

# Hate Crime and Public Order (Scotland) Act 2021 (HCPO(S)A)



The aim of this online training course is to provide officers and staff with the relevant knowledge and awareness of the Hate Crime and Public Order (Scotland) Act 2021 (“HCPO(S)A”).

## PART 1

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### Introduction

## PART 2

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### Purpose and effect of the HCPO(S)A 2021

## PART 3

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### Hate crime under the new Act and applying the new legislation

## PART 4

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### Recording Hate Crimes and non-crime Hate Incidents

## SUMMARY

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### Summary

# Introduction

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Hate Crime is a highly emotive topic which can evoke different feelings and opinions.

This training will explore some sensitive issues which may be upsetting.

It should be noted that some language used in this training may be explicit and, whilst, is not intended to offend anyone, it is used here in order to be honest about what victims of hate crimes experience.

**CONTINUE**



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## Purpose and effect of the HCPO(S)A 2021

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The Hate Crime and Public Order (Scotland) Act 2021 is a “consolidating Act” that brings together relevant hate crime laws into one place as well as updating and extending some of these laws. The key changes are:



Consolidation of existing legislation into a single Act which will make identifying appropriate legislation simpler when dealing with hate crimes.



Addition of two new characteristics which are protected under hate crime legislation: Age and Variations in Sex Characteristics.



Creation of a new crime of “stirring up hatred” against a group of persons, defined by reference to age, disability, religion, sexual orientation, transgender identity and/or variations in sex characteristics.



Abolition of the crime of Blasphemy.

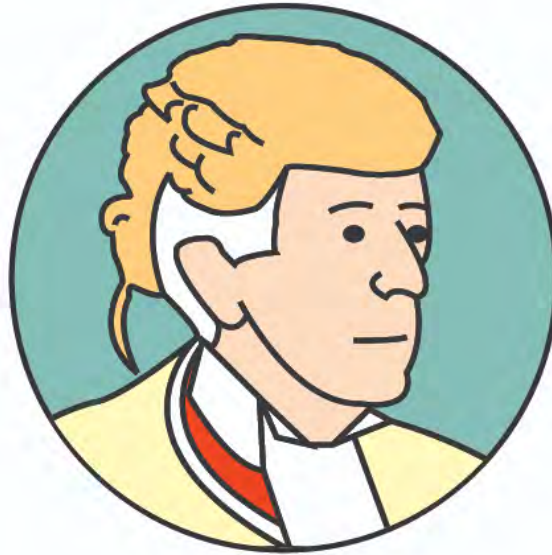


Requirement for the Scottish Government to publish hate crime information. The Chief Constable must provide the government with information on hate crimes recorded by the police to be published annually.



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**Why has HCPO(S)A been introduced?**



The Act was introduced in response to recommendations made by Lord Bracadale, following upon his independent review of hate crime laws in 2018.

The provisions of the Act are intended:

- to ensure that all of the groups covered by the Act are protected from hate crimes
- to ensure that the laws that provide that protection are fit for the 21st century
- to make clear to victims, those who commit hate crimes and our communities that crimes motivated by prejudice will not be tolerated by society and will be treated more seriously.

**CONTINUE**



## What's Changed?

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CONTINUE

### 1. Consolidation of existing legislation

1

2

**Prior to the commencement of the Hate Crime and Public Order (Scotland) Act 2021, we used the following legislation when dealing with Hate Crimes:**

- Section 74, Criminal Justice (Scotland) Act 2003 for religious prejudice
- Section 96, Crime & Disorder Act 1998 for racial prejudice
- Section 1 and 2, Offences (Aggravation by Prejudice) (Scotland) Act 2009 for disability and sexual orientation or Transgender Identity prejudice
- Section 50A (1)(a) & 50A(1)(b), Criminal Law (Consolidation) (Scotland) Act 1995 for standalone racial crimes



- Sections 18-21, Public Order Act 1986 for stirring up of racial hatred

1

2

**HCPO(S)A brings these hate crimes together into one Act, by repealing and replacing the existing legislation and making new provision for each of these existing crimes in the new Act:**

- Offences aggravated by religious prejudice, racial prejudice, disability, sexual orientation or transgender identity prejudice are now dealt with by section 1 of HCPO(S)A
- The standalone crimes provided in section 50A are replicated and restated in section 3 of HCPO(S)A
- The offence of stirring-up racial hatred is now provided for in section 4(1) of HCPO(S)A.



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## 2. Addition of 2 new characteristics – Age and Variations in Sex Characteristics

## ADDITION OF 2 NEW CHARACTERISTICS - AGE AND VARIATIONS IN SEX CHARACTERISTICS

The current criminal law recognises a number of identity-based characteristics: disability, race, nationality (including citizenship) ethnicity, national origins or colour, religion, sexual orientation and transgender identity.

The Hate Crime and Public Order (Scotland) Act 2021 adds two new characteristics to that list: Age and Variations in Sex Characteristics.

The 7 characteristics that are covered under the new consolidated legislation are:





Disability



Race, colour, nationality (including citizenship), or ethnic or national origins



Religion, or, in the case of a social or cultural group, perceived religious affiliation



Sexual Orientation



Transgender Identity



Age





## Variations in Sex Characteristics



Complete the content above before moving on.



Prior to the Act coming into force, “Age” and “Variations in Sex Characteristics” were not covered by hate crime legislation in Scotland.

**Let's look at the new and existing characteristics in more detail**

## Additional characteristics included under HCPO(S)A

### AGE

### VARIATIONS IN SEX CHARACTERISTICS

The Act will introduce new protections against offences aggravated by prejudice towards a person's age. Although there might only be a relatively small proportion of crimes relating to prejudice towards a person because of their age, the Act ensures that these crimes are treated in the same way as other hate crimes.

The legislation provides that a reference to “age” includes a reference to a category of ages. This means that, for example, an offence might be aggravated by prejudice based on malice and ill-will towards “older people” or “adolescents” rather than the victim's specific age.

## AGE

## VARIATIONS IN SEX CHARACTERISTICS

A person is a member of a group defined by reference to variations in sex characteristics if the person is born with physical and biological sex characteristics which, taken as a whole, are neither:

- those typically associated with males, nor
- those typically associated with females,

and references to variations in sex characteristics are to be construed accordingly.

The definition of “variations in sex characteristics” includes people that are born with characteristics not typically associated with males or females. This is a change from previous hate crime legislation where “intersexuality” was included under the definition of “transgender”. This new category of group has been added to the 2021 Act as it is now recognised that intersexuality (or a person born with physical or biological variations in sex characteristics) is separate to a person’s transgender identity.

It is important to note that there is a variety of terminology used with reference to variations of sex characteristics and intersex status. For example, some people prefer to use the term “differences in sex development” and some prefer to simply describe their specific variation.



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**Characteristics protected under previous hate crime legislation and continues to be protected under HCPO(S)A**

## DISABILITY

Under the Act, a disability means a physical or mental impairment of any kind and includes a medical condition which has (or may have) a substantial or long-term effect or is of a progressive nature.

The legislation covers any disability, including, learning disabilities, physical disabilities, sensory disabilities, mental health conditions and long-term medical conditions.

## CONTINUE

### **Race, colour, nationality, or ethnic or national origins**

Under the Act, a group of people who may never have met can be defined as a racial group by reference to their shared race, colour, nationality (including citizenship), or ethnic and or national origins.

#### **Race** —

“Race” means the categorisation of humans into groups, based on physical appearance and shared physical characteristics, e.g., skin colour and/or facial features.

#### **Colour** —

“Colour”, means “skin colour”.

## **Nationality** —

“Nationality” means citizenship or membership of a particular nation. It is important to be aware that nationality is fluid and can change during a person’s lifetime. It is also possible for a person to have dual nationality and to be a citizen of one or more nations simultaneously.

## **Ethnic origins** —

“Ethnic origins” means a connection to a particular social or cultural identity through birth, and/or ancestral background. People with shared ethnic origins may share one or more of the following things:

- the same language
- the same religion
- the same literature
- the same geographical origin
- being an oppressed group
- being a minority.

## **National origins** —

“National origins” means a connection to a country or nation through birth. National origins are different from nationality and ethnic origins but can overlap with both.



Irish Travellers, Jews, Romany Gypsies and Sikhs are all examples of racial groups.



Complete the content above before moving on.

## Religion, or, in the case of a social or cultural group, perceived religious affiliation

A group defined by reference to religion is a group of persons defined by reference to:



- religious belief or lack of religious belief,
- membership of or adherence to a church or religious organisation,
- support for the culture or traditions of a church or religious organisation,

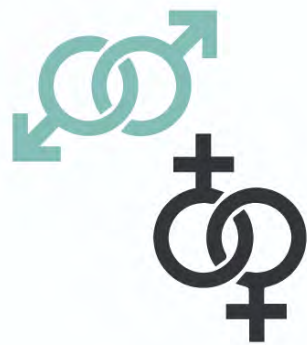
- participation in activities associated with such a culture or such traditions.

The meaning in the consolidated Act is the same as the definition of “religious group” that is used currently, in section 74 of the Criminal Justice (Scotland) Act 2003. Although section 74 is to be repealed, the meaning of religious group will stay the same.

CONTINUE

## Sexual Orientation

A reference to sexual orientation is a reference to sexual orientation towards:



persons of the same sex,



persons of a different sex, or



both persons of the same sex  
and persons of a different sex.

Sexual orientation relates to one's physical, emotional or romantic attraction to another.



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## Transgender Identity

A person is a member of a group defined by reference to transgender identity if the person is:



- a female-to-male transgender person,
- a male-to-female transgender person,
- a non-binary person,
- a person who cross-dresses,

and references to transgender identity are to be construed accordingly.

This definition does not only include people with a Gender Recognition Certificate or who have undergone, are undergoing, (or propose to undergo) medical or surgical interventions but includes people whose gender identities are different from their sex at birth. This includes those who identify as male, but were registered as female at birth, those who identify as female but were registered as male at birth, non-binary people and cross-dressing people.



## CONTINUE

In the last section we examined:

- 1. Consolidation of existing legislation and;
- 2. Addition of 2 new characteristics – Age and Variations in Sex Characteristics.

Now lets look at

- 3. New “Stirring up of hatred” offences created
- 4. The crime of “blasphemy” is abolished
- 5. Section 15 Hate Crime and Public Order (Scotland) Act 2021

## CONTINUE

### 3. NEW “STIRRING UP OF HATRED” OFFENCES CREATED

### 4. THE CRIME OF “BLASPHEMY” IS ABOLISHED

### 5. SECTION 15 HATE CRIME AND PUBLIC ORDER (SCOTLAND) ACT 2021

Under existing hate crime legislation, offences relating to stirring up of hatred apply only in relation to racial hatred. These offences are contained in sections 18 to 23 of the Public Order Act 1986, which is a UK statute with certain provisions extending to Scotland.

The “stirring up” offences contained in the Public Order Act 1986 are repealed, amended and replaced by section 4(1) HCPO(S)A, that makes new provision for offences relating to stirring up hatred against a group (of persons) defined by reference to race, colour, nationality (including citizenship), or ethnic or national origins.

In addition to restating the offence of stirring up racial hatred, HCPO(S)A introduces new offences of stirring up hatred against other groups of people, i.e., those defined by reference to age; disability; religion or, in the case of a social or cultural group, perceived religious affiliation; sexual orientation; transgender identity; and or variations in sex characteristics.

**3. NEW "STIRRING UP OF HATRED" OFFENCES CREATED**

**4. THE CRIME OF "BLASPHEMY" IS ABOLISHED**

**5. SECTION 15 HATE CRIME AND PUBLIC ORDER (SCOTLAND) ACT 2021**

Section 16 of the HCPO(S)A abolishes the common law crime of blasphemy, that was last successfully prosecuted in Scotland in 1843.

Blasphemy means something said or done that shows a lack of respect, or contempt for, God or a religion.

COPFS last considered a charge of blasphemy in 2005, in relation to complaints made about "Jerry Springer: the Opera" – but, in the end, no proceedings were taken.

The common law crime of blasphemy has long been thought of as a "dead letter law". i.e., law that is no longer used, usually because it has lost its relevance in modern society. Since the crime has not been prosecuted for a long time, its abolition will have little or no practical effect.

**3. NEW "STIRRING UP OF HATRED" OFFENCES CREATED**

**4. THE CRIME OF "BLASPHEMY" IS ABOLISHED**

**5. SECTION 15 HATE CRIME AND PUBLIC ORDER (SCOTLAND) ACT 2021**

Section 15 of the Act places a duty on the Scottish Ministers to publish reports on police recorded hate crime on an annual basis and provides that the Chief Constable must provide the information that the Scottish Ministers require to be able to comply with this duty.

In particular, the Chief Constable is required to provide information on the number and types of hate crimes recorded by the police in the reporting year. This information covers all offences aggravated by

prejudice (under Section 1 Hate Crime and Public Order (Scotland) Act 2021) and all other offences under the Act.



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# Hate crime under the new Act and applying the new legislation

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The Hate Crime and Public Order (Scotland) Act 2021 makes provision for 3 distinct types of “hate crime”:

1

Offences aggravated by prejudice;

2

Racially aggravated harassment; and

3

Stirring up hatred



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### **Offences aggravated by prejudice**

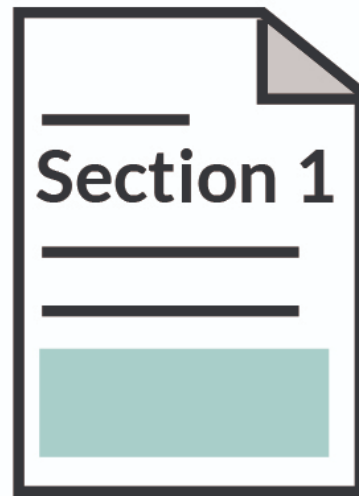
#### **Section 1 Hate Crime and Public Order (Scotland) Act 2021**

Section 1 sets out the two different circumstances in which an offence can be aggravated by prejudice:

- Where there is a specific victim of the offence (Section 1(1)(a))
- Whether or not there is a specific or individual victim, but where malice and ill-will is expressed towards a wider group as a whole. (Section 1(1)(b))

## CONTINUE

A Section 1 aggravator can be libelled where the underlying offence can be corroborated and there is at least one source of evidence that the commission of the offence was motivated (wholly or partly) by malice or ill towards an individual or group, on the basis of one or more of the listed characteristics.



As is the case under the existing legislation, it is possible to libel a section 1 aggravation where the offender demonstrated prejudice towards an individual or group, on the basis of more than one of the listed characteristics.

For example, an underlying offence can be aggravated by prejudice on the basis of the victim or groups (actual or presumed) religion AND their (actual or presumed) ethnic origin.

Under existing legislation, both aggravators have been applied to offences committed in the context of football matches, where it was assessed that the underlying offence was aggravated by prejudice both on the basis of the victim's perceived religion (Catholic/Protestant) and their ethnic origin (Irish/Northern Irish/Scottish).

The Crime + Aggravator(s) ( e.g., Section 96 Crime & Disorder Act 1998 and or Section 74 Criminal Justice (Scotland) Act 2003 ) recording, will now be replaced by Crime + Section 1 Hate Crime and Public Order (Scotland) Act 2021.

Where the underlying offence is aggravated by prejudice towards more than one listed characteristic, this should be made clear in the text of the aggravation and in the SPR2.



**CONTINUE**

### **Section 1 (1)(a) Hate Crime and Public Order (Scotland) Act 2021**

Section 1(1)(a) is the aggravator that applies where there is a **specific victim of the offence** and:



- (i) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates malice and ill-will towards the victim, and
- (ii) the malice and ill-will is based on the victim's membership or presumed membership of a group defined by reference to a listed characteristic

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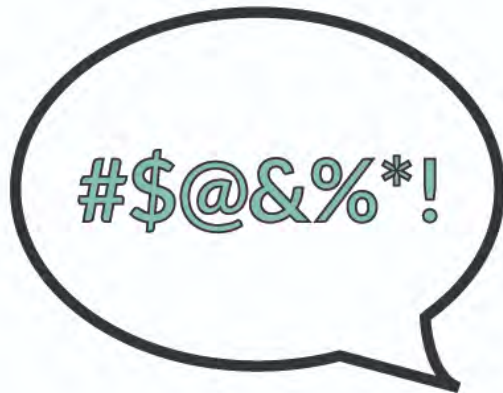
#### THINGS TO NOTE ABOUT SECTION 1(1)(a)

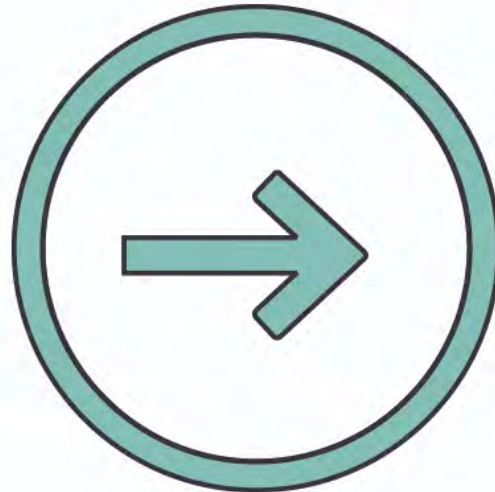


- There needs to be a victim of the underlying crime for the aggravation to apply.
- The underlying crime requires corroboration to prefer charges, but the aggravation requires only one piece of evidence to be libelled.

- The hate aggravator can be libelled for malice and ill will demonstrated immediately before, during or after the crime has occurred.

EXAMPLE: if the offender assaults a police officer and, immediately before committing the assault, demonstrates malice and ill-will (by shouting religious slurs towards the officer) then this can result in the offence of assault being aggravated by religious prejudice, even though the demonstration of malice and ill-will took place prior to the offence (assault) being committed.





- “membership”, in relation to a group, includes association with members of that group.
- “presumed” means presumed by the offender.

EXAMPLE: if the offender assaults a person (the victim) and in so doing demonstrates malice and ill-will towards the victim based on the offender’s presumption that the victim was a Muslim, then even if the victim is not in fact a Muslim the offence (assault) may still be aggravated by prejudice.



CONTINUE

### **Section 1 (1)(b) Hate Crime and Public Order (Scotland) Act 2021**

- Section 1(1)(b) is the aggravator that applies whether or not there is a specific victim of the offence and:
- the offence is motivated (wholly or partly) by malice and ill-will towards a group of persons based on the group being defined by reference to a listed characteristic.

CONTINUE



## THINGS TO NOTE ABOUT SECTION 1(1)(b)



As the aggravation in section 1(1)(b) does not require there to be a specific victim, the aggravation can be applied in cases where the malice and ill-will is expressed towards a wider group as a whole, without the need for a specific or individual victim to have been identified.

**EXAMPLE:** Where a church, synagogue or mosque is daubed with graffiti the offender might, in committing the offence of vandalism, be found to have been motivated by malice and ill-will towards people (comprising a group defined by reference to religion) who worship at those places.



Corroboration is not required to prove that an offence was aggravated by prejudice. Corroboration will still be required for the purposes of proving the underlying offence.

CONTINUE

What is the difference between Sections 1(1)(a) and 1(1)(b)?

<b>Section 1 (1)(a) Hate Crime and Public Order (Scotland) Act 2021</b>	<b>Section 1 (1)(b) Hate Crime and Public Order (Scotland) Act 2021</b>
Specific Victim required	No specific victim required, e.g., can be a building that has been targeted or the specific victim of a crime has not been identified or come forward and the crime is reported by a witness.
<p>An offence can be aggravated by prejudice under both sections in respect of more than one characteristic.</p> <p>For example, an assault may be aggravated by both Race, Nationality (including Citizenship) ethnicity, national origins or colour, and religion. Evidence of each separate aggravation would be required.</p>	

CONTINUE

<p><b>Prior to the new Act –</b></p> <p><b>Crime + Aggravation as per below legislation</b></p>	<p><b>New Act –</b></p> <p><b>Crime + Aggravation as per below legislation</b></p>
<p>Section 96, Crime and Disorder Act 1998 – racial aggravation</p>	<p>Section 1 Hate Crime and Public Order (Scotland) Act 2021 –</p>
<p>Section 74, Criminal Justice (Scotland) Act 2003 – religious prejudice</p>	<p>Includes all 7 of the listed characteristics.</p>
<p>Section 1 and 2, Offences (Aggravation by Prejudice) (Scotland) Act 2009 – disability and sexual orientation or transgender identity prejudice</p>	<p>Where the crime is aggravated by prejudice towards more than one of the listed characteristics, each of those characteristics should be listed in the aggravation and the evidence relative to each set out clearly in the SPR2.</p>

**CONTINUE**





PLAY VIDEO



Please click the box to the left to confirm you have watched the above video



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**With Thanks:**

Police Scotland would like to thank I Am Me Scotland for their permission to use these videos.

These, and other hate crime videos, are available as part of the I Am Me Scotland, “You Judge” resource which can be accessed at [iammescotlandeducation.org.uk](http://iammescotlandeducation.org.uk)

**CONTINUE**

**Knowledge Check on Video Case Study**

 Thumbnail



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Q2) Which section of the Hate Crime and Public Order (Scotland) Act 2021 would you use and which characteristic aggravator would be applied if Jack personally reported the incidents?

type your text here...

Submit



Complete the content above before moving on.



Q3) A community centre used by a local disability group is spray painted with the words associated with being ableist slurs, what charges would you consider?

type your text here...

Submit



Complete the content above before moving on.

## Racially Aggravated Harassment

Section 3 Hate Crime and Public Order (Scotland) Act 202



Section 3 Hate Crime and Public Order (Scotland) Act 2021 replicates and replaces the offence of racially-aggravated harassment in Section 50A Criminal Law (Consolidation) (Scotland) Act 1995.

Section 3 provides that racially aggravated harassment can be committed in two ways;

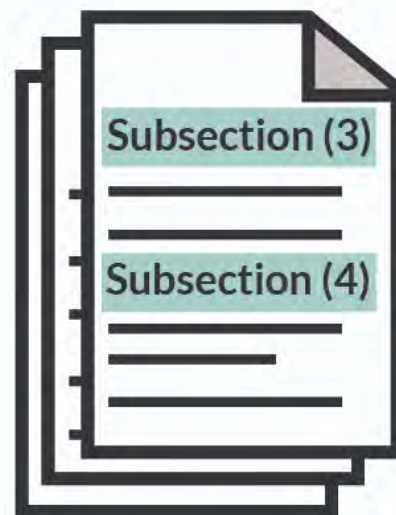
- by pursuing a racially aggravated course of conduct which amounts to harassment of a person (and is intended to, or occurs in circumstances where it would appear to a reasonable person that it would, amount to such harassment) (Section 3(1)(a))
- by acting in a manner which is racially aggravated and which causes, or is intended to cause, a person alarm or distress (Section 3(1)(b)).

**CONTINUE**

For the offence to be committed, the offender must either

- demonstrate malice and ill-will towards the victim based on the victim's membership or presumed membership of a group of persons defined by reference to race, colour, nationality (including citizenship), or ethnic or national origins,
- or be motivated by malice and ill-will towards members of such a group.

CONTINUE



Subsection (3) makes clear that it is immaterial whether or not the offender's malice and ill-will is also based on any other factor.

Subsection (4) provides that a course of conduct, as mentioned in section 3(1)(a), must involve conduct on at least two occasions.

CONTINUE

## Section 3 (1)(a) Hate Crime and Public Order (Scotland) Act 2021

A person commits an offence if the person:

- (a) pursues a racially aggravated course of conduct which amounts to harassment of another person and —
- (i) is intended to amount to harassment of that person, or
- (ii) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person.



### Things to note:

This section only applies to the characteristic of race, colour, nationality, citizenship, or ethnic or national origin

“Course of conduct”

must involve conduct on **at least two** occasions

**“Conduct”**

includes speech,

**“Harassment”**

of a person includes causing the person alarm or distress.

This is a standalone offence, that criminalises behaviour specifically because it involves racial prejudice. In contrast with an offence aggravated by racial prejudice (where one source of evidence is sufficient to prove the racial aggravation), to libel a contravention of section 3(1)(a) all elements of the offence must be corroborated, including the racist element.





Complete the content above before moving on.

### **Section 3 (1)(b) Hate Crime and Public Order (Scotland) Act 2021**

A person commits an offence if the person:

- acts in a manner which is racially aggravated and which causes, or is intended to cause, another person alarm or distress.



#### **Things to note:**

- Unlike Section 3(1)(a), this section should be used when the behaviour appears to be linked to one incident only, rather than a course of conduct.
- This offence is a “standalone offence”, which criminalises behaviour specifically because it involves racial prejudice. As a standalone offence, all elements of the offence must be

corroborated, including the racial element.

Where the racist element of the offence cannot be corroborated, but the behaviour of the offender causes, or is intended to cause, another person alarm or distress, consideration should be given to libelling a contravention of section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 + section 1 aggravator (race). The tests of 'fear or alarm' and 'alarm or distress' are not identical, but it is difficult to envisage a realistic circumstance where conduct that could be prosecuted under section 50A (if the racist element could be corroborated) could not also be prosecuted under section 38, with a racial statutory aggravation.

**CONTINUE**

**What is the difference between Sections 3(1)(a) and 3(1)(b)?**

Section 3 (1)(a) Hate Crime and Public Order (Scotland) Act 2021	Section 3 (1)(b) Hate Crime and Public Order (Scotland) Act 2021
Course of conduct – two or more separate occasions	One incident or event

**CONTINUE**

**Old legislation**

**New legislation**

Section 50A (1)(a) Criminal Law (Consolidation) (Scotland) Act 1995	Section 3(1)(a) of the Hate Crime and Public Order (Scotland) Act 2021.
Section 50A (1)(b) of the Criminal Law (Consolidation) (Scotland) Act 1995	Section 3(1)(b) of the Hate Crime and Public Order (Scotland) Act 2021.

**CONTINUE**



The following footage illustrates hate crime occurring within the context of a school. As all of the young people depicted in this film are clearly over the age of 11 it would be competent, currently, to investigate and report the incidents as a hate crime.

It should be noted, however, that the Scottish Government have made commitments to raise the age of criminal responsibility in Scotland at some point in the future – as yet undefined – under provisions


afforded to them by the Age of Criminal Responsibility (Scotland) Act 2019. This may mean that this scenario would not be able to be investigated as a crime after the date those changes take place.

**CONTINUE**



**PLAY VIDEO**

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 Complete the content above before moving on.

**With Thanks:**

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Complete the content above before moving on.

### Knowledge Check on Video Case Study



What crime or crimes have been committed?

type your text here...

Submit



Complete the content above before moving on.

## Offences of stirring up hatred - Section 4 Hate Crime and Public Order (Scotland) Act 2021

Section 4 of the Act creates two offences of stirring up hatred:

- The offence of stirring up **racial** hatred (Sections 4(1)) and

- The offence of stirring up hatred against a group of persons defined by reference to age; disability; religion or, in the case of a social or cultural group, perceived religious affiliation; sexual orientation; transgender identity; and or variations in sex characteristics. (Sections 4(2))



The standalone offences of Sections 18-21 Public Order Act 1986 that relate to stirring up of racial hatred have been repealed and replaced and or amended by the **Section 4 Hate Crime and Public Order (Scotland) Act 2021**.

CONTINUE

## Offences of stirring up racial hatred Section 4(1) Hate Crime and Public Order (Scotland) Act 2021

(1) A person commits an offence if:

(a) the person:

- (i) behaves in a manner that a **reasonable person** would consider to be threatening, abusive or insulting, or
- (ii) **communicates** to another person material that a reasonable person would consider to be threatening, abusive or insulting, and

(b) either:

- (i) in doing so, the person **intends** to stir up hatred against a group of persons based on the group being defined by reference to race, colour, nationality (including citizenship), or ethnic or national origins, or

- (ii) a reasonable person would consider the behaviour or the communication of the material to be **likely to result** in hatred being stirred up against such a group.

CONTINUE

## Stirring up hatred of other groups Section 4(2) Hate Crime and Public Order (Scotland) Act 2021

A person commits an offence if:

(a) the person:

- (i) behaves in a manner that a reasonable person would consider to be threatening or abusive, or
- (ii) communicates to another person material that a reasonable person would consider to be threatening or abusive, and

(b) in doing so, the person **intends to stir up hatred** against a group of persons based on the group being defined by reference to a characteristic mentioned in subsection (3).



As a reminder the characteristics mentioned in Subsection 3 are: Age, Disability, Religion, Sexual orientation, Transgender identity and Variations in sex characteristics.

CONTINUE



## Understanding the terms

To fully understand this legislation, we need to look at certain parts of the wording:

### Reasonable person —

This is a hypothetical person used as a legal standard to determine whether the behaviour or materials complained of, were, in the context, insulting, abusive or threatening (test for stirring up of racial hatred) or abusive or threatening (test for other stirring up of hatred offences). What you need to consider is whether a reasonable person (the proverbial “person on the street”) would, in the circumstances, think the behaviour/materials complained of was insulting and or abusive or threatening.

### Communicate —

*This will be explained in detail in the section below.*

### Intention —

The person willingly committed the act and was entirely aware of their actions and the potential consequences.

### Stirring up —

conduct which encourages others to target an individual or group of people who share one or more of the characteristic(s).

**Likely** —

A reasonable person would, on the balance of probability, believe that the stirring up of hatred was more likely than not.

**Single act** —

One incident/offence.

**Behaviour** —

Includes behaviour of any kind and, in particular, things that the person says, or otherwise communicates, as well as things that the person does and may consist of (i) a single act, or (ii) a course of conduct.



Complete the content above before moving on.

**How might threatening and or abusive material be communicated ?**

Section 4(8) defines the different ways in which a person may communicate material to another person for the purposes of an offence under Section 4.

The different ways in which a person may communicate material to another person are by:



**Displaying, publishing or distributing the material, for example**

- on a sign;
- on the internet through websites, blogs, podcasts, social media etc., either directly, or by forwarding or repeating material that originates from a third party;
- through printed media such as magazine publications or leaflets,

**Giving, sending, showing or playing the material to another person, for example**

- through online streaming,
- by email,
- playing a video,

- through public performance of a play



**Making the material available to another person in any way, for example**

- through the spoken word,
- the written word,

- electronic communications, etc. either directly (as the originator of the material), or by forwarding or repeating the material.

## CONTINUE

As we've learnt already, for a person to commit an offence under Section 4(2), both components of the two part test must be proved beyond a reasonable doubt.

The first part of the test that must be proved is that the person either—  
behaved in a manner that a reasonable person would consider to be threatening or abusive, **or**  
communicated to another person material that a reasonable person would consider to be threatening or abusive.

The second part of the test is that, in behaving in a threatening or abusive way, or communicating material that a reasonable person would consider threatening or abusive, the person intended to stir up hatred against a group of persons (based on the group being defined by reference to age, disability, religion, sexual orientation, transgender identity, or variations in sex characteristics.)

From a police reporting/recording perspective, charges should only be preferred if there is evidence that BOTH parts of the test are met. Where only one part of the test can be evidenced, consideration

should be given as to whether the incident is a non crime hate incident, and should be recorded as such.

CONTINUE

What is the difference between Sections 4(1) and 4(2)?

<b>Section 4(1) Hate Crime and Public Order (Scotland) Act 2021</b>	<b>Section 4(2) Hate Crime and Public Order (Scotland) Act 2021</b>
<p>This specifically covers:</p> <ul style="list-style-type: none"><li>• Race,</li><li>• Nationality (including citizenship),</li><li>• ethnicity,</li><li>• national origins,</li><li>• colour.</li></ul>	<p>This specifically covers the remaining Characteristics:</p> <ul style="list-style-type: none"><li>• Age,</li><li>• Disability,</li><li>• Religion,</li><li>• Sexual orientation,</li><li>• Transgender identity,</li></ul>

	<ul style="list-style-type: none"> <li>Variations in sex characteristics.</li> </ul>
includes the terms ‘threatening, abusive or insulting’	<b>Only</b> includes the words ‘threatening and abusive’
Section 4(1) includes ‘... a person intends to stir up hatred’ and also covers behaviour which is <b>likely</b> to stir up hatred’.	Section 4(2) only covers behaviour that is <b>intended</b> to stir up hatred. It does not cover behaviour which is ‘likely’ to stir up hatred.

**CONTINUE**

**Old v New**

Old legislation	New legislation
Sections 18-21 Public Order Act 1986 (stirring up Racial Hatred)	Section 4(1) of the Hate Crime and Public Order (Scotland) Act 2021
Section 22-23 Public Order Act 1986 (Race, Nationality (including Citizenship) ethnicity, national origins or colour, related)	Section 22-23 Public Order Act 1986 will remain with amendments to wording in Section 23. Please see <a href="#">updated Public order Act</a> for further information

New offence	Not previously covered
Section 4(2) Hate Crime and Public Order (Scotland) Act 2021	Stirring up Hatred towards age, disability, religious belief, sexual orientation, transgender identity and variations sex characteristics

**CONTINUE**

## Protection of freedom of expression

The offence of stirring up hatred, needs to be read in conjunction with **Section 9** Hate Crime and Public Order (Scotland) Act 2021, which makes provision for freedom of expression.





**It is important to note that Section 9** applies only for the purposes of the offence of stirring up hatred in **Section 4(2)** which deals with hatred based on age, disability, religion, sexual orientation, transgender identity, or variations in sex characteristics.

It does not apply in relation to the offence of stirring up hatred in Section 4(1) which deals with hatred based on race, colour, nationality (including citizenship), or ethnic or national origins.

**CONTINUE**

### **What is freedom of speech/expression?**

Freedom of speech is a principle that supports the freedom of an individual or a community to articulate their opinions and ideas without fear of retaliation, censorship, or legal sanction.

Freedom of expression is the right or power to express one's opinion without censorship, restraint or legal penalty.

One of the concerns regarding the new Act, and especially Section 4, was the potential for the provision to erode freedom of speech and expression.

Section 9 seeks to safeguard freedom of expression by setting out a number of considerations to be taken into account when considering whether the material or behaviour complained of is, in its context, threatening and or abusive.



CONTINUE

**Section 9 Hate Crime and Public Order (Scotland) Act 2021 –  
Protection of Freedom of Expression**

For the purposes of Section 4 (2), behaviour or material is not to be taken to be threatening or abusive solely on the basis that it involves or includes—

(a) discussion or criticism of matters relating to—

- (i) age,
- (ii) disability,
- (iii) sexual orientation,
- (iv) transgender identity,
- (v) variations in sex characteristics,

(b) discussion or criticism relating to, or expressions of antipathy, dislike, ridicule or insult towards—

- (i) religion, whether religions generally or a particular religion,
- (ii) religious beliefs or practices, whether religious beliefs or practices generally or a particular religious belief or practice,
- (iii) the position of not holding religious beliefs, whether religious beliefs generally or a particular religious belief,

(c) proselytising, or

*Proselytising will be explained in further detail below*

(d) urging of persons to cease practising their religions.

In short, Section 9 provides that discussion or criticism of matters relating to the characteristics of age, disability, religion, sexual orientation, transgender identity, or variations in sex characteristics, does not, in and of itself, satisfy the first part of the test set out in section 4 (2) i.e., that the conduct and or materials complained of are threatening and or abusive.

In relation to religious belief, even if such discussion or criticism includes expressions of antipathy, dislike, ridicule or insult, Section 9 provides that this does not, in and of itself, meet the first part of the test in Section 4.

To meet the test, there would need to be something more, something that would cause a reasonable person to think the behaviour or material complained of was, in its context, threatening or abusive, and not simply an expression of a belief, view or criticism, however unpopular or insulting.

It is of note that the test in section 4(2) requires the behaviour and or materials complained of to be threatening or abusive in order to establish a crime. That some might find the behaviour or materials to be insulting, is not relevant in respect of this stirring up offence.

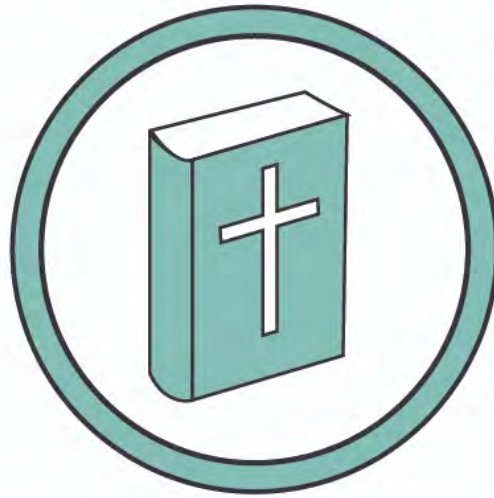
Section 9 also specifically provides that proselytising or urging others to cease practising their religions does not, in and of itself, meet the first part of the test in Section 4.



Complete the content above before moving on.

Proselytising is the act of trying to persuade someone to change their religious or political beliefs or way of life to your own.



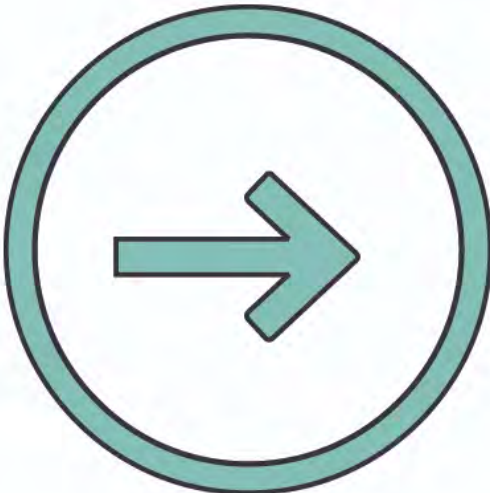


A common example of proselytising is a street preacher, preaching publicly about the Bible's teachings on e.g., homosexuality, and urging others to "repent" (a common phrase from the Bible). Plainly, some might find the Bible's teaching on homosexuality to be insulting. Section 9 of the Act protects the preacher's freedom to express their religious beliefs and to try to persuade, or appeal to others to join them in those beliefs.

A reasonable person seeing and hearing the street preacher would, regardless of whether they agreed with the preacher or shared their religious beliefs, recognise that the preacher was simply publicly stating their own religious beliefs and, in so doing, seeking to persuade others to consider joining them in holding those beliefs. Proselytising in this way is not, in and of itself, a hate crime.

Similarly, a women's rights campaigner posting comments on their Twitter feed criticising the government's proposed opening up of a previously women's only healthcare space to transwomen and urging others to join their political campaign aimed at challenging the government's proposals, would not, in and of itself meet the test in part 4, even if transgender activists with opposing views found the campaigners view of the proposals to be insulting.

The first part of the test would only be met if a reasonable person would consider what was said online by the campaigner to be actually threatening or abusive to transgender people, in the context of the debate, and given that often people hold diametrically opposed views on such subjects.



Further, for the offence to be committed, the second element (i.e., the intention to stir up hatred) would also have to be proved beyond reasonable doubt. In the case of the preacher, their intention is not to stir

up hatred against gay people, but to persuade, or appeal to others to consider joining them in their religious beliefs, based on their personal conviction that their religion is true and worth others considering.

In the case of the campaigner, it is not their intention to stir up hatred of transgender people, but to persuade others to join their campaign to oppose the government proposals.

From a police perspective, before preferring charges an officer would need to be satisfied there was i) evidence that the behaviour or material was threatening and / or abusive (as opposed to being simply an expression of a belief, view or criticism) and ii) evidence of the intention to stir up hatred.



**CONTINUE**

## Section 9 Hate Crime and Public Order (Scotland) Act 2021 - Examples

### EXAMPLE 1

### EXAMPLE 2

Writing a newspaper article or blog post urging followers of a particular religion to cease practising their religion and convert to another religion could not be regarded, of itself, as behaviour which is abusive towards followers of that religion.

However, if, for example, the article or blog-post made abusive comments about followers of that religion, or threatened them with violence, it could still amount to behaviour that is threatening or abusive.

### EXAMPLE 1

### EXAMPLE 2

Writing a newspaper article or blog post which claimed that same-sex sexual activity was wrongful could not be regarded, of itself, as behaviour which is abusive towards people who are lesbian, gay or bisexual.

However, if, for example, the article or blog-post made abusive comments about people who are lesbian, gay or bisexual, or threatened them with violence, it could still amount to behaviour that is threatening or abusive.



Complete the content above before moving on.

## Case Study 1

On 29th March 2021, just before a Black Lives Matter (BLM) march in Dundee, the graffiti in the below photos was found in a bus stop on the route:



CONTINUE



This was reported in 2021 how would we record this if it happened now?

**CONTINUE**

<b>In March 2021 a crime report was raised for</b>	<b>Under the new Act this would be recorded as</b>
Sections 18 Public Order Act 1986 (stirring up Racial Hatred)	Section 4(1) of the Hate Crime and Public Order (Scotland) Act 2021.

**CONTINUE**

## Case Study 2



A member of the public contacted the police to report a letter circulated online entitled Punish a Muslim in which points are offered for carrying out a variety of acts against Muslims on a particular day of action.

**CONTINUE**

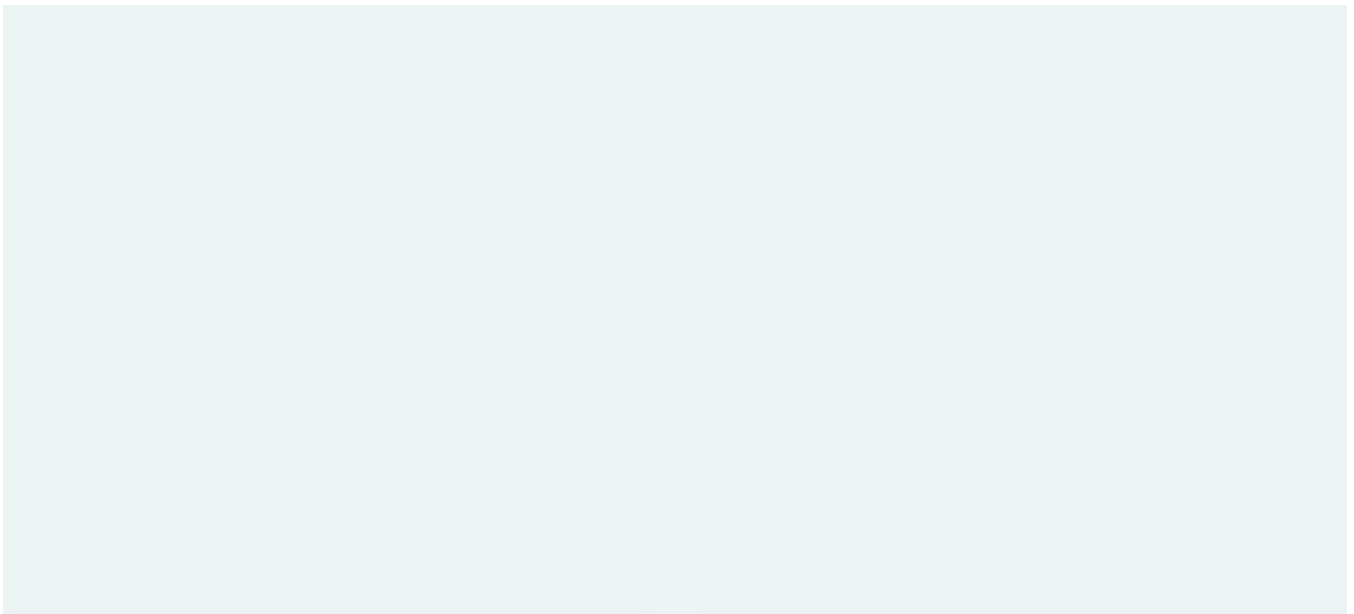
This was reported in April 2018 how would we record this if it happened now?



**CONTINUE**

We would record a crime of **Section 4(2) Hate Crime and Public Order (Scotland) Act 2021 – stirring up hatred based on a religious group.**

**This incident would meet the key points:**





**Reasonable person**

A reasonable person would consider the material to be threatening and or abusive

**Communicate**

Posting online and circulation of hard copy posters

## Intention

The intention to stir up hatred can be inferred from the wording of the publication itself, which quite clearly encourages others to assault Muslims

## Stirring up

They are directly encouraging others to target anyone perceived to be Muslim



Complete the content above before moving on.

Old legislation

New legislation

(Aggravators)

- Section 96, Crime and Disorder Act 1998 – racial aggravation
- Section 74, Criminal Justice Scotland Act – religious prejudice
- Section 1 and 2, Offences (Aggravation by Prejudice) (Scotland) Act 2009 – disability and sexual orientation or Transgender Identity prejudice

Section 1 Hate Crime and Public Order (Scotland) Act 2021 covers **all** aggravations and hate motivated offences based on the Characteristics, including the two newly defined ones

Section 50A (1)(a) Criminal Law (Consolidation) (Scotland) Act 1995

Section 3(1)(a) Hate Crime and Public Order (Scotland) Act 2021.

Section 50A (1)(b) Criminal Law (Consolidation) (Scotland) Act 1995

Section 3(1)(b) Hate Crime and Public Order (Scotland) Act 2021.

Sections 18-21 Public Order Act 1986

Section 4(1) Hate Crime and Public Order (Scotland) Act 2021.

(stirring up Racial Hatred)	
Section 22-23 Public Order Act 1986	Section 22-23 Public Order Act 1986 will remain with amendments to wording in Section 23
Crime of Blasphemy	Abolished

CONTINUE TO PART 4

# Recording Hate Crimes and non-crime Hate Incidents

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It is really important that we are able to understand the impact of the various types of hate crime. Accurately recording them will allow us to effectively assess what is happening in communities enabling us to respond appropriately and affectively.

Hate crime can affect people and communities in many different ways.



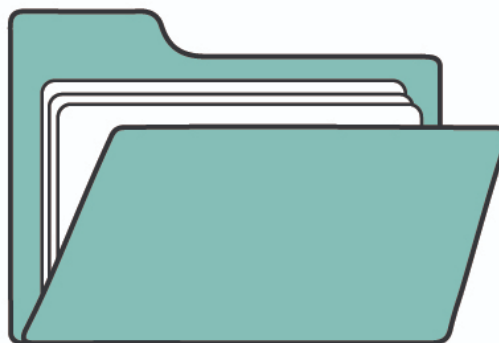
We know from engagement with our diversity partners and the lived experience of victims, that often many victims of hate crimes have endured several incidents before they first report it to the police.

What may seem to be a minor incident can have a significant impact particularly if repeated over a period of time.

The data that we gather will ensure that Police Scotland are able to respond better, and more proportionately, to hate crime.

**CONTINUE**

## **Recording Hate Crimes and non-crime Hate Incidents**



The HCPO(S)A will become live after COS (Core Operational Solutions) has been introduced across Scotland. This means that COS will be used to raise appropriate hate crime reports and submit hate crime cases to the COPFS.

This change in the recording and reporting system has given Police Scotland the opportunity to enhance our own data collection by asking officers to capture additional or “disaggregated” data when we are dealing with a hate crime. This will also assist in meeting Police Scotland’s requirements under Section 15 HCPO(S)A in relation to sharing hate information to Scottish Ministers.

**Disaggregated data** refers to data that is broken down into component parts or sub-sets.

CONTINUE

In regards to the HCPO(S)A this means that when a hate crime is reported and prior to concluding the incident, whether there is a suspect or not, you will be required to complete a section on COS which will ask for further details in relation to the characteristic that has been the target of hate.

For example if the characteristic that has been targeted is Sexual Orientation then there are a number of agreed recording data options available covering: General, Gay Man, Lesbian, Bisexual, Heterosexual/Straight or None of the Above.



CONTINUE



Recording the 'disaggregated data' or the 'sub-sets' of the characteristics helps the police to develop a better picture of hate crime, the specific groups that are being targeted and develop tactical and operational responses to raise awareness of the problem and deal with it effectively.

For example, if there was an increase in incidents targeting gay women it would be counter-productive to run a reassurance operation in communities and events predominantly attended by gay men. Whilst the characteristic of "Sexual Orientation" would be appropriately identified, the people actually affected by this specific rise in hate crimes would not be receiving any kind of meaningful service.

**CONTINUE**

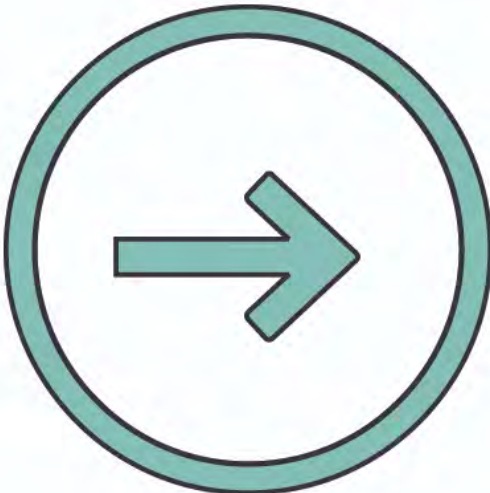
## **How to record a Hate Crime**

Once you have identified that a crime has been committed under the HCPO(S)A legislation, either as an aggravation of a baseline offence or as a standalone offence, you will need to record this crime on COS,



as you would any other reported crime. The only difference is that you need to ensure that the relevant sections on COS are selected to highlight that there is a hate element to the crime that has been committed.

Once the crime report has been raised the 'hate crime' element will remain on the crime report unless evidence comes to light that categorically refutes the assessment of the hate element.



Remember, it is not necessary for a person to actually identify with one of the characteristics in order for them to be victim of a hate crime. If the offender's behaviour or the victim / reporter perception is that the crime occurred due to prejudice towards a characteristic then the aggravation is complete e.g. someone shouts ableist abuse at a person who does not identify as disabled. The intention of the offender was to target them based on a perceived disability or prejudice towards disabled people therefore this will be recorded as a disability related hate crime.

The age, sex and ethnic or National origins of any person who is a victim of a hate crime or the perpetrator or suspected perpetrator of same should be recorded in all instances.

It should be noted, however, it is inappropriate and unnecessary to ask anyone for details of their specific disability, religion, sexual orientation or transgender identity or variations in sex characteristics but where this information is volunteered it can help in the assessment of the hate element of a crime.

A person may perceive an incident to be hate related even when the reasons for this are not immediately apparent. For this reason, it is entirely appropriate to explore the witnesses perception and allow them the opportunity to explain why they perceive the behaviour to be motivated by hatred towards a characteristic without dismissing or trivialising it.



CONTINUE

## Identifying disaggregated data

In order to identify what disaggregated data needs to be recorded, you will first have identified that a hate crime has been committed against one or more of the characteristics:

- 1 Age
- 2 Disability
- 3 Race, Colour, Nationality (including Citizenship) or ethnic or national origins
- 4 Religion or in the case of a social or cultural group, perceived religious affiliation,
- 5 Sexual orientation,
- 6 Transgender identity,
- 7 Variations in Sex Characteristics

CONTINUE

If you cannot identify targeting of any of these characteristics then it will not be a hate crime, although there may well still be a crime covered by other legislation.

Once the appropriate characteristic is identified, you then need to try and identify what the disaggregated data might be in relation to that characteristic.

This could be done by the victim who may give a reason why they believe they have been targeted and which characteristic they believe to have been attributed to them in the incident.

**CONTINUE**

For example:





**“They pushed me over and shouted at me because I am old”**

(Age)



**“They spat on me because I am in a wheelchair”**

(Disability – Physical impairment)



**“We are the only black family who live in this street”**

(Race – Skin Colour - Black)



**“They punched me because I was wearing my crucifix”**

(Religion – Christianity – Catholicism)





**“They targeted me because I was wearing a pride badge”**

(Sexual Orientation - General)



**“They poured a drink over me because I was wearing a dress”**

(Transgender identity – Person who cross dresses)



**“They followed me and taunted me because I am a woman with facial hair”**

(Variations in Sex Characteristics)



Complete the content above before moving on.



You can also gather further details by the offender’s behaviour, for example, if the accused used racist slurs commonly associated with the colour of a person’s skin.

The disaggregated data (sub-set of characteristic) would come from this information. In this instance the section selected from the COS drop down menu would be:

“Race (as the characteristic) and Skin Colour – Black (as the disaggregated data)”

As this is based on both the victim's perception and the offender behaviour.



The perception of the victim or any other person is sufficient **to record** a crime as being motivated either wholly or partly by hate and for the crime **to be investigated** as a hate crime.

However, in order **to prove** this at court, there must be some **behaviour by the accused** either before, during or after the commission of the crime which justifies this perception.

CONTINUE

## Ethnoreligious Groups

The term 'Ethnoreligious' refers to a grouping of people who share a common religious and ethnic background.

CONTINUE

## Sikh - Sikhism

The first instance of a religious group being considered at one and the same time an ethnic group, in the

UK, was through the case of *Mandla v Dowell Lee* (1983)

A child was prevented from going to a private school because the school would not allow him to wear a turban (he was Sikh). The child's parents claimed indirect discrimination within the Race Relations Act 1976 1(1)(b).

In a House of Lords appeal, Lord Fraser of Tullybelton held that Sikhs were a racial group defined by reference to ethnic origins for the purpose of the Act, although they were not biologically distinguishable from the other people of the Punjab, and that the plaintiffs had been discriminated against within the meaning of section 1(1)(b) of the Act. The 'no turban' rule was not one with which the plaintiff could comply without becoming a victim of discrimination.



Many people identify as Sikh through their family lineage even when they no longer practice, or never have practiced, any religious observance.

For this reason, it can be seen that a Sikh person can be discriminated against and thus also subjected to prejudice based upon their appearance even where the perpetrator has little or no knowledge of, or even opinion on, Sikhism as a religion.

## CONTINUE

### **Jewish – Judaism**

To be Jewish is both an ethnic and religious grouping, as it describes an ethnic group (Jews) who practice a specific religion (Judaism). This means self-identification for Jewish people can be a multifaceted consideration.



For example:

People from any ethnic background can convert and become Jewish and identify as such.

Non-religious people, and even people practicing other faiths, can and do identify as Jewish.

Unfortunately, many stereotypes of 'what a Jew looks like' still persist and thus minor details such as a person's facial features or clothing can be used to identify them, rightly or wrongly, as Jewish. As with Sikhs, this can lead to discrimination and prejudice towards them – even where the perpetrator has no knowledge or opinion of Judaism as a religion.

## CONTINUE

### Examples

#### EXAMPLE 1

#### WHY?

A man is leaving a well known city centre nightclub. He is followed for a period of time by 2 persons who shout homophobic slurs at him.

In this case, the victim has been subjected to a Section 38 CJLSA 2021 with a Section 1 HCPO(S)A aggravator (sexual orientation aggravation).

#### EXAMPLE 1

#### WHY?

**Perception of the victim:**

“They were calling me names widely understood to be slurs towards gay men. I am not gay but I believe they targeted me because they saw me leaving a LGBT+ nightclub and assumed I was gay”

**Behaviour of Offender:**

The language used by the perpetrators indicate that they perceived the victim to be a gay man and had targeted him for this reason.

**Data recording:**

In respect of disaggregated data, this would be a sexual orientation hate crime and the option from the drop down menu under sexual orientation would be “Gay Man”

The fact that the victim is NOT gay is irrelevant.



Complete the content above before moving on.

#### EXAMPLE 2

#### WHY?

The victim is a wheelchair user and is waiting at a bus stop along with other commuters during rush hour. A woman, unknown to the victim, crosses the road and grabs the victim and shoves them backwards. When she is walking away she states that the victim 'Shouldn't be allowed out in public' and uses a slur widely understood to be prejudiced against people with a learning disability. The suspect has no interaction with any other person at the bus stop.

In this case, the victim has been subjected to an assault and a Section 38 aggravated by Disability prejudice.

#### EXAMPLE 2

#### WHY?

##### **Victim Perception:**

"I didn't know this person, I had never met them before. There were lots of people at the bus stop but she ignored all of them and came straight at me. The only difference between me and everyone else was my wheelchair. I believe this was the reason I was targeted." The language she used is commonly used as prejudice towards disabled people.

##### **Behaviour of Offender:**



The perpetrators actions – attacking a stranger in a busy bus stop – indicate that they were motivated by disability prejudice. The fact that no one else in the queue was assaulted or abused tends to strengthen this argument.

**Data recording:**

The use of the slur against people with learning disabilities suggests that the offenders perception was that the victim had a learning disability – however the perception of the victim that it was because they were a wheelchair user is still valid and so the disaggregated data would reflect that this crime was perpetrated against both a person with a ‘physical impairment’ and a ‘cognitive impairment’.



Complete the content above before moving on.

**EXAMPLE 3**

**WHY?**

Anti catholic graffiti is spray painted on a road sign near to a busy junction. A police officer returning to the police station during the nightshift notices this and arrange for its immediate removal by the council. There are no reports from the local community complaining about this graffiti.

In this instance – even though there is no complainer and the graffiti can be removed by chemicals – this is still a vandalism with a religious prejudice aggravation.

**EXAMPLE 3**

**WHY?**

The intent and execution of the graffiti was to create a feeling of a hostile environment to any person of the catholic faith who happened to be passing. It would be reasonable to assume that a reasonable person would find this both threatening and abusive and the crime is complete when the sign has been defaced. The test of a hate crime aggravation is not that a particular person was offended by it but that the hypothetical “reasonable person in the street” would consider it threatening or abusive.

**Victim Perception:**

In this case, the lack of a specific victim makes no difference as any other person, in this case a police officer, can perceive it to be motivated by hatred.

**Behaviour of Offender:**

The perpetrators actions – spray painting anti-Catholic slogans on a piece of street furniture – indicate that they were motivated by religious prejudice. The fact that the graffiti was removed prior to anyone complaining about it is irrelevant.

**Data recording:**

The use of anti-Catholic slogans in this instance means that this would be recorded as “Religion” with the disaggregated data being recorded as “Christianity – Catholicism”



Complete the content above before moving on.

**COS Video Demo**



PLAY VIDEO

Please click the box to the left to confirm you have watched the above video



Complete the content above before moving on.

## Things to note when recording hate crimes

When reporting hate crimes on COS there are a number of points you may wish to consider to ensure that we are fully supporting the victim and providing pertinent information to the COPFS.



Frequently, victims of hate crime experience abuse covering a variety of characteristics and this intersectionality needs to be recorded, e.g. black and gay, young and disabled, intersex and Jewish and old. Where more than one characteristic is targeted, all must be recorded.

It is important, where relevant, to include in the SPR detail of any particular vulnerabilities / accessibility issues / language requirements that might exist for the victim(s) and or witnesses.

Ensure that support is offered to all victim(s) and or witnesses and appropriate sign-posting to support agencies and/or Victim Support if appropriate.

All exculpatory evidence – evidence which would suggest that the accused had NOT committed a crime - must also be recorded. This is required for all crime but especially so in the context of Section 4(4) HCPO(S)A which makes the recording of exculpatory evidence a statutory obligation:

“It is a defence for a person charged with an offence under this section to show that the behaviour or the communication of the material was, in the particular circumstances, reasonable.”



CONTINUE



**The Scottish Statutory Instrument (SSI) makes provision for all offences that can be said to have taken place on or before 31 March 2024 to be subject to the old law.**

**There is, however, also a transitional provision so that if there is any uncertainty as to when the offence took place and it cannot be proven beyond doubt that it was on or before 31 March 2024, the new law will apply.**

CONTINUE

## Recording Hate Crimes on SID/iVPD

The guidance for recording **hate crimes** on SID and iVPD has not changed at this time.

Please refer to current [Police Scotland Guidance/SOP](#) for more information.

CONTINUE

## Recording Hate Crimes on SID/iVPD

The guidance for recording **non-crime hate incidents** on SID and iVPD has not changed at this time.

Please refer to current [Police Scotland Guidance/SOP](#) for more information.

CONTINUE TO SUMMARY

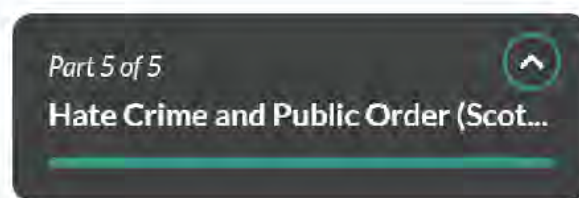
# Summary

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You have now completed the Hate Crime and Public Order (Scotland) Act - HCPO(S)A eLearning package.

Please exit the course and complete the Knowledge Check.

EXIT COURSE



If you wish to revisit any sections of the training, use the ^ icon on the table of contents (pictured left) on the bottom left of the page left to see the course index.