**Interim guidance – Responding to Hate**

Hate Crime has a significant impact on individuals and communities and Police Scotland is committed to ensuring a consistent and professional response to any reports of Hate Crime or Non-Crime Hate Incidents (NCHI).

The recording of Hate Crime should continue in line with current Police Scotland crime recording procedures and as directed through the training programme developed for the implementation of the new Hate Crime and Public Order (Scotland) Act 2021. An iVPD to record a Concern Report should only be recorded where one or more persons has a vulnerability.

Characteristics protected in the Hate Crime and Public Order (Scotland) Act 2021 are; Age, Disability, Race, Religion, Sexual Orientation, Transgender Identity, Variations in Sex Characteristics.

The purpose of this guidance is to clarify when officers should record a NCHI, where we record them and what we should record. This guidance supplements the Hate Crime Legislation, SCRS and training programme and supersedes Force memo 26.24 and the 2021 Hate Crime guidance.

**Decision to record Non-Crime Hate Incidents**

Recognising that NCHIs are not crimes, recording allows police to identify people who may be vulnerable in society, including repeat victims. It enables police to monitor for escalation and community tensions and to help inform policing approaches and styles and drive community engagement.

It is important to note that not all incidents perceived by the reporter as being motivated by hostility or prejudice1 will meet the threshold for recording a Non-Crime Hate Incident.

When an incident is perceived by the reporter to be motivated by hostility or prejudice1, then both of the following two principles must apply for the incident to be recorded as a Non-Crime Hate Incident:

* Would a reasonable person consider the report to be motivated by hostility or prejudice1 towards one or more characteristics protected within the legislation?
* Does it have a policing purpose:
  + (a) protecting vulnerable people
  + (b) protecting the rights of others
  + (c) preventing crime

All incidents assessed as meeting the principles detailed above will be recorded as a NCHI on iVPD, any vulnerabilities identified should be clearly articulated within the description of events to ensure the appropriate support can be provided.

Applying a proportionate, lawful, accountable, necessary, and ethical (PLANE) approach, along with assessing the right to freedom of expression will support decision making and judgment.

It is acknowledged that the decision to record is subjective and differing contexts may lead to different decisions, however, consistency is achieved through the consideration of the principles detailed above.

The use of language is important; when submitting an NCHI Concern Report the terms ‘reporter’ and ‘other party’ should be used in the body of the report. iVPD has limited nominal options, as such the reporter will be recorded as either an adult or child subject of concern. When appropriate to record the other party details, they will be recorded as a No Concern/Not Applicable, sub-category ‘other’ nominal on the associated Concern Report.

The other party’s details will not be routinely recorded. They should only be recorded in exceptional circumstances where there is a real risk of significant harm to individuals or groups who are protected by the legislation and/or a real risk that a future criminal offence may be committed against those individuals or groups.

**Example**

A police officer is called to a neighbour dispute. An Asian Muslim woman reports an issue with her neighbour who is complaining about a fence.

During this he stated to her “this is typical of your lot”. She perceives this to show hostility towards her race and religion. She states he has made comments before while out in his garden and at the car that include “this is what happens when they give our houses to asylum seekers,” “these people have been responsible for a lot of things.”

When police speak to him, he appears very angry with strong opinions. He appears to have issue with any neighbours who are black or Asian with a perception that they all must be asylum seekers. None of his conduct provides sufficiency for essential elements of any crime. Police perceive that, due to his demeanour and views, there is a likelihood of real risk of significant harm to individuals or groups who are protected by the legislation and/or a real risk that a future criminal offence may be committed against those individuals or groups.

As such, the officer records a NCHI and includes the other party’s personal data. The officer notifies the other party that their personal data has been included in a NCHI record.

If officers are in any doubt whatsoever, they should seek advice from Hate Crime Champions, Hate Crime Advisors or Policing Together, Partnerships and Prevention.

***1Hostility and prejudice is referenced in this document, in the legislation this is referred to as malice and ill will. The terms are interchangeable and have the same meaning.***