also Victim and witness care and support.

4.22 Risk assessment and management is a dynamic process subject to constant change. The level of risk should be reviewed regularly, along with any interventions put in place, to ensure that they remain appropriate to the situation, provide reassurance and reduce the likelihood of further victimisation.

4.23 To ensure openness and accountability, a record of this risk assessment should be kept and regularly reviewed for quality assurance purposes and identifying trends.

4.24 The following questions may help to elicit some of the information needed for effective risk assessment and management.
■ Why do you think you have been targeted on this occasion? (Without sounding like the victim is being blamed.)
■ Have you or your family been targeted before?
■ Do you know of similar crimes in the area?
■ Do you fear that the offender will repeat the behaviour?
■ Do you know the offender?
■ What impact has the behaviour had on you and your family?

**Investigators**

4.25 When a hate crime is reported, there are a number of fast-track actions that should be completed, including but not limited to:

■ consider removing the victim to a safe location if appropriate
■ consider the use of **body-worn video** to gather evidence to support enhanced sentencing
■ make a record of the victim’s emotional response to the incident, eg, is the victim suffering from shock? See also **victim care**
■ identify any victim needs, for example:
  – do they want to speak in private?
  – are any confidentiality issues (eg, not disclosing the victim’s sexuality)?
  – do they need an interpreter?

4.26 Arrange for these to be put in place where practical

■ if necessary, seek advice from a specialist hate crime investigator where available
■ notify neighbourhood policing teams and provide a copy of the crime report to support victim and community reassurance
■ for more serious incidents, consider deploying a family liaison officer
■ review risk assessment, as the victim may be more forthcoming once they have confidence in the attending officer.
Victims of sexual orientation or transgender hate crime

4.27 Where a person has been the victim of sexual orientation or transgender hate crime, they should not be questioned about their sexual orientation or gender identity unless it is relevant to the investigation. If they choose to disclose this information, it should be recorded.

4.28 Information about the victim’s sexual orientation or gender identity must not be disclosed to their family or friends without the victim’s express permission. They may not have told friends or family, and a disclosure, even inadvertently, could seriously undermine victim trust and community confidence in the police.

4.29 When contacting a victim’s friends or family to notify them about an incident, simply state that the individual was a victim of a crime, rather than a hate crime. Details that may indirectly disclose the victim’s sexuality, such as the incident took place in a venue popular with the LGBT+ community, should not be disclosed.

Working with disabled victims

4.30 The nature of the victim’s disability may present additional challenges when gathering evidence or taking statements. The police and CPS prosecutors should never make assumptions about the competence, capacity or credibility of a disabled person, or any support needs they may have. It is good practice to ask the person about support they need to give their best evidence. Also, consider the use of a witness intermediary to support interviewing.

4.31 The CPS has appointed hate crime lead prosecutors who have received specific training and guidance on the best ways of supporting victims to provide the strongest evidence. They can also discuss the range of special measures available to assist victims and witnesses in giving their evidence.

Suspect considerations

4.32 Positive action is preferable, but the decision to arrest is always a matter for officers, and should be based on the evidence available at the time. It should not be influenced by whether the victim wishes to proceed with a prosecution or not.

4.33 Where a victim is at particular risk, a positive arrest policy should be applied.
4.34 **Note:** keep in mind the difference between arrest conditions and charging standards. If necessary, consider using powers under section 24 of the **Police and Criminal Evidence Act 1984** (PACE), the common law power of arrest and the power to intervene and/or detain by force in order to prevent any action likely to result in a breach of the peace.

**Evidencing hostility**

4.35 The opportunity to secure a conviction, and provide the court with the ability to apply for **enhanced sentencing**, will depend of the quality of the evidence provided to the CPS. The case file must demonstrate:

- that the suspect was motivated, wholly or partially, by hostility, or
- that the suspect demonstrated such hostility immediately before, during or after the crime was committed.

4.36 The following evidence will be key:

- the exact words or phrases the victim uses when giving their initial account, in particular their account of any words or phrases used by the perpetrator
- a copy of any 999 conversation
- evidence of the offender’s hostility, eg, from careful suspect interviewing and from evidence gathering during scene and other searches.

4.37 For example, neo-Nazi material or symbols displayed or worn by the offender may provide evidence of hostility which can be used during interview to explore the suspect’s motivation.

4.38 Early contact should be made with CPS hate crime coordinators, who will provide access to the latest prosecutor operational guidance and assist with investigation and interview planning. This is particularly helpful where it relates to the evidence needed to apply for enhanced sentencing under sections 145 or 146 of the **Criminal Justice Act 2003**.
Obtaining evidence to support enhanced sentencing: a case study

Greater Manchester Police undertook an investigation into the murder of a 42-year-old man with asperger syndrome and epilepsy. He was living independently in the community in housing association accommodation. His disorder required the support of a learning disabilities team who regularly attended his home. There was a history of complaints made by the victim about antisocial behaviour from other residents. The victim had suffered varying degrees of harassment from different people.

His murder was declared a critical incident by the force.

Enquiries revealed that another tenant was responsible for the murder. The SIO identified that the murder could be perceived as a hate crime.

Three days after the murder, the SIO invited members of the Local Authority Adult Services Team (LAAST) to the briefing and included them in the investigation. This built strong partnership links from the outset, supported by a confidentiality agreement.

The investigation benefited from direct links to agencies who could obtain information about the victim quickly and efficiently. It also helped the BCU commander at gold meetings with the independent advisory group where input from LAAST added to the group’s confidence in the police action.

The SIO also invited the divisional neighbourhood chief inspector and a detective sergeant from the force diversity unit to the extended briefings so that everyone was fully aware of what a hate crime was and the effect the actions of the investigation team had on the local community. The team were able to review the evidence they obtained with the full knowledge that this may be a hate crime.

No evidence materialised that suggested this offence was motivated by hostility. Other agencies questioned this, and the SIO attended all the gold meetings and updated members on this area specifically.

The chair of the Disabled Advisory Council commented that he appreciated the honesty and openness during this investigation, and it had been very well received. He felt the meetings had been excellent and issues raised had been listened to and addressed.
Community impact statements

4.39 A Community Impact Statement (CIS) can describe the impact that offending has had on a community, providing context and give the community a voice.

4.40 A CIS should be prepared in hate crime cases where there is a recognisable ‘community of identity’ that shares the personal characteristic of the victim.

4.41 A CIS can also relate to community buildings or institutions, eg, a place of worship or a day centre used by people with learning disabilities.

Information and intelligence

4.42 In addition to a crime report, any intelligence and/or historical information should be recorded in line with force policy. This should include details of any previous reports concerning the same suspect, victim or location and the results of any PNC searches.

4.43 Some forces have adopted hate crime forms, which include a risk assessment and action taken to remove, reduce or manage risks.

4.44 Handover packages are key and should include all available information on the investigation, as well as photographs, statements, exhibits and a brief summary of events.

4.45 See also Perception based recording and Data recording.
Responding to non-crime hate incidents

5.1 Not every reported incident is a crime. If police are unsure whether a reported incident amounts to a crime, an initial investigation should be undertaken to establish the facts to determine whether it is a hate crime or a non-crime hate incident.

5.2 Where it is established that a criminal offence has not taken place, but the victim or any other person perceives that the incident was motivated wholly or partly by hostility, it should be recorded as a non-crime hate incident.

5.3 There is often an overlap between a perceived non-crime hate incident and the legitimate exercise of rights and freedoms conferred by the Human Rights Act 1998. Police officers and staff responding to a non-crime hate incident must remember that they have limited enforcement powers in these circumstances, and a disproportionate response may adversely impact on either an individual’s human rights, eg, by inhibiting free speech, or on levels of hostility and tension in society.

5.4 While every police responder must determine for themselves the appropriate response in light of the circumstances, every response must be in accordance with the law and be proportionate.

5.5 Non-crime hate incidents should not be dismissed as unimportant; they can cause extreme distress to victims and communities. They may also be the precursor to more serious or escalating criminal offending. Non-crime hate incidents may form part of a series of incidents that, together, may constitute a crime, such as harassment or coercive control. Retrospective review of crimes will often highlight that earlier non-crime hate incidents that could have presented opportunities to intervene to reduce the threat.

5.6 Although police officers have limited enforcement powers, they do have a general duty with statutory partners under the Equality Act 2010 to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not.
5.7 There are some actions which will be criminal if they are committed in public but not if they occur in a private dwelling, eg, some public order offences. A victim is likely to suffer the same harm, regardless of the location.

5.8 Forces should have a system for recording non-crime hate incidents and should be able to analyse them so that preventive activity can take place, and identified community tensions can be monitored, and activity can be implemented to reduce them.

Ownership

5.9 The police do not always have primary responsibility for responding to non-crime hate incidents and ownership will often fall to other statutory agencies. Although they may not have formal processes in place, all statutory agencies have the same legal duties under the Equality Act 2010.

5.10 It may be appropriate for the police to refer reported incidents to another agency for them to complete the task of assessing and mitigating risk or harm. For example, someone facing abuse on a transport service to a medical facility might expect that the agency which commissions the service would have a duty to respond to and eliminate such hostility.

A proportionate response

5.11 The circumstances of an incident will dictate the response, but it must always be compatible with section 6(1) of the Human Rights Act 1998. The Act states that it is unlawful for a public authority to act in a way which is incompatible with a right conferred by the European Convention on Human Rights.

5.12 Some of these rights are absolute and can never be interfered with by the state, eg, freedom from torture, inhuman or degrading treatment or punishment. Some, such as the right to liberty, are classed as limited rights and can be restricted in specific and finite circumstances.

5.13 Other rights, such as the right to respect for private and family life, the right to manifest one’s religion or beliefs, freedom of expression, and freedom of assembly and association are qualified rights and require a balance to be struck between the rights of the individual and those of the wider community.
5.14 Qualified rights are usually set out in two parts. The first part sets out the right or freedom, and the second part sets out the circumstances under which the right can be restricted.

5.15 Generally, interference with a qualified right is not permitted unless it is:

- prescribed by or in accordance with the law
- necessary in a democratic society
- in pursuit of one or more legitimate aims specified in the relevant Article
- proportionate.

5.16 Police officers and staff need to consider the human rights of all parties whether they are directly involved, as a victim or as the ‘accused’, or indirectly as someone affected by the circumstances of the incident or response.

**Contact strategy**

5.17 Careful consideration should be given to the way in which officers and staff contact an individual who is the subject of a report of a non-crime hate incident. This applies to both the victim who may, for example, have personal information, such as their sexuality disclosed by inconsiderate communications, and to the ‘accused’ who may face disproportionate harm from insensitive contact, for example, by unnecessarily alerting others to private information about the incident or the individual.

5.18 Officers and staff should consider whether it is proportionate to the incident, and the aim of the contact, to contact the person at their place of work or study, or in a manner which is likely to alert a third party, eg, their employer, to the complaint or the interest of the police (particularly where it may not be appreciated that the contact concerns a non-criminal matter).

5.19 Police should always consider the least intrusive method of contact for achieving their proportionate aims, eg, a telephone call, letter or visit.

5.20 Where the matter is likely to come to the attention of another person, such as the individual’s employer, it may be helpful to provide the individual with information in a form which they can pass to the third party to clarify the police contact.
5.21 In all cases it should be clearly stated that the matter is a non-crime hate incident and the individual is not being investigated for a criminal offence. It should also be explained why a record will be made of the incident, how that information will be recorded and retained, and the individual’s rights to that information. See also Recording non-crime hate incidents and Data recording.

5.22 When gathering information relating to a non-crime hate incident, officers and staff should not gather information that is not relevant to the matter in hand, eg, the political views of the individual. It may be appropriate, where the facts are unclear or the remarks are ambiguous, to ask questions to understand the intention behind an individual’s remarks, or to build an intelligence picture as to community tensions.

5.23 The police should not give informal warnings concerning an individual’s views or remarks, unless it is proportionate to inform the person about where the boundaries of the law are. Examples include where:

- the conduct, which is the subject of the complaint, would have been a criminal offence if the individual had committed it in a public place; or

- where an act could contribute to a ‘course of action’ which could itself become criminal, eg, in a potential offence under the Protection from Harassment Act 1997.

5.24 The following examples illustrate a proportionate response to non-crime hate incidents.
### Example 1

A victim, who is a wheelchair user, reports to the police that a man approached her in the street and threatened her in circumstances that amounted to a crime under section 4 of the Public Order Act 1986. In doing so, the man also made derogatory comments about her disability.

This incident would be recorded as a crime and, given the demonstrated hostility, it should also be recorded as a disability hate crime and investigated as such.

### Example 2

The victim reports the same circumstances as in Example 1, but this time the incident takes place at a party in her home. Given that the potential offence is not enforceable in a private dwelling, this should be recorded as a non-crime hate incident.

The police have a primary responsibility to determine that a crime has not been committed and to record the incident. An officer should assess the incident and the risk of escalation and decide that a proportionate response would be to record the incident, offer support to the victim by referring her to victim support services, and include the incident in the intelligence processes to measure community tension.

The officer would also consider whether it would be beneficial and proportionate to approach the 'accused', to advise them of the distress caused and to encourage them to consider how they might alter their behaviour to avoid causing harm or committing a criminal offence.

### Example 3

The victim reports that she was called derogatory names referring to her disability, but the law has not been breached. This time the incident took place during a lesson in her school and the perpetrator is another pupil.

As there is no criminal offence in this circumstance, the incident would amount to a non-crime hate incident. The appropriate police response would be to refer the matter to the school management team, with the victim’s agreement, and to offer any advice they may need about available victim support.

The school should assess the risk and decide on a proportionate response. The police should record the incident, recording the police interactions and the results of those actions.
Recording non-crime hate incidents

5.26 There are four key reasons why the police service would make a record of a non-crime hate incident.

- When an incident is reported to the police it is often not clear whether a crime has been committed. Circumstances are often unclear, and a record will be made to support initial investigative actions and to record any decisions.

- Intelligence. Where an incident is reported it may be necessary to record the information provided for intelligence purposes. This will help to identify patterns of behaviour: incident hot spots associated with a specific location, group or victim which may provide evidence of repeat victimisation, eg, antisocial behaviour directed to the same victim.

- Behaviour that falls short of criminal conduct but could later be evidence of a course of criminal conduct, eg, harassment and coercive control, or as evidence of ‘motivated hostility’ in a future hate crime.

- Statistical analysis to improve understanding of the type and nature of non-crime hate incidents in a locality. Once sanitised this information can, where appropriate, be shared with partners to support the development of local prevention and intervention initiatives.

5.27 Where a non-crime hate incident is reported, it must be recorded if the victim or any other person perceives that the incident was motivated wholly or partly by hostility, even if it is referred to a partner.

5.28 Police officers may also identify a non-crime hate incident, even where the victim or others do not.

5.29 The recording system for local recording of non-crime hate incidents varies according to local force policy. Managers should have confidence that all incidents are being recorded correctly. See data recording for further information how information should be managed.

5.30 Records must be factually accurate. It is important that the information recorded is necessary, proportionate and relevant to the incident. Information irrelevant to the complaint should not be recorded.
5.31 Victims may be reluctant to reveal that they think they are being targeted because of their ethnicity, religion or other protected characteristic or they may not be aware that they are a victim of a non-crime hate incident, even though this is clear to others.

5.32 Example

A heterosexual man walking through an area near a venue popular with the LGBT+ community. He is verbally abused in a way that is offensive but does not constitute a public order offence. He reports the incident but does not believe it to be homophobic, or want it recorded as such, because he is not gay.

The officer taking the report is aware that several men have been attacked in that area over the last few weeks and the perpetrator appears to be hostile toward gay men.

The officer correctly reports this as a sexual orientation non-crime hate incident, recording the reasons in the report.

Disclosure and Barring Service checks

5.33 A current or prospective employer may request a Disclosure and Barring Service (DBS) check as part of their employment and/or recruitment processes.

5.34 For the majority of roles, a standard DBS check will be required and this will disclose conviction information, including cautions. An enhanced DBS check will show the same data as a standard check, plus any other information held by the police that the chief officer considers to be relevant to the role. This may include records relating to non-crime hate incidents.

5.35 Chief officers must take into account the circumstances of the non-crime hate incident and whether it is relevant to the DBS check taking into account the role for which the person is applying, proportionality and human rights.

5.36 For further information on the DBS process and an individual’s rights in relation to information which may be disclosed, see Disclosure and Barring service.
6 Intelligence

6.1 Hate crime intelligence may not be as obvious as that concerning other areas of criminality, e.g., burglary or robbery. Indicators can be misinterpreted. The fear of becoming a victim may be greater than the likelihood of being victimised. Listening to, and acting on, all sources of information is vital to ensuring that hate crime indicators are properly interpreted when developing intelligence products.

See APP on Intelligence management.

Community intelligence

6.2 The value of community intelligence was detailed in the HMICFRS report Winning the race – embracing diversity.

HMICFRS subsequently defined community intelligence as:

local information, direct or indirect, that when assessed provides intelligence on the quality of life experienced by individuals and groups, that informs both the strategic and operational perspectives in the policing of local communities.

It also said:

community intelligence should be valued by force managers as highly as criminal intelligence in terms of its contribution to effective policing.

Community voices

6.3 These can range from formalised meetings with community leaders to daily interaction between patrol officers and individuals in the community. The input from ordinary members of communities can be invaluable, particularly from those who do not claim representative status for a targeted group but are held in esteem locally, especially by young people.

For further information see APP on Engagement and communication.
Covert human intelligence source

6.4 Intelligence suggests that those targeting vulnerable communities with hate-motivated hostility may broadcast or even exaggerate their exploits. Potential sources of information for other criminality may, therefore, also have information relating to hate crime by way of association.

Open source

6.5 Open-source information is an important strand of intelligence gathering. The following sources, although not an exhaustive list, should be considered when carrying out analysis as they may enhance the intelligence product:

- traditional and online newspapers (national, local and specific interest publications, such as The Voice, Asian Times, Gay Times, G3, Diva)
- the internet and other online sources
- demographic material, such as census data
- periodicals
- broadcast media
- opinion polls
- academic research
- bill posters or stickers
- partnership information.

Crime pattern analysis

6.6 Crime pattern analysis (CPA) is an essential tool used to focus resources on local policing problems.

6.7 Unlike volume crime, hate crime is frequently more difficult to hot spot as the cause may not be easy to determine. For example, an increase in criminal damage to vehicles may not only constitute vandalism, but it could also represent a targeted attack on users of particular religious premises.
Online hate material

6.8 One of the most common forms of hate crime is sending offensive material via the internet and/or social media. Analysis of such material can identify offenders and precursor activity. See Online hate crime.

Political headlines

6.9 People react to both positive and negative political and news headlines, sometimes instigating organised activity in response. Some issues may have the potential to upset community cohesion or create disorder.
7 Victim and witness care and support

For further information see also Victim and witness care and Working with victims and witnesses.

7.1 Victim and witness care and support are at the heart of any hate crime investigation. A single point of contact (SPOC) should be provided for the victim to avoid confusion and ensure consistency. Should the SPOC be unavailable for any significant length of time (such as annual leave) then a deputy should be appointed and introduced to the victim.

7.2 Additional information includes:

**Prosecution and case management: Victim and witness care**

**Victim personal statements (VPS)**

**Victim Support**

**Code of Practice for Victims of Crime**

Victim information packs, which can be read after the officer has left. See the True Vision website for resources. Generic victim publications should be avoided as they may cause offence.

Victim Supportline is a national 24/7 service run by Victim Support providing confidential emotional support and practical advice to victims. Contact details: telephone 08 08 16 89 111; TextDirect access number 18001 08 08 16 89 111; they can also be contacted via email, letter or online.

**Family liaison**

Witness care units provide a single point of contact for victims and witnesses, minimising the stress of attending court and keeping them up to date with any news in a way that is convenient to them.

7.3 Victims should be kept informed at all stages of the investigation. In particular, they should be told if and when a suspect is released under investigation (RUI), charged and/or released on bail. The details of any bail conditions should also be explained, e.g., if the suspect breaks a condition by, for example, making contact with the victim, they can be rearrested and brought back before the court.
Risk management

See also Risk assessment.

7.4 A risk assessment should not be done in isolation, it should be accompanied by appropriate risk-management interventions.

7.5 Interventions will depend on the circumstances and the particular environment in which hate crime is occurring. They may include:

- issue of personal attack alarms
- issue of evidence capturing devices
- use of local CCTV
- issue of mobile telephones
- introducing or maximising neighbourhood watch schemes
- rehousing victims
- obtaining civil injunctions, community protection orders (CPO) or criminal behaviour orders against offenders.

7.6 The most effective intervention for reducing repeat victimisation is identifying and arresting the offenders and bringing them to justice.

7.7 In addition to repeat victims, there may be other reoccurring factors in hate crimes, such as a specific location. Early identification of trends and effective problem-solving should help to prevent future victims from being targeted.

7.8 The level of risk should be monitored and subject to regular reviews, with interventions that adapt to the prevailing situation, provide reassurance and reduce the likelihood of further victimisation. A record of this risk assessment should be kept to ensure openness and accountability. An appropriate risk intervention tool is the RARA model.
Hate Crime Operational Guidance Consultation: 8 October to 5 November 2019

7.9

<table>
<thead>
<tr>
<th>R</th>
<th>Remove the risk: by arresting the suspect and obtaining a remand in custody.</th>
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<tbody>
<tr>
<td>A</td>
<td>Avoid the risk: by rehousing the victim and/or significant witnesses or placing them in a refuge or shelter in a location unknown to suspect.</td>
</tr>
<tr>
<td>R</td>
<td>Reduce the risk: by joint intervention or victim safety planning, target hardening and use of protective legislation.</td>
</tr>
<tr>
<td>A</td>
<td>Manage the risk: by continued reference to the RARA model, continual multi-agency intervention planning, support and consent of the victim, and offender targeting within proactive assessment and tasking pro forma and multi-agency public protection panel format.</td>
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See also Partnership working.

**Witness intimidation**

7.10 If there are reasons to believe that witness intimidation may occur in a specific case, proactive steps should be taken to protect the witness(es). These may include the following measures:

- home and mobile alarms
- mobile 999 telephone
- surveyed and enhanced home security
- measures to capture evidence of intimidation
- provision of escorts
- targeting of suspects
- special measures (also consider reasonable adjustments under the Equality Act 2010 for victims with disabilities).

7.11 The witness should be clear on what action to take, and whom to contact 24 hours a day. These issues should be discussed at an early meeting between the police and the CPS, in order to provide the best quality of service to victims and witnesses.
7.12 **Note:** victims and witnesses of hate crimes are more likely to feel vulnerable or intimidated by the very nature of the offending against them. In addition to the legal meaning of witness intimidation, the witness's feelings towards the criminal justice process must also be taken into account. The prospect of giving evidence can be intimidating in itself. It is, therefore, important that the witness is made to feel as comfortable as possible with the process. See [Witness care units](#).
8 Criminal justice processes

See also Prosecution and case management.

8.1 Under The Director’s Guidance on Charging, crown prosecutors are responsible for making all charging decisions for any offence recorded as a hate crime, whether admitted or not. The following information will help prosecutors to make a charging decision:

- details of the incident, accurately reflecting potential offences
- that it has been recorded by the police as a hate crime
- who perceived this offence as a hate crime
- evidence of hostility being a motivation or being demonstrated
- any additional aggravating factors
- victim personal statements
- risks identified to victims or witnesses
- risk of community tension or civil unrest
- special measures to help victims or witnesses.

8.2 Other material that will assist the prosecution includes:

- previous incidents against the victim
- previous incidents involving the defendant
- the ability and/or willingness of the victim to give evidence
- the impact of the alleged offence on the wider community
- the likelihood of recurrence
- an assessment on the safety of the victim and their family
- information from other agencies, eg, social services or housing departments
- any other orders in existence, eg, civil injunctions, community protection orders (CPO) or criminal behaviour orders
- whether the current incident breaches any existing order or injunction.
Bail proceedings

8.3 Victims of hate crime may be afraid of repercussions or intimidation when a suspect is charged. To protect victims and witnesses, the CPS may apply for a remand in custody or ask the court to attach bail conditions.

8.4 The court can only remand a suspect in custody if the CPS can show that there are substantial grounds for not granting bail. The following additional information should be provided to the CPS to support this decision-making:

- previous convictions
- previous breaches of bail conditions.

8.5 The investigating officer should attend remand hearings to fully brief the prosecutor.

8.6 The investigator should inform the victim immediately of the result of the hearing, including details of any bail conditions.

See also Victim and witness care and support.

Alternative outcomes

8.7 Many forces have developed effective resolutions to low-level crime that divert offenders away from the courts. Pilots are taking place in some force areas to use restorative justice as a response to hate crime, e.g., Derbyshire.

8.8 Hate crimes may involve complex underlying issues which mean that out-of-court disposals or informal resolutions (including those using restorative justice) may be insufficient to effectively manage the longer-term criminality that only formal interventions (usually court proceedings) can better achieve.

8.9 CPS national policy states that hate crime needs to be dealt with seriously (mostly by way of court proceedings) to ensure that victims have confidence in the criminal justice system, and to address under-reporting and the lack of suitable rehabilitation programmes for offenders.

8.10 Consult the local CPS before considering any alternative resolution, which would bypass the CPS referral for a charge decision.

See also Possible justice outcomes following investigation.
At court

8.11 Attending court and giving evidence can be particularly traumatic for victims and witnesses of hate crime.

8.12 Further advice and resources about court proceedings for victims and witnesses are available on the Victim Support website.

See also Victim and witness care and support.

Victim withdrawal from a prosecution

8.13 In cases where a victim or witness wishes to withdraw their support for the prosecution, a statement should be taken explaining their reasons. When submitting the withdrawal statement to the CPS, the officer should also attach a report setting out:

- the reasons given by the victim
- how the victim might react to being compelled
- future risks to the safety of the victim and their family
- the impact on the wider community.

See also Risk assessment also Risk management.
Online hate

9.1 The nature of online hate material presents operational challenges, including:

- establishing the jurisdiction of the crime, e.g., country and force area where the offender posted the material
- the anonymous nature of most offensive material
- the unwillingness of, or legal restraint on, online industry bodies to disclose user identity
- the lack of clear policy guidance
- a lack of knowledge among many investigating officers
- the high workload of force digital forensic specialists.

9.2 Online hatred can cause significant distress for those who are affected and can increase community tensions. This can act as a motivator to those with a propensity to commit hate crime by such means.

9.3 Responding to online hate crime is a priority for the police service and is included in HM Government’s 2014 report, Challenge it, Report it, Stop it.

See also CPS guidelines on prosecuting cases involving communications sent via social media.

9.4 Technology has made it easy to send material to an intended or incidental online audience. Although traditional hate mail is still sent through the postal system, the majority is now sent by email, social media networks, instant messaging and open-source websites.

9.5 The online environment allows an individual to adopt anonymous or false identities to target individuals, and bypassing traditional editorial controls to share their views with millions. The harm caused by such activity is significant, placing additional demands on law enforcement agencies to respond. See also Responding to hate crime and Responding to non-crime hate incidents.

9.6 There is no specific offence of online hate crime, but the law has established that illegal activity can be committed via the online environment. A basic rule is that most offences can be committed online in the same way as they could on the street. See Legislation and Inciting hatred for further information.
Responding to online hate crimes

9.7 The key responsibilities of the police responding to online hate are:

- record the complaint in line with data recording
- ensure the safety and wellbeing of the victim
- bring the offenders to justice
- prevent further crime
- reduce community tension and fear of crime
- build community confidence that the police are willing and able to deal effectively with online hate crime.

9.8 If an allegation does not include a crime, the incident should be recorded as a non-crime hate incident, and victim can be encouraged to contact the internet host themselves to ask them to consider removing the material. If they report it to True Vision, it would be recorded centrally as a non-crime hate incident.

9.9 The following may be able to provide additional sources of advice:

- hate crime unit or coordinator
- criminal investigation department, digital media investigators
- digital forensic teams
- equality or diversity unit
- counter-terrorism unit.

9.10 Most police forces also have a single point of contact (SPOC) to liaise with internet service providers (ISPs) and mobile device operators. This may help to establish the source of messages sent.
International jurisdiction

9.11 Online hate crime offenders are not limited by national or international boundaries. Computers or mobile devices can be accessed remotely, regardless of the location of the person who is posting, sending, viewing or receiving information online. Wherever the computer or user is located, there will be an electronic audit trail with significant evidential value.

9.12 Many sites carrying hate messages are hosted outside the UK where their content may be protected by law, for example, protecting free speech under the First Amendment of the United States Constitution. This means that hosts may be unwilling to pass on user information without a US court order, which for the majority of the hate crime reports, will not be attainable.

Court jurisdiction – England and Wales


9.14 Two white supremacists circulated racist material via several forms of media, including online. They were convicted of possessing, publishing and distributing racially inflammatory material. They posted material, which the CPS said had ‘crossed the line from unpleasant and obnoxious to a criminal offence’.

9.15 Reviewing lawyer Mari Reid, of the CPS counter-terrorism division said:

> People are entitled to hold racist and extreme opinions which others may find unpleasant and obnoxious. What they are not entitled to do is to publish or distribute those opinions to the public in a threatening, abusive or insulting manner either intending to stir up racial hatred or in circumstances where it is likely racial hatred will be stirred up.

9.16 On appeal, the defendants argued that they were only subject to US jurisdiction on the grounds the material was uploaded to a website hosted by a server in the US, despite it being accessible in the UK, where some of the material was also distributed in print form.

9.17 The Court of Appeal rejected this argument, confirming that the criminal law of England and Wales can apply to material published online even if the server is located in another country. The test the court applied was whether a ‘substantial measure’ of the activities took place within the jurisdiction.
Threats to individuals outside the UK

9.18 Where reported material targets an individual or group outside the UK and does not appear to have originated from within the UK, the police should refer the report to a suitable authority in the country with jurisdiction.

9.19 For further information on transferring cases to other jurisdictions see International APP and the International Crime Coordination Centre (ICCC). True Vision also has additional resources for cross-jurisdictional online hate crime.

Risk management

9.20 Where a force receives a complaint of online hate crime and it fits one of the criteria below, the primary concern will be the safety of targeted individuals, groups or events. However, forces should also consider the impact it may have on relevant communities, community tension and their confidence in the police.

9.21 Forces should consider whether:

- this incident is part of wider offending when considered alongside existing intelligence
- the victim should be informed about the threat as part of an ‘Osman’ warning
- to offer support to the intended victim
- to discuss potential risks with event organisers or operational commanders responsible for policing events
- a community impact assessment is needed.

9.22 See also Risk assessment and Threats to Life (this document is available to authorised users who are logged on to POLKA).

Targeting celebrities

9.23 Many reports of online hate are received from people who are offended by material posted in response to newsworthy events or where it targets a high-profile individual.
9.24 *True Vision reports* suggest that some of the most targeted individuals in recent years have been footballers, who have often been subjected to extreme racist and violent abuse. In such cases *sporting clubs* and associations will become key stakeholders.

**Crime recording**

9.25 The *Home Office 2019 Counting Rules: General Rules* state that the location of the suspect(s) at the time they committed the offence will determine the crime recording location. The nature of the internet means that this location is often unknown until an investigation has been undertaken.

9.26 If the location of the suspect (i.e., where the offender was when the material was posted) is unclear, a reported crime should be recorded in the area where the victim resides.

9.27 If at the time of reporting, the location of the suspect(s) and victim cannot be determined, the crime recording location will be:

- personal crime – where the victim is normally resident
- corporate body – the location of the relevant place of business.

**Non-crime hate incidents**

9.28 Where no criminal offence is disclosed, most ISPs include terms of service or acceptable use policies, which prohibit users from posting hateful or illegal material online.

9.29 *True Vision* provides advice to the public about how to approach hosts where offensive material is found, but is not illegal material. See also *Responding to non-crime hate incidents*.

**Generic online hate crime management**

9.30 A central (NPCC and Home Office) internet hate crime team (IHCT) has been established to provide a central function for responding to generic online hate crime.
9.31 This team is responsible for True Vision and can be contacted through the website. The team’s remit is to take reports made through True Vision website and:

- assess whether the material amounts to a recordable crime
- record the complaint as a hate crime or non-crime hate incident centrally, preventing large numbers of unsolvable crimes from being held by forces
- keep the victim informed about the process of investigation and any action taken
- make provisional enquiries with the ISP to identify the offender
- provide, where enquiries are able to identify the location of the offence, necessary material to the force responsible to enable them to carry out enquiries to trace and, where appropriate, prosecute the offender
- disseminate intelligence to relevant national and local resources as appropriate
- work with national and international stakeholders to promote problem-solving solutions, including industry self-regulation.

9.32 The IHCT will not proactively search the internet for hate material, it responds only to formal complaints made by the public through the True Vision website. The team does not have operational staff and carries out enquiries only to the point where an offence location is known. The crime is then transferred to the relevant force for any enforcement action to be taken.

9.33 The IHCT will not respond to material which:

- targets an individual person with abuse of any nature
- is sent directly to any individual, including where it is posted on an individual’s own personal account, such as Facebook
- targets an identified group whose location is known (eg, Muslims who attend a specific mosque)
- targets a specific event such as an LGBT+ Pride march
- refers to any other report which requires an operational police response.

9.34 Where a complaint of online hate crime is made direct to an individual force, the force may ask the victim to use the information and reporting facility on the True Vision website, but must not do so if any of the above circumstances apply. See Figure 1.
Figure 1 NPCC internet hate crime team operational flow chart

Victim reports online hate crime

Is the threat to an individual or an identified group?

- Yes
  - Is the report a crime?
    - Yes
      - Record as hate crime
      - Write to web host requesting IP address of poster and consideration of user terms
    - No
      - Record as non-crime hate incident
      - Write to web host requesting consideration of user terms

- No
  - Provided
    - Write to ISP requesting user details address of poster and consideration of user terms
    - Not provided
      - Write to victim explaining action
  - Not provided
    - Disseminate for intelligence and cohesion monitoring purposes to NPCC, NCTT, NDET, TAM and others

Crime sent to identified source for recording and investigation

Forward to local force for recording and investigation

Write to victim explaining action

Disseminate for intelligence and cohesion monitoring purposes to NPCC, NCTT, NDET, TAM and others
Traditional hate mail

9.35 The distribution of traditional hate mail does still occur, eg, offensive letters, leaflets, posters or other material delivered by hand or via the postal system.

9.36 The impact this can have on a victim should not be underestimated, and such matters should be dealt with sensitively. Often this material is disposed of by the recipient and not reported. Where hate mail is reported, it should be treated as a forensic exhibit.

9.37 Evidence can be lost if the exhibit, which, in the case of a letter, includes both the envelope and its contents, is not dealt with correctly from the outset. Speak to local crime scene investigators for handling and packaging advice. Package letters and envelopes separately if already separate.

9.38 The following may also help to minimise loss or contamination of evidence when handling hate mail exhibits.

9.39 Do:

- handle the item as little as possible
- package the items at the scene to prevent contamination
- photocopy the original as soon as possible for use during the investigation
- consult the local hate crime investigation team or coordinator
- obtain a statement from anyone who has handled the item to preserve continuity and for elimination purposes.

Do not:

- open a sealed envelope if it is believed to contain hate mail
- take a letter out of an envelope if the contents are suspected to be hate mail
- replace a letter into an envelope if it has already been removed. Package it as a separate item.
10 Hate crime and counter terrorism

10.1 Not all hate crime is linked to extremism and terrorism, but it is unlikely that a terrorist act will not be motivated by hate. The hate may be personal, ideological or the result of manipulation by others and it is important to recognise the links, particularly in respect of intelligence handling.

10.2 Many perpetrators of terrorist activity commit less serious hate crimes prior to progressing to more serious offending. Not every hate crime offender will escalate to extremist crime, and the challenge is to identify those with the potential to do so, thereby enabling counter-terrorist colleagues to reduce the risk posed.

10.3 The following factors may indicate a heightened risk of offending or escalation; this list is not definitive or exhaustive:

- crimes fuelled by extremist ideologies, eg, racial supremacy or religious extremism
- crime series which are linked and escalating in seriousness
- crimes that seek to justify or glorify genocide or other war atrocities
- repeated crimes that target the same victim group (or demographic)
- perpetrators who demonstrate support for regimes responsible for genocide or extremist behaviour
- perpetrators who host, post, share or follow extremist web content (this may be, or indicate precursor activity to more serious offending)
- perpetrators who distance themselves from family and/or friends.

10.4 It is important that any suspicions or relevant intelligence are fed into counter-terrorism intelligence systems.

10.5 To ensure that forces recognise and respond to risk indicators, staff should be made aware of potential risk factors and links. In addition, counter-terrorism colleagues should have oversight of reported hate crimes and associated intelligence.

10.6 Additional resources for officers and staff are available from local Prevent teams and/or CT Policing Online (accessible from a PNN address only).
11 Inciting hatred

11.1 The Public Order Act 1986 includes specific offences of inciting hatred on the grounds of race, religion and sexual orientation.

- Incitement to hatred – race; Part III of the Public Order Act 1986
- Incitement to hatred – religion or sexual orientation; section 29B of the Public Order Act 1986

11.2 All allegations of incitement must be referred to the central special crime and counter-terrorism division of the CPS, and require the consent of the attorney general to proceed to court.

11.3 The nature of these offences can lead to conflict between individuals and groups about the balance between human rights and an individual’s protection from hatred. A religious or any other personal belief is not a defence to these offences, but the free expression or debate of a personal view is a protected human right.

11.4 Whether a particular action comes within the behaviour covered by the offences is ultimately for the court to decide. The CPS has to judge in each case whether the evidence supports a reasonable prospect of a successful prosecution.

11.5 It is important that policing decisions take into account the ECHR and Human Rights Act 1998, and officers and staff should seek advice if they are unsure.

Demonstrating incitement

11.6 The three incitement to hatred offences are not identical, meaning that each should be considered separately.

11.7 All the offences cover threatening words, behaviour or material, and are committed where the offender intended to stir up hatred. The race offence also covers abusive or insulting words and circumstances where hatred is likely to be stirred up.

11.8 Evidence submitted to the CPS for a charging decision must demonstrate that the points to prove in each variant have been clearly demonstrated.
12 Supervision and oversight

12.1 Three levels of supervision will support an effective police response to hate crime:

- an individual who has operational oversight of individual enquiries, whether that comes from dedicated hate crime officers or a single nominated supervisor who has oversight alongside other duties
- a commander who has overall responsibility for hate crime
- a chief officer who is responsible for the strategic direction, performance measurement and establishing strategic partnerships.

12.2 Forces should adopt an appropriate model for supervising hate crime in their force. Each force has different structures, and some, particularly smaller rural forces, will find it difficult to dedicate full-time staff. However, it is important that someone has oversight.

Supervising investigations

12.3 To ensure personnel involved in hate crime investigation maintain the highest standards and are adequately skilled, supervisors must take an active interest in overseeing the investigative process. They must provide support and assistance and take steps to bridge any gaps in the investigation.

12.4 A duty inspector or supervisor should consider attending the scene to assess the incident, and potentially provide advice, assistance and leadership to investigators.

12.5 It will send a clear message to the victim, witnesses and the community that the matter is being taken seriously. Repeated or serious attacks can lead to retribution, fear or even civil unrest, and it is essential that the broader implications be considered early. See Community engagement and tension.

12.6 Supervisors and managers should ensure:

- the incident or crime is accurately recorded and flagged
- the initial investigating officer is taking positive action, has an investigative plan and is fully supporting the victim
- an initial risk assessment has been conducted and recorded, and appropriate interventions considered and implemented where appropriate
that intelligence is fed into the force systems
consideration is given as to whether the incident should be identified as a critical incident and, if so, attend the scene
that if a critical incident is identified, fully brief the area commander or on-call commander at the earliest opportunity
that, where appropriate, a decision log is opened to safeguard accountability
that any ongoing incident is handed over to incoming shift supervisors
that any risk assessments and safeguarding plans for the victim are reviewed
that a community impact assessment is completed
the local press and/or force press officer are briefed.

12.7 Supervisors should also ensure:

- there is liaison with specialist hate crime investigators, the hate crime coordinator or equality/diversity staff if available
- that any training needs of the team are identified and addressed
- that all officers are aware of force or government initiatives regarding anti-social behaviour.

12.8 Some forces have adapted the structure of operational supervisor roles and may choose to allocate responsibilities traditionally held by inspector ranks.

Debriefs

12.9 Debriefing is good practice after any incident. It provides an opportunity to receive feedback and support team members, and adds value to the investigation.

See Briefing and debriefing.
**Command team oversight**

12.10 In addition to clear lines of supervision, it has also proved valuable in some areas to have a nominated officer responsible at command team level. This role fits well with broader responsibilities such as community cohesion, crime management or community engagement, and allows a single person to have oversight of performance, investigative quality and community confidence issues.

**Strategic oversight**

12.11 Adopting a force lead at executive team level helps to set clear strategic direction, offering leadership to staff and partners alike. This role fits well with broader responsibilities such as community cohesion, equality and community engagement, and allows a single person to set the strategic direction.

See also [Strategic leadership](#) and [performance management](#).
13 Strategic leadership

13.1 Chief constables must establish a policy that clearly indicates ownership of hate crime investigations. All hate crimes should be treated as a priority and be appropriately screened and allocated to ensure the best outcome.

13.2 The National Policing Hate Crime Strategy outlines the recommended approach to hate crime. Senior leaders should be able to assess each level of the police response to determine the overall quality of service and make necessary improvements.

13.3 Many police and crime commissioners have made tackling hate crime a priority in their police and crime plans. Chief constables should determine their strategy according to these commitments, and measure success against them.

13.4 Chief officers can review their organisation’s response to hate crime by answering the following questions:

- Is hate crime given sufficient priority?
- What is the quality of response to hate crime reports?
- Are auditing processes in place to ensure that hate crimes are accurately recorded and responded to appropriately?
- Does the organisation know the extent of under-reporting of hate crime?
- Are responses tailored to the needs of the most vulnerable victims?
- Are victims and affected communities satisfied with their local police response?
- Do performance criteria support the key objectives of the National Policing Hate Crime Strategy?
- How strong are partnerships with key stakeholders and community groups?
- Do such partnerships have adequate data and intelligence sharing capabilities?

13.5 Relevant performance indicators should be used to hold senior leaders to account for hate crime performance. This should not be a narrow focus on levels of measurable success but, importantly, should include the level of victim
satisfaction, even where an investigation has failed to result in a successful prosecution. Hate crimes are personally invasive and when the police respond to crimes, the way in which the investigation is conducted can be as important to victims and the wider community as securing a conviction.

13.6 Chief officers can only achieve their performance goals if response, investigative and specialist staff perform their roles with the required sensitivity and professionalism. These are aspects of their duties that demand the specific and sustained attention, direction and support of managers and supervisors.

13.7 See Performance management for a range of tools which can help managers to assess the quality of service provided.
14 Performance management

14.1 Accurate data to show the level of locally reported hate crimes will help forces to set meaningful performance objectives and provide tools to help assess the quality of investigations.

14.2 The agreement of the common definition of hate crime in 2007 enabled the police to provide national data in a consistent format. Since April 2008, NPCC has regularly published data on True Vision to show the number of crimes that have been recorded by the police in each individual force area.

14.3 Victims’ groups and international observers have welcomed the transparency provided by the publication of hate crime data.

14.4 From 2011, hate crime has also formed part of the annual data requirement for the Home Office and is published as part of the national crime statistics.

Disaggregation of data

14.5 The NPCC national hate crime data separates hate crime into the five monitored strands, and, to date, the inconsistency of data systems has meant that disaggregation of the data within the strands (eg, when looking at race hate crime, within which ethnic groups were targeted) has not been possible on a national basis.

14.6 It is important that forces are able to analyse hate crime in their local area to identify trends, levels of community tension and to prepare intelligence-led deployments. They should also be able to understand other factors from the data such as offence circumstances or the age and gender of victims and offenders. Analytical products also enable managers to make more effective deployment decisions.

Performance

14.7 The extent to which hate crime is under-reported is set out in the Home Office (2018) Hate Crime, England and Wales, 2017/18; Statistical Bulletin. It shows that based on the Crime Survey of England and Wales (CSEW), overall, 53 per cent of hate crime came to the attention of the police. This shows there is still significant work to do in recognising and reporting crimes as well as in the challenge of encouraging victims to come forward.
14.8 This gap in reporting and recording of hate crime is a priority for all police and criminal justice partners. The government included the closing of this gap in its 2010 Programme for Government and it continues to review this commitment through its Home Office (2018) Hate Crime Action Plan. This specifically includes commitments to tackle the underreporting of disability hate crime.

14.9 Further details of the priority that the government places on this and the progress can be seen in HM Government (2014) Challenge it, Report it, Stop it.

14.10 Many of the traditional performance targets for policing are difficult to apply to hate crime, but the NPCC has suggested a number of appropriate areas to consider when measuring performance.

14.11 Although some of these factors are not easily measured and some will require the cooperation of criminal justice system partners to gather data, they are true measures of performance rather than merely an easy means of gathering it. Each area for consideration is explained below.

**Increasing the reporting and recording of hate crime**

14.12 Measuring the increase or decrease in numbers of hate crimes is a key indicator of police and partnership performance. It is necessary to measure success in this way as less than one in five hate crimes that occur are recorded by the police. Until this gap is closed, the key national policing and government objective is to work to increase confidence, accessibility and the recognition of those crimes that do occur; this is also an objective of many local police and crime plans. A long-term aim is to reduce the incidence of hate crime.

14.13 The measurement of progress in this area should be a comparison of recorded hate crime with the:

- corresponding quarters in previous years or whole years
- percentage rise or fall in the CSEW estimates of hate crime
- recording rates in forces with similar demographics.

14.14 Performance should be monitored across all recorded hate crime categories. Analysing the data will, over time, indicate whether a rise or fall in hate crime reflects efforts to increase reporting or whether the incidence of hate crime has risen or fallen in a force area.
14.15 Targets that see success as reducing hate crime are not appropriate as they can be discouraging to staff, and are unlikely to motivate managers to promote positive recording or to increase the opportunity for victims to report through third-party reporting schemes.

14.16 Race or religiously aggravated offences should not be used to measure performance as the offences account for only two of the strands of monitored hate crime.

Performance assessment example

14.17 An area that achieves an 8 per cent rise in recorded hate crime, in a period when the CSEW shows a stable total, is likely to be attributable to positive policing and partnership responses. Analysts should check such data against similar forces and local surveys and by reviewing the period for events, conflicts or demographic changes that are likely to have had an effect on the data.

Measuring the crimes that have successful outcomes

14.18 The traditional measure of detection rates or successful outcomes may be appropriate, but it needs to be viewed in conjunction with the recorded crime rates. These criteria should be closely monitored to ensure they do not provide false positives. It is important to remember that a successful outcome for the victim may not necessarily include criminal proceedings.

14.19 The percentage of victimless crimes such as alcohol-related public order offences can have a major influence on detection rates, since most are recorded only when the offender is arrested. It is also possible that a single event such as a football match, where numerous offenders are arrested for racist chanting, could have a significant impact on detection rates even though no direct victims were present.

14.20 Where detection rates are used, forces need analysts to explore the data to fully understand the implications.

Measuring repeat victimisation

14.21 The percentage of those who become repeat victims is the best measurement of effective support for people who suffer/are affected by hate crime. The measure will be influenced by police and partnership activities, and the advice and support given to those victims who seek police support.
14.22 Figures can be compared with previous years or quarters and against those of similar forces to help understand the effectiveness of responses.

Measuring victim satisfaction

14.23 The CSEW shows that victims of hate crime are less likely to be satisfied with the police response, both in terms of effectiveness and the fairness of the services offered. Forces should, therefore, understand local victim satisfaction levels.

14.24 Forces have set mechanisms to measure victim satisfaction, and by identifying those that are hate crimes means that satisfaction levels can be compared with the CSEW data, previous periods, victims of crime in general or similar forces.

14.25 Existing victim surveys can be supplemented by the targeted use of the following hate crime diagnostic tools.

Measuring the number of crimes that attract enhanced sentencing in court

14.26 One of the clearest indicators of successful criminal justice responses is the application of enhanced sentencing following conviction. This shows that the police, prosecutors and courts have all recognised the hate crime and that the police and prosecutors have been able to obtain and present evidence to demonstrate the offender’s hostility.

14.27 The transparent use of enhanced sentencing under sections 145 and 146 of the Criminal Justice Act 2003 has been received positively by victims, where it is used, and conversely, has attracted significant criticism where it has not been applied.

14.28 The police inability to measure the application of this provision was criticised in the EHRC (2011) report, Hidden in plain sight.

14.29 Processes could be put in place within local criminal justice boards to measure this important provision.
**Hate crime audits**

14.30 A hate crime diagnostic tool, available through True Vision, will help forces to examine how criminal justice agencies handle hate crimes. The purpose is to provide a qualitative evaluation of service, and identify good practice and areas of concern. The audit enables agencies to examine policies, processes and operational practice to improve the service offered to victims. It will work across all five strands of monitored hate crime.

14.31 The hate crime audit is an objective of the government’s hate crime action plan and is one in a series of diagnostic tools to help criminal justice system partners to meet their commitments to victims of crime.

14.32 The first section of the diagnostic tool sets out its purpose, how it works and the resources required to carry out the audit. The tool is designed to be used holistically, but it could be separated out to look at individual parts of the criminal justice process or at individual strands of hate crime where performance concerns have been identified.
15 Hate crime in sport

15.1 Hate in all its forms has infiltrated sport at all levels, and the scale and complexity of the issue is challenging, requiring an ongoing response.

15.2 Hate crime in sport is no less important than hate crime elsewhere. In sport it attracts intense media interest, and has the potential to escalate individual incidents into critical incidents.

15.3 For further information see also:

- Kick it Out
- Show Racism the Red Card
- Policing football
- True Vision.

15.4 The police service when tackling hate crime in sport must:

- deliver a robust and effective response, using the appropriate legislation
- work closely with communities affected
- proactively identify and combat incidents of hate crime by using the national intelligence model and tasking and coordination process
- reduce and manage any risk of public disorder.

15.5 The response must be proportionate, taking into account the different demands and priorities force areas have in relation to hate crime in sport. These will depend on the location of venues, and the range or type of sporting events, whether they are local, national or international events, and the demographics of the local community, spectators and those taking part.

Robust and effective action

15.6 It is important to build relationships with key partners, both internally and externally. This includes:

- establishing and maintaining effective links between event commanders, football intelligence and/or liaison officers, technical support and public order specialists
■ building partnership links with official bodies such as the Football Association, England and Wales Cricket Board and Rugby Football Union

■ building partnerships with local sports clubs, both amateur and professional, and area associations

■ developing close working relationships with event stewards.

15.7 Stewards should be given appropriate training and be briefed on their responsibilities should an incident occur. They must be fully integrated into any police operation, not only from a public order perspective but also from a hate crime perspective.

15.8 Effective use of intelligence can help to identify known offenders and target resources to potential trouble spots. Although race has traditionally had the highest profile in relation to hate crime in sport, consideration should also be given to widening campaigns to address the impact on other protected groups.

15.9 Good practice example

The Metropolitan Police Service has worked with Arsenal Football Club to respond to racism in and around the club’s ground. This has included a training package for stewards by a criminologist who has expertise in hate crime. The club has also developed a text line, which is advertised in match programmes. It allows supporters to report the seat number of fans using racist or other hate language. The club can seat staff near to the person to make an independent assessment prior to any action being taken.

15.10 Where hate crimes do occur during a sporting event, it is important to use sanctions effectively. Early liaison with the CPS will ensure that the most appropriate sanction is used, eg, community protection notice (CPN) or criminal behaviour order (CBO) as punishment for antisocial behaviour, civil injunctions, banning orders or specific hate crime offences under the Public Order Act 1986 or the Football (Offences) Act 1991.

15.11 Combating hate crime should be included as a standing item for event briefings where such problems exist.
Building community confidence

15.12 To increase reporting of hate crime in sport, victims need to have confidence that the police and authorities will take complaints seriously.

15.13 A response that meets the specific needs of victims will help to increase public confidence and improve community engagement.

Intelligence-led policing operations

15.14 In addition to the standard considerations when planning the policing operation for a sporting event, the potential for hate crime should be considered specifically:

- conduct strategic and tactical assessments
- develop a control strategy to meet local demands and issues
- develop intelligence products to reinforce the control strategy, such as subject profiles, problem profiles and case analysis
- identify grounds and venues where hate crime occurs
- identify areas in the vicinity of grounds and venues where hate crime occurs
- use covert and overt methods to gather intelligence and target offenders
- gather open-source intelligence
- recognise different levels of hate crime in sport, eg, local, cross border, national or international.

Football intelligence officers

15.15 The appointment and development of football intelligence officers (FIOs) has been central to the effective policing of hate crime in football. They perform a coordination role in intelligence-led operations, working with club officials, stewards and match commanders.

15.16 The FIO’s role is to:

- brief and advise the match commander in line with the tactical assessment before, during and after the event
ensure that appropriate incident flags are placed on incident logs and all crime reports to ensure trends can be monitored

ensure all reported hate crime is included in the post-event report

liaise with the CPS prior to, or at first hearing of an application for a Football Banning Order in the event of any arrest or summons

establish from the host football club whether stewards or club officials have received any reports of hate crime or incidents.

15.17 The results of these enquires should be recorded in the post-event report following a designated match.

Match commanders

15.18 Overall responsibility for managing the policing response during a sporting event rests with the match commander. They must:

ensure that officers engaged in policing football events are fully briefed and understand the positive action policy, which must be part of any operational order

ensure that incidents of hate crime at designated football matches are recorded by the officer receiving a complaint or witnessing an incident, irrespective of whether suspects are identified or not

ensure that allegations of hate crime at football events have a focused response, either by appointing a dedicated investigation team or ensuring the enquiry is appropriately supervised and quality assured

consider the proactive use of evidence-gathering teams or other tactics to identify those responsible for any racist chanting and ensure that positive action is taken, whether that be during the match or as part of a retrospective enquiry.
16 Internal hate crimes and incidents

16.1 Hate crimes and non-crime hate incidents can happen in police organisations as staff carry out their duties. The police service has additional responsibilities to protect staff under employment law and the Equality Act 2010.

16.2 Police officers and staff may be targeted in different ways, and strategies should be put in place to ensure that victims are all treated appropriately according to their diverse needs. This includes where they are victimised by members of the public.

Policy and practice

16.3 Forces must have internal policies and procedures to address internal hate crimes and non-crime hate incidents. These must be transparent and responsive to unacceptable behaviour.

16.4 HMIC (2003) Thematic Inspection Report: Diversity Matters was clear that the standard of service afforded to victims of hate crimes and non-crime hate incidents among the general public is not always applied to victims of similar crimes and incidents within forces. There is a duty of care even when the victim is a colleague.

Leadership and partnership building

16.5 Clear leadership from chief constables and their senior teams will ensure a consistent standard of internal investigation.

16.6 This should include arrangements for monitoring, evaluation and performance measurement.

Partnerships

16.7 Partnership working is as important for internal hate crimes and incidents, as when dealing with incidents in the community, although the stakeholders may be different. Internal stakeholders will be statutory staff associations and local staff support networks.
16.8 Successful partnerships will help to increase communication and incident reporting. They can also provide secure third-party reporting facilities. Effective partnerships also have the ability to identify less serious non-crime hate incidents, giving an early warning of potential problems and allowing forces to intervene to prevent escalation to more serious issues.

16.9 Forces should also include external stakeholders, for example, external third-party reporting centres, independent professional advocates or existing independent advisory groups.

16.10 See also Partnership working.

Encouraging reporting

16.11 Forces must be able to assess the number of internal incidents that are reported, and also the extent of hostility faced by colleagues, whether from within or outside the organisation.

16.12 Staff perception surveys that use anonymised personal information and ask relevant questions about experiences of hostility, bullying and harassment can identify not only the extent of abuse in a force, but also how much goes unreported.

16.13 With this information a force can consider, with its stakeholders, the best ways to encourage reporting. Approaches might include confidential telephone lines or reporting through internal or external third parties.

Recording internal hate crime and non-crime incidents

16.14 When responding to internal hate crime or non-crime hate incidents the various recording options are a challenge. Recording external complaints from the public is straightforward as they are a hate crime or a non-crime hate incident.

16.15 Internally, forces may apply different criteria for recording complaints against policing colleagues, particularly when they should be notified to the Independent Office for Police Complaints. Some incidents may be reported and recorded under processes such as human resources grievance procedures.
16.16 Whichever system is used to report and record internal hate crimes and non-crime hate incidents, forces must be able to assess the nature and extent of the problem locally, and where a crime has been committed, it is recorded appropriately.

16.17 Performance data should be transparent and discussed with relevant stakeholders, protecting the confidentiality of staff. This is particularly important in smaller organisations with lower representation from visible minority or affected groups.

Legal duty to protect staff from harassment

16.18 Section 40 of the Equality Act 2010 states that an employer may be liable if an employee suffers harassment from their employer during recruitment or employment.

16.19 Section 26(1) of the Equality Act 2010 defines harassment as any unwanted conduct that violates an employee’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

16.20 The unwanted conduct must relate to a relevant protected characteristic. Sections 26(2) and 26(3) of the Act respectively deal with unwanted conduct of a sexual nature, and less favourable treatment because of a person’s reaction to harassment.

16.21 The Protection from Harassment Act 1997 and the Public Order Act 1986 provide further legal protections from other forms of harassment.

Support for colleagues

16.22 Forces should consider what support is appropriate for colleagues who may be a victim of hate crime, or a non-crime hate incident, or exposed to the risk of hostility due to a deployment or other management decision. Responses could include:

- the support of staff associations and local staff support networks
- internal advocacy and counselling services
- mentoring support from experienced individuals
- access to external professionals
- training for managers to help them make effective decisions.
Types of internal hate crime

16.23 There are a number of ways in which a police officer or member of police staff may be the victim of a hate crime or non-crime hate incident. These include:

■ a crime or incident committed by a colleague or member of the public
■ conflicts caused by expressions of personal belief
■ the refusal by a member of the public to accept an allocated officer.

Management considerations

16.24 Managers must make decisions after:

■ understanding the employer’s legislative duties and policy commitments
■ consultation with the individuals affected
■ taking advice from legal and other experts.

16.25 Decisions must be fully documented and record the:

■ decision-making process
■ views of those affected
■ consultation and advice received
■ competing legal requirements
■ assessed level of risk
■ options considered
■ rationale for decisions.

Committed by colleagues

16.26 Internal hate crimes or non-crime hate incidents are not hijinks, police culture, a bit of fun or bullying. If a crime has been committed it should be recorded and treated as such. If a non-crime hate incident has taken place, it should be recorded and appropriate disciplinary procedures followed.
16.27 Reporting a crime or complaint against a colleague is difficult, even more so where it is motivated by hostility. While the victim’s view should be considered, it is not for the victim to decide if any action should be taken, or what that action should be.

16.28 The broader considerations of victim support and investigation should be applied. In addition to traditional victims’ services, forces may also want to consider external professional support to help victims manage the impact of the incident.

16.29 Risk assessment is key to victim support, and should include prevention of further hostility from the person complained of, or other colleagues. Options such as location moves or changes to the team structure should be considered as there may be a potential for secondary victimisation.

Committed by members of the public

16.30 A member of the public may target police officers or staff, eg, while they are on patrol or attending an incident.

16.31 These incidents should be treated in the same way as any other allegation of a hate crime or non-crime hate incident. The victim should receive the same standard of care as any other victim of a crime.

Deployment decisions

16.32 Some police deployments will create a greater risk to some officers or staff because of their protected characteristics or perceived protected characteristics.

16.33 When making deployment decisions there are competing legal and ethical duties to consider. The right choice may involve making a difficult decision not to deploy an officer to certain activities in order to protect that officer from potential abuse. However, excluding someone from a deployment or posting based on a protected characteristic may be against the individual’s wishes and may also breach the Equality Act 2010, specifically the duty not to discriminate on the basis of protected characteristics.

16.34 Clear decision-making supported by management considerations and the national decision model will help managers to balance this conflict. The degree of consideration will vary depending on the immediacy of the decision required.
16.35 Deploying the closest officer to a priority call for service will require an immediate decision, but senior officers should still expect to evidence their rationale for making such deployment decisions.

**Expressions of personal belief**

16.36 Conflict can arise because of differing views on issues such as religious belief or sexual orientation.

16.37 Balancing a person’s right to express their view, with the right of others to be protected from harassment or hostility may require management intervention.


16.39 Open and collaborative relationships between local staff support networks can also help to prevent these debates from escalating into something more serious.

**Refusal by a member of the public to accept an allocated officer**

16.40 There will be occasions where a victim of crime refuses to interact with a police officer or member of police staff because of prejudice against a personal characteristic of the officer or staff. This presents a potential source of abuse for the individual concerned and a difficult situation for managers, who will need to balance the duty to serve the public, with legal duties to protect colleagues from abuse.

**Where intervention is required**

16.41

**Example 1** – A white man enters a police station to report the theft of a mobile phone. A black member of police staff is allocated to record the theft and obtain a statement. The man refuses to speak to the staff member, demanding that someone else is made available.

**Example 2** – A child has been assaulted by a known sex offender. The offender is at large and considered to pose a high risk of re-offending. The child attends a video-interview facility with his mother, who is acting as an appropriate adult for her child. An investigator is allocated to carry out the interview. When the investigator (whom the mother perceives to be gay) introduces themselves, the mother refuses to allow the interview to take place.
16.42 It is important to understand why the services of the allocated officer or staff member have been refused. It may be nothing to do with personal characteristics.

16.43 If the refusal is based on discriminatory views, both situations described above must be managed effectively and sensitively. To simply comply with the demands of the complainant would beethically wrong and the force could be challenged under the Equality Act 2010.

16.44 A sensitive management intervention is required, taking into account the views of the discriminated colleague.

16.45 In Example 1, the police have a duty to investigate the crime, but also to protect staff. Taking into account management considerations and having determined that the man’s motives were racist, a supervisor should inform him that he has no right to demand a white colleague, further explaining why such a request is unacceptable with a clear statement explaining why the police could not accede to his demands.

16.46 If the man accepts the supervisor’s view and agrees to the original officer progressing the incident, the officer’s view on what should happen next is paramount. If they feel that they would suffer further distress by spending time in the company of the man they know to be a racist, they can choose not to do so. They may, however, want to continue the task, but with another colleague present to support them.

16.47 In Example 2, there is a duty to protect the child and investigate a serious crime, as well as to protect staff. To obtain the child’s best evidence a video interview is required. Taking into account management considerations the supervisor should speak to the mother privately to find out why she objects to the allocated investigator and, where appropriate, explain why her discriminatory views are unacceptable.

16.48 If no agreement can be reached with the mother, it may be necessary to accede to the discriminatory demand if there is a significant risk of harm to the public or to the colleague, or if to continue would seriously undermine the investigation into a serious crime.

16.49 Although this decision may be discriminatory to the investigator, it may also be considered necessary and ethically defensible if all other solutions have been exhausted.
16.50 All decisions must consider the views of the discriminated colleague. The response to any breach of rights, for example human rights must be defensible, proportionate and necessary.

16.51 The Equality Act 2010 does not provide a justifiable exemption to the direct discrimination legislation, except in very specifically defined circumstances. See the Equality Act 2010, section 13 explanatory notes.

16.52 If such a decision has to be made, it is essential to support the affected colleague and consider the adverse impact on other colleagues and the community.

16.53 In both of the examples, where a colleague perceives that a person’s actions are motivated by hostility, the incident should be recorded as non-crime hate incident – unless the circumstances include a recordable crime.

Investigation of internal hate crimes

16.54 Forces should ensure that internal allegations of hate crime or non-crime hate incident are investigated by appropriately trained staff. Some forces may wish to consider an agreement to share resources with a neighbouring force or specialist hate crime investigators from a larger force.

16.55 The overriding consideration is that investigations into allegations of internal hate crime should be treated with the same level of professional expertise as that given to external hate crime, with the extra considerations of the ethical and legal duty to protect colleagues from abuse.

References


ACPO (2013) National Threats to Life Guidelines [internet]. London: ACPO. Available from https://polka.pnn.police.uk/GPDocuments/298/APP%20Reference%20Docs/ACPO-%20National-Threats-to-Life-Guidelines-%bRESTRICTED%5d.pdf [Accessed 26 September 2019] (This link is available to authorised users who are logged on to the Police Online Knowledge Area (POLKA))


College of Policing (2017) *Vulnerability, an aid to understanding* [internet]. Ryton-on-Dunsmore: College of Policing. Available from https://www.mle.ncalt.pnn.police.uk/Course/Details/29436/29436?autolaunch=1 (This link is available to authorised users who are logged on to the College of Policing managed learning environment (MLE)) [Accessed 26 September 2019]


**Further Information**

- Counting rules for recorded crime
- CT Policing Online (accessible from a PNN address only)
  - data.police.uk
- Disclosure and Barring Service
- International Crime Coordination Centre (ICCC)
- Kick it Out
- Punishments for antisocial behaviour
- Sentencing Council
- Show Racism the Red Card
- Stop Hate UK
- True Vision
- Victim Support
About the College

We’re the professional body for everyone who works for the police service in England and Wales. Our purpose is to provide those working in policing with the skills and knowledge necessary to prevent crime, protect the public and secure public trust.

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