

# Responding to Hate

Standard Operating Procedure

This SOP provides clear direction and procedural instruction to provide a consistency of response in accordance with force policy, however it is recognised that policing is a dynamic profession, and the standard response may not be appropriate in every circumstance. In every situation, your decisions and actions should be supported by the National Decision Model and based on the values and ethics of Police Scotland. You may be expected to provide a clear and reasonable rationale for any decision or action which you take.

## Notice:

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## Introduction/purpose

This Standard Operating Procedure (SOP) supports the Responding to Hate Policy and provides police officers, police staff, special constables and agency staff with instruction and direction to recognise, investigate and record hate crimes and non-crime hate incidents.

Hate incidents targeting an individual or group can have a devastating impact upon the victims, their families, wider communities and in some situations have a corrosive effect on community cohesion.

Providing an empathetic, professional, and consistent approach to responding to hate will build trust and confidence between Police Scotland and our communities. We must also ensure that our services are accessible for the communities we serve and tailored to the needs of each individual.

Hate incidents will be assessed by applying a proportionate, lawful, accountable, necessary, and ethical (PLANE) approach, including protecting the right to freedom of expression. This will support decision making and judgment, ensuring fairness and consistency is achieved.

## Definitions

The term “hate crime” is a globally and historically recognised term which is widely used. The Hate Crime and Public Order (Scotland) Act 2021 refers to malice and ill will, chosen as it has a historical place in Scottish criminal law and is familiar to Scottish courts. It is important that Police Scotland’s approach to responding to hate is as clear as possible for those who may be affected by it as reporters, victims, or potential offenders.

The Lord Bracadale Independent review of hate crime legislation in Scotland recommended that the phrase demonstrating hostility may be more easily understood than malice and ill will. Independent review of hate crime legislation in Scotland.

Our definitions include the terms malice and ill will and hostility or prejudice which are interchangeable and have the same meaning.

Definition of Hate Incident

A hate incident is any report to police where it is perceived that the incident may involve malice and ill will (hostility or prejudice).

It is important to note that not all hate incidents perceived by the reporter as being motivated by malice and ill will (hostility or prejudice), will meet the threshold for recording. All hate incidents will be assessed by police and a decision made on how to progress – hate crime, non-crime hate incident; no crime or assessed as other crime.

### Definition of Hate Crime

Any crime motivated wholly or partly by malice and ill will (hostility or prejudice) based on one or more actual or perceived characteristics.

Both of the following two principles must apply for a hate crime to be recorded –

1. The actions of any alleged perpetrators must amount to a crime defined by law in Scotland Scottish Crime Recording Standard (SCRS) rules.
2. There must be evidence that the crime was motivated by malice and ill will (hostility or prejudice) towards a characteristic protected by legislation. Assessment of the offender’s behaviour before, during or after the incident will provide evidence of the malice and ill will (hostility or prejudice).

A person does not have to be a member of the characteristic group to be a victim of a hate crime.

### Definition of a Non-Crime Hate Incident (NCHI)

Any incident where a crime has not been committed, but where it is perceived by the reporter, or any other person, that the incident was motivated wholly or partly by malice and ill will (hostility or prejudice) based on one or more of their actual or perceived characteristics.

It is important to note that not all hate incidents perceived by the reporter, or any other person, as being motivated by malice and ill will (hostility or prejudice) will meet the threshold for recording a NCHI.

When an incident is perceived by the reporter to be motivated by malice and ill will (hostility or prejudice), then both of the following two principles must apply for the incident to be recorded as a NCHI:

1. A reasonable person considers the report to be motivated by malice and ill will (hostility or prejudice) towards one or more characteristics protected within legislation.
2. Recording has a specific policing purpose, for example:
* protecting life and property
* preserving order
* prevention and detection of crime
* apprehension and prosecution of offenders
* any duty or responsibility arising from common or statutory law.

A person does not have to be a member of the characteristic group to report a NCHI.

### Other definitions

In the absence of legal definitions consideration should be given to the following dictionary definitions.

#### Malice

The desire to harm someone / desire to inflict injury, harm or suffering.

#### Ill will

Dislike, hostility.

#### Hostility

Ill will, ill-feeling, spite, contempt, prejudice, unfriendliness, antagonism, resentment, and dislike.

#### Prejudice

Prejudice is an unreasonable dislike of a particular group of people or things, or a preference for one group of people or things over another.

### Characteristics protected by hate legislation in Scotland.

#### Age

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 (hostility or prejudice) towards “older people” or “adolescents” rather than the victim’s specific age.

#### Disability

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.

#### Race

A group of people can be defined as a racial group by reference to their shared race, colour, nationality (including citizenship), or ethnic and or national origins.

#### Religion

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.

#### 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.

#### 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.

#### 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.

## Perception based recording

Police Scotland’s approach to perception-based recording is intended to ensure that reporters, victims, and witnesses feel their concerns are taken seriously. Perception based recording refers to the perception of the victim, the person reporting or any other person.

The police response should not lead to secondary victimisation. This occurs when a reporter, victim or witnesses suffer further harm not as a direct result of the incident or criminal act but because of the way the organisations and other individuals deal with the person.  Secondary victimisation is based on perception, it is immaterial whether it is reasonable or not for the reporter, victim, and witnesses to feel that way. An open and sensitive policing response can prevent escalation. Police decision making and actions should be clearly explained. This is particularly important where the outcome is not what the reporter, victim or witnesses were expecting. Secondary victimisation could cause an incident to escalate into a critical incident.

While an auditable record should be made of all hate incidents reported to police, not all will be recorded as a hate crime or NCHI.

It would not be appropriate to record a hate crime or NCHI, if the reporter has no knowledge of the victim, the incident, are responding to media/internet articles or reporting for political or other similar motive.

## Freedom of Expression

Freedom of expression is protected under the Human Rights Act 1998 by Article 10 of the European Convention on Human Rights and is the fundamental right to hold your own opinions and to express them freely.

Protection under Article 10 extends to the expression of views that may shock, disturb, or offend the deeply held beliefs of others and to discuss and enter debate on potentially controversial subjects. Therefore, disagreement and debate do not, on their own, indicate malice and ill will (hostility or prejudice).

Whilst considering whether an incident should be recorded as a hate crime or NCHI, a balance between freedom of expression and protecting members of the public is required.

Any restrictions on freedom of expression must always be,

* Lawful.
* Necessary in a democratic society.
* For a legitimate aim.
* Proportionate.

Freedom of expression may be limited in some circumstances including to,

* Protect national security.
* Protect public safety.
* Prevent disorder or crime.

Article 10 does not protect statements that unlawfully discriminate against, harass, and incite violence or hatred towards persons and / or groups. No one can rely on the human right to freedom of expression to limit or undermine the human rights of others.

### Freedom of Expression and the Hate Crime and Public Order (Scotland) Act 2021

Section 9 of the Hate Crime and Public Order (Scotland) Act 2021 seeks to specifically safeguard 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 covers 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.

Section 9 details what should be considered when assessing whether the material or behaviour reported is protected by freedom of expression. Section 9 Hate Crime and Public Order (Scotland) Act 2021.

#### Freedom of Expression considerations

The Rabat Principles were developed in partnership by a number of UN Member states to support criminal justice agencies to differentiate between behaviours that may amount to incitement to hatred or freedom of expression. These principles are not directly referred to in the Hate Crime and Public Order (Scotland) Act 2021 but can be used as part of the assessment of all hate incidents.

Rabat Principles - Factors likely to be relevant in making an assessment will include:

* Speaker: The position or status of the speaker in society and the extent to which the speaker is capable of influencing others. A person with a high profile or authority may cause more harm than others.
* Intent: Whether there was an intention to incite discrimination, hostility, or violence, as opposed to merely distributing information or participating in a debate.
* Content and Form: The content of the speech and the form it takes. This includes an examination of whether the speech was provocative and direct, had a malicious intent, and used inflammatory language.
* Extent of the speech: The extent or reach of the speech, including the size of its audience and the mode of dissemination. Speech that is broadcast to a wide audience has a potential for greater harm.
* Likelihood, including imminence: The likelihood of the speech inciting actual action against the target group, considering the context and all other relevant factors.

Officers and staff must consider every incident on their own merit. Escalation and the potential for escalation must always be considered especially when there are repeat victims, communities, or locations.

For further information on freedom expression can be found with the Human Rights Act 1998.

## Hate Crime

Definition of Hate Crime: Any crime motivated wholly or partly by malice and ill will (hostility or prejudice) based on one or more actual or perceived characteristics.

The first step in any hate crime investigation will be to assess whether the behaviour complained of meets the threshold of a crime. Guidance can be sought within the Crime Investigation SOP

To be recorded as a hate crime, the behaviour complained of:

1. must amount to a crime defined by law in Scotland Scottish Crime Recording Standard (SCRS) rules.
2. there must be evidence that the crime was motivated by malice and ill will (hostility or prejudice) towards a characteristic protected by legislation. Assessment of the offender’s behaviour before, during or after the incident will provide evidence of the malice and ill will (hostility or prejudice).

Police officers and staff should establish core facts, as they would for any crime, including why the victim, or those reporting, perceived the crime to be motivated by malice and ill will (hostility or prejudice) towards persons with a characteristic(s) protected by the legislation.

Officers and staff should not challenge the initial perception. The following three questions will assist with exploring the perception:

* Who perceives the incident to be motivated by malice and ill will (hostility or prejudice)?
* Why do they perceive the incident to be motivated by malice and ill will (hostility or prejudice) ensuring consideration of any previous incidents that may or may not have been reported?
* What impact has the incident had or is likely to have on the individual / communities? (The impact is not necessary to establish a hate crime, and, in some cases, there may be no obvious impact upon the victim).

Accepting the perceived motivation does not make a judgement about the actions of any person involved. However, it recognises the need to look for material which could provide evidence of motivation, as well as material relating to the underlying crime. Gathering material which may be evidence of motivation will also help to identify appropriate support for victims, and actions needed to prevent community tensions escalating.

Hate crimes should be treated as priority incidents and consideration given to the most effective response that balances the needs of the incident, police resources available and the nature of any risk.

There are occasions where an immediate response by a police officer may not be appropriate or possible. A Threat, Harm, Risk, Investigation, Vulnerability, Engagement (THRIVE) assessment will be carried out and where such delays occur, 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 reporter/victim.

### Recording Hate Crime

Where, upon investigation, it is established that there is a sufficiency of evidence to record a hate crime, the crime will be recorded on National Crime.

Hate crimes will not be recorded on iVPD unless there is an identified vulnerability as a direct result of the malice and ill will (hostility or prejudice) related behaviour.

Whether a suspect has been identified or not, officers and staff will be required to complete a section on National Crime regarding further details in relation to the characteristic(s) targeted. There are agreed recording data options for each of the listed characteristics, the most relevant of which should be selected, this is known as disaggregated data. For example, if the actual or perceived characteristic towards which the perpetrator has demonstrated malice or ill will (hostility or prejudice) is sexual orientation, then the agreed recording data options available are: General; Gay Man; Lesbian; Bisexual; Heterosexual/Straight; or None of the Above. When completing this section of National Crime, the option most relevant to the facts and circumstances should be selected.

Recording ‘disaggregated data’ helps the police to develop a better understanding of hate crime and to identify individuals and groups who may be at particular risk. This information will be provided, to the Scottish Government, and will be used internally to help inform a proportionate and effective policing response to hate incidents reported in future.

A person does not have to be a member of the characteristic group to be a victim of a hate crime. It is the motivation of the accused which is the relevant factor. For example, if someone is the victim of a homophobic attack, their actual sexual orientation is not relevant to the completion of the crime. A person may also be a victim of hate crime due to their perceived association with a characteristic.

Officers and staff will not ask anyone for details of their disability, religion, sexual orientation, transgender identity or variations in sex characteristics to justify recording a hate crime. Where this information is volunteered it should be recorded appropriately and sensitively to help in the assessment of the hate element of a crime.

Frequently, victims of hate crime experience abuse targeting more than one characteristic and this intersectionality needs to be captured on National Crime and included in the Standard Prosecution Report (SPR) sent to the Procurator Fiscal. For example, where it can be evidenced that a person has been targeted because of their race and disability, this should be recorded on National Crime, and it should be made clear in any report to the Procurator Fiscal.

When completing the SPR ensure the disability prejudice marker is only selected when you are reporting a hate crime with a disability aggravator. This should not be completed to inform the Procurator Fiscal that the victim or witness has a disability.

If there is no crime, then the incident will be assessed to ascertain if it meets the principles for recording a NCHI.

It would not be appropriate to record a hate crime or NCHI, if the reporter has no knowledge of the victim, the incident, are responding to media/internet articles or reporting for political or other similar motive.

It is vital that victims and witnesses are updated regularly in a method tailored to their needs.

#### Quick Guide to hate crime

1. Hate Incident report received.
2. Raise STORM incident with an initial code of AB-58 and add STORM tag of HCPOA.
3. Assess the initial report, risk and response required.
4. Assess for hate crime - Meets the 2 principles - hate crime established.
5. Explore perception – who, why and what ensuring consideration of any previous incidents that may or may not have been reported.
6. Ensure STORM is updated with rationale and correct closure codes.
7. Record on National Crime detailing rationale for all actions taken.
8. Complete all relevant characteristic data (disaggregated data on National Crime).
9. Hate crimes will not be recorded on iVPD unless there is an identified vulnerability as a direct result of the malice and ill will (hostility or prejudice) related behaviour.
10. Carry out investigation.
11. If the victim is an officer / staff member, ensure line manager considers risk and impact and makes appropriate referrals. (Refer to Hate Incidents Involving Officers or Staff section).
12. Ensure victims / witnesses are updated timeously and regularly, in a method tailored to their needs and all contact recorded on relevant systems.
13. If appropriate / standard grounds for recording intelligence are met - submit a Scottish Intelligence Database (SID) log. (Refer to Intelligence section).

## Non-Crime Hate Incidents (NCHI)

Definition of NCHI -Any incident where a crime has not been committed, but where it is perceived by the reporter or any other person that the incident was motivated wholly or partly by malice and ill will (hostility or prejudice) based on one or more of their actual or perceived characteristics.

The recording of NCHI was a recommendation in the Stephen Lawrence Inquiry Report (1999) which called for a “comprehensive system of reporting and recording of all racist incidents and crimes” The 1999 Stephen Lawrence Inquiry. This has subsequently developed to include all characteristics protected by hate legislation.

Police Scotland have a role in preventing crime and harm.

The recording of NCHI can:

* Protect people from harm.
* Prevent crime.
* Provide the police with a tool to build intelligence and monitor the potential for escalation by individuals or within communities.
* Assist in monitoring tensions within communities enabling appropriate police responses.
* Helps the police to build community confidence and to understand where to focus resources.
* The incident may be the first of a series of incidents where the first is not a crime – for example, harassment and stalking, where a course of conduct is required to be evidenced.
* Where an individual is subject to many low-level incidents that can affect the person's quality of life and referrals can be made for police or other organisations to respond.

Not recording incidents has in some cases led to some serious harm to the public that may have been preventable. For instance, the cases involving Fiona Pilkington. IPCC report Fiona Pilkington

While assessing whether to record a NCHI officers and staff should not challenge the initial perception. The following three questions will assist with exploring the perception:

* Who perceives the incident to be motivated by malice and ill will (hostility or prejudice)?
* Why do they perceive the incident to be motivated by malice and ill will (hostility or prejudice) ensuring consideration of any previous incidents that may or may not have been reported?
* What impact has the incident had or is likely to have on the individual / communities?

Accepting the perceived motivation does not make a judgement about the actions of any person involved. However, it recognises the need to look for material which could provide evidence of motivation.

### Recording of non-crime hate incidents

While an auditable record should be made of all incidents reported to the police, not all NCHI’s perceived by the reporter or any other person as being motivated by hate should be recorded as an NCHI.

The following two principles must apply for the incident to be recorded as a NCHI:

1. A reasonable person considers the report to be motivated by malice and ill will (hostility or prejudice) towards one or more characteristics protected within legislation.
2. Recording has a specific policing purpose, for example:
* protecting life and property
* preserving order
* prevention and detection of crime
* apprehension and prosecution of offenders
* any duty or responsibility arising from common or statutory law.

A person does not have to be a member of the characteristic group to report an NCHI.

Considering the following will assist with making an assessment,

* Would the behaviour complained of be covered under Freedom of Expression? (Refer to the Freedom of Expression section).
* Does the incident present risk or harm to any person / community protected in legislation?
* Is there any potential for escalation?
* Is there any potential for community tensions?
* Do you have any concerns regarding repeat victimisation? (Consider potential course of conduct, for example, harassment)
* Do we have any safeguarding responsibilities?
* Would police action and / or recording of the NCHI align with the Code of Ethics?
* Is the report made obviously vexatious / hoax?

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. Applying a proportionate, lawful, accountable, necessary, and ethical (PLANE) approach will support decision making.

It would not be appropriate to record a hate crime or NCHI, if the reporter has no knowledge of the victim, the incident, are responding to media/internet articles or reporting for political or other similar motive.

#### Recording on Interim Vulnerable Persons Database (iVPD)

If the two principles are met:

1. A reasonable person considers the report to be motivated by malice and ill will (hostility or prejudice) towards one or more characteristics protected within legislation.
2. Recording has a specific policing purpose, for example:
* protecting life and property
* preserving order
* prevention and detection of crime
* apprehension and prosecution of offenders
* any duty or responsibility arising from common or statutory law.

Then a NCHI concern report will be raised on iVPD.

When recording a NCHI it should be done in the least intrusive way possible. Full rationale for any decisions or actions taken should be included along with what policing purpose the recording meets. This must be entered in the ‘Police action taken’ section. Any other vulnerabilities identified should be clearly articulated in the main body of the iVPD to ensure the appropriate support can be provided.

The use of language is important; when submitting a NCHI Concern Report the terms ‘reporter’ and ‘other party’ (person named as involved in the reported behaviour) should be used in the body of the report. The iVPD has limited nominal recording options, as such the reporter will be recorded as either an adult or child subject of concern.

Officers and staff will be required to complete a section on the iVPD detailing the characteristic(s) targeted. There are agreed recording data options for each of the listed characteristics, the most relevant of which should be selected. Frequently, reporters of NCHI’s experience abuse targeting more than one characteristic and this intersectionality needs to be captured in Concern Report.

Officers and staff will not ask anyone for details of their disability, religion, sexual orientation, transgender identity, or variations in sex characteristics to justify recording a NCHI. Where this information is volunteered it should be recorded appropriately and sensitively to help in the assessment of the hate element.

#### Recording of “other party” personal data

There are two subsets of NCHI recording –

1. Those that do not include the personal data of the “other party” (person named as involved in the reported behaviour).
2. Those that meet the additional threshold (detailed below) that justify the recording of the personal data of the “other party”.

It is important to note the “other party’s” details will not be routinely recorded. They should only be recorded in exceptional circumstances where the additional threshold has been met that the officers / staff believe 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.The rationale for recording “other party’s” personal data on iVPD should be clearly articulated in the ‘police action taken’ section.

When it is appropriate to record the “other party’s” details, they will be recorded as a No Concern/Not Applicable, sub-category ‘other’ nominal on the associated Concern Report. In the free text box insert ‘NCHI nominal recorded for a policing purpose’.

Where it is reasonable to make a record that includes “other party’s” personal data they must be informed that their data has been recorded. If notification could present a safeguarding risk to the reporter or any other person careful consideration should be given as to whether disclosure is made. Decisions to inform the “other party” should be agreed by an on duty supervisor and the reason fully detailed on the concern report within the police action taken section.

Harm includes all harmful conduct including,

* Conduct which causes physical harm / psychological harm (for example by causing fear, alarm, or distress).
* Unlawful conduct which appropriates or adversely affects property, rights, or interests (for example, theft, fraud, vandalism).

This list is not exhaustive, and no category of harm is excluded simply because it is not explicitly listed. What constitutes harm will be determined on a case-by-case basis.

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. Applying a proportionate, lawful, accountable, necessary, and ethical (PLANE) approach will support decision making.

#### 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 on iVPD highlighting the subject of concerns situational vulnerability 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 specialists including Hate Crime Champions, Hate Crime Advisors, divisional leads or Policing Together division.

#### Quick guide to non-crime hate incidents

1. Hate Incident report received.
2. Raise STORM incident with an initial code of AB-58 and add STORM tag of HCPOA.
3. Assess the initial report, risk and response required.
4. Assess for criminality - No crime established.
5. Assess for NCHI - Meets the 2 principles.
6. Explore perception – who, why and what ensuring consideration of any previous incidents that may or may not have been reported.
7. Ensure STORM is updated with rationale and correct closure codes.
8. Record on iVPD with reporter recorded as Adult or Child Subject of concern.
9. Detail rationale for recording the NCHI in police action taken section (specify what is the policing purpose).
10. Detail any vulnerabilities that may require additional referrals or support in main body of iVPD.
11. Assess for inclusion of “other party” details – Is there is risk of significant harm?
	1. If no, details of “other party” will not be recorded.
	2. If yes, record personal data of “other party” as No concern / Not applicable. In the free text box record ‘NCHI nominal recorded for a policing purpose’ and detail rationale for recording “other party’s” personal data on the iVPD in the ‘police action taken’ section.
12. If “other party” personal data is recorded inform them of this (unless there is an identified safeguarding risk). Record when they were informed and by who.
13. Take any identified action including making any appropriate referrals.
14. Ensure reporter/witnesses are updated, timeously and regularly, in a method tailored to their needs and all contact recorded on relevant systems.
15. If appropriate / standard grounds for recording intelligence are met - submit a Scottish Intelligence Database (SID) log. (Refer to Intelligence section).

## Legislation

In Scotland, the main legislation for prosecuting hate crime is the Hate Crime and Public Order (Scotland) Act 2021.

The Hate Crime and Public Order (Scotland) Act 2021 led to the repeal of sections 18-21 of the Public Order Act 1986, however some sections remain in Scotland.

The full legislation can be found here:

Hate Crime and Public Order (Scotland) Act 2021

Public Order Act 1986

### Summary of key points to consider under each section of the legislation

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

Section 1 – Aggravation of offences by prejudice

This should be used as an aggravator for a substantive crime, for example, an assault is a substantive crime. The section 1 aggravator should be added where there is evidence the assault was aggravated by malice and ill will (hostility or prejudice) towards one or more characteristic.

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

1. Section 1(1) (a)
* There needs to be a direct victim of the underlying crime for the Section 1(1) (a) 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 (hostility or prejudice) demonstrated immediately before, during or after the crime has occurred.
1. Section 1(1) (b)
* Section 1(1) (b) this aggravation can be applied in cases where the malice and ill will (hostility or prejudice) is expressed towards a wider group, without the need for a specific or individual victim to have been identified.

For example, where a place of worship is daubed with graffiti and there is evidence the offender was motivated by malice and ill will (hostility or prejudice) towards people (comprising a group defined by reference to religion) who worship at those places.

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

Section 3 – Racially aggravated harassment

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

* When a person pursues a racially aggravated course of conduct which amounts to harassment of another person.
* As this is a ‘standalone’ crime, the victim must personally perceive the behaviour or conduct to be racially aggravated.
* As a standalone offence, all elements of the offence must be corroborated, including the racial element.
* No racial aggravator is required to be applied with this standalone offence.
* “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 section only applies to the characteristic of race, colour, nationality, citizenship, or ethnic or national origin,
* 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 and a section 1 aggravator (race).

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

* A person acts in a manner which is racially aggravated, and which causes, or is intended to cause, another person alarm or distress.
* 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.
* As this is a ‘standalone’ crime, the victim must personally perceive the behaviour or conduct to be racially aggravated.
* As a standalone offence, all elements of the offence must be corroborated, including the racial element.
* No racial aggravator is required to be applied with this standalone offence.
* 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 and a Section 1 aggravator (race).

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

Section 4 – Offences of stirring up hatred

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

#### Offences of stirring up racial hatred

To commit an offence under section 4(1) the two-part test must be met:

1. The person behaves in a manner that a reasonable person would consider to be threatening, abusive or insulting, or communicates to another person material that a reasonable person would consider to be threatening, abusive or insulting, and
2. The person intends to stir up hatred or is likely 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.

#### Section 4(2) Hate Crime and Public Order (Scotland) Act 2021

#### Stirring up hatred of other groups

To commit an offence under section 4(2) the two-part test must be met.

1. The person behaves in a manner that a reasonable person would consider to be threatening or abusive, or communicates to another person material that a reasonable person would consider to be threatening or abusive, and
2. in doing so, the person intends to stir up hatred against a group of persons-based age, disability, religion or, in the case of a social or cultural group, perceived religious affiliation, sexual orientation, transgender identity, variations in sex characteristics.

Of note sections 4(1) and 4(2) differ in the following ways:

Section 4(1)

* has the terms threatening, abusive or insulting.
* includes intend to stir up and likely to stir up.

Section 4(2)

* has the terms threatening and abusive. Does not include insulting.
* includes intend to stir up only.

Please note - There is no requirement to add an aggravator to an offence under section 4(1) or 4(2), for example, an offence of stirring up hatred due to transgender identity will be recorded as a 4(2) Hate Crime Public Order (Scotland) Act 2021, it does not need a transgender identity aggravator attached.

#### Protection of freedom of expression

Section 9 – Protection of freedom of expression

Section 4(2) of the Hate Crime and Public Order (Scotland) Act 2021, 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.

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 threatening or abusive part of Section 4.

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.

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.

#### Understanding the terms

To fully understand this legislation, we need to look at some of the terms included. These are not legally defined but will support an assessment:

* Reasonable person:this is an objective test, a hypothetical person used as a legal standard. 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.
* 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 characteristics.
* 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.
* Communicate: 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.

#### Section 15 Hate Crime and Public Order Act 2021

Section 15 – Publication of reports on hate crime recorded by police

Under Section 15 of the Hate Crime and Public Order (Scotland) Act 2021, Police Scotland are required to provide a specific set of more detailed information to Scottish Ministers.

This information will be anonymised and will include, to the extent that these details have been recorded by the police, disaggregated data on a set of specified characteristics. For example, where a crime is aggravated by prejudice based on religion, information should be provided on the religion targeted.

Additional information is also to be provided where available on victims, perpetrators, and suspected perpetrators, including age, sex and ethnic or national origin.

Further guidance on the legislation can be found within the Lord Advocates Guidelines. Lord Advocate Guidelines Offences aggravated or motivated by prejudice | COPFS

## Roles and Responsibilities

### Public Counter / report direct to police

If a member of the public reports a hate incident in person:

* Assess the initial report, risk and response required.
* Gather information sensitively and provide reassurance, recording an accurate first account.
* Raise STORM incident with an initial code of AB-58 and add STORM tag of HCPOA.
* Inform supervisor and discuss risk assessment to decide priority / response and any safety concerns.

### Police Scotland Service Centre

When a member of the public reports a hate incident via 999/101 a Service Advisor will:

* Create an incident on STORM, coded as an AB-58.
* The incident should be THRIVE assessed in line with the THRIVE Guidance on the C3 Procedures Guide
* Apply appropriate call grading.
* Add the HCPOA STORM Tag.
* Apply the most appropriate resolution option and transfer the incident to the Area Control Room or Resolution Team.

### C3 Resolution Team (incident transfer)

On receiving the transfer of an AB-58 hate incident the Resolution Team will:

* Review the STORM incident.
* Review the THRIVE assessment and endorse or amend.
* Assess whether the circumstances meet the thresholds for a hate crime or a NCHI.
* Review information held on police systems to inform the THRIVE assessment and assess whether there is any repeat victimisation or repeat location to identify any wider patterns of behaviour.
* If police attendance is required, the incident will be transferred to the ACR.
* If the report is assessed as a hate crime then record a crime on National Crime in line with Police Scotland’s crime recording policy and Scottish Crime Recording Standards.
* If the report is assessed as a NCHI then record as detailed in the NCHI recording section.
* If the report is assessed as constituting a crime but that is not related to malice and ill will (hostility or prejudice) as established in the legislation section, revert to standard incident recording.
* Signpost the reporter and/or victim to supports services such as Victim Support Scotland
* If the reporter is anonymous, the report should be assessed for any actionable information, for example, referral to the Local Policing Team or if appropriate / standard grounds for recording intelligence are met - submit a Scottish Intelligence Database (SID) log. (Refer to Intelligence section).

### C3 Resolution Team (online reports)

When a member of the public reports a hate incident via an online report the Resolution Team will:

* Follow the processes outlined above in relation to the recording of an incident (Police Scotland Service Centre) and, if appropriate, the actions relating to the Resolution Team.

### Area Control Room (ACR)

On receiving the transfer of an AB-58 STORM incident the Area Control Room will:

* Review the STORM incident.
* Review the THRIVE assessment and endorse or amend.
* Task officers to attend in line with THRIVE assessment and relevant consideration of any known language or accessibility needs.
* Notify a Divisional supervisor.
* Prior to closing the incident, the ACR must ensure the enquiry officer has updated the STORM incident with the relevant reference numbers.
* If the incident is a hate crime or NCHI then the STORM incident should be closed with the AB-08 code
* If an AB-58 STORM incident requires re-coding, there must be consultation with a supervisor and the full rationale must be recorded on the STORM incident.

### Initial attending officer / enquiry officer

* Attend incident.
* Consider language, accessibility and any cultural needs of all victims, witnesses, suspects, perpetrators, or any other party to ensure they have fair and equal access to police services. (Refer to Victims and Witness Care section).
* Identify any other victim / reporter needs, for example, they want to speak in private or are there any confidentiality issues (for example, not disclosing the persons sexuality).
* Note statement.
* Consider and action any concerns regarding safety of reporter / wider communities.
* Assess if requirement to record a hate crime or NCHI and raise relevant crime report on National Crime or Concern Report on iVPD.
* Signpost to support services.
* Every victim of crime must be provided with a Victim Care Card (VCC) (Form 144-002)
* Assess whether there is any repeat victimisation / location or if this is linked to a wider pattern of behaviour.
* Conduct investigation.
* Ensure reporter/ victims / witnesses are updated including providing information on what happens next. This should be done timeously and regularly, in a method tailored to their needs. Ensure all contact is recorded on relevant systems.
* Ensure outcome of enquiries are fully updated on relevant systems including rationale for decisions and actions taken.
* If appropriate / standard grounds for recording intelligence are met - submit a Scottish Intelligence Database (SID) log. (Refer to Intelligence section).
* Seek advice where necessary from specialists including local Hate Crime Champions / Divisional Preventions Interventions departments / Hate Crime Advisors / Policing Together Equality, Diversity, and Inclusion Unit / CID etc.

### Sergeant / First line manager

* Assess all hate incidents and consider if scene attendance is required and inform the local Inspector accordingly.
* Quality assure hate crime reports and NCHI iVPDs prior to sending for finalisation.
* If a critical incident is being considered inform the local Inspector who will escalate accordingly. Critical Incident Management National Guidance
* Ensure attending / investigating officer is following the approved procedures and recording processes.
* Where the victim is a police officer / staff member ensure support is provided as per Hate Incidents Involving Officers or Staff section.
* If assessed as no malice and ill will (hostility or prejudice) a request should be made for the incident type change to the relevant ACR Supervisor by the requesting Local Policing supervisor and a full rationale supporting the decision appended to the STORM incident for transparency.
* Ensure reporters / victims / witnesses are updated including providing information on what happens next. This should be done timeously and regularly, in a method tailored to their needs. Ensure all contact is recorded on relevant systems.
* If enquiry officer is absent for a length of time, Sergeant / First Line Manager must ensure they update reporter / victim / witnesses and record contact.

### Police Inspector / Second line manager

* If the hate crime or NCHI is declared a critical incident, ensure appropriate supervisory attendance at the scene.
* Create a Community Impact Assessment Community Impact Assessment Guidance
* Ensure reporter/ victims / witnesses are updated including providing information on what happens next. This should be done timeously and regularly, in a method tailored to their needs. Ensure all contact is recorded on relevant systems.

### Local Area Commander

* Ensure all staff under their command are familiar with the content of this SOP.
* Overall responsibility to ensure that officers and staff have conducted robust investigations and exhausted all lines of enquiry.
* Identify most appropriate divisional lead for hate incidents, for example, Divisional DCU, Preventions and Interventions (or equivalent). (Please revert to local arrangements).
* Establish a holistic approach to ensuring all hate incidents are not treated in isolation and steps are taken to identify repeat victims, offenders, and locations.
* Ensure effective governance of all recording systems.
* Highlight any reports of significance, for example, serious crime, incidents of public and / or media interest to the daily divisional commanders meeting.
* Ensure Policing Together Equality, Diversity and Inclusion unit are informed of any reports of significance. Email - @scotland.police.uk
* Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of public affairs.

### Divisional Crime Management Team

* Carry out an assessment to ensure the crime type is accurately recorded.

###  Divisional Risk and Concern Hub Staff

* Staff within the Concern Hub will review and assess the content of concern reports and if deemed necessary will refer the adult or child concern to appropriate support groups.
* In accordance with local arrangements, Divisional hate crime leads, Divisional DCUs or Divisional Preventions and Interventions (or equivalent Departments) should be made aware of hate related Concern Reports for divisional overview.
* Apply automated and / or manual escalation protocol where appropriate Concern hub escalation guidance

### Custody

* Care and Welfare of Persons in Police Custody SOP
* Lord Advocates Guidelines: Offences aggravated or motivated by prejudice | COPFS
* Any issues refer to Custody Review Inspector or Force Custody Inspector with any questions regarding arrest, care and disposal.

### Divisional and National Governance

* National Risk and Concern (NRAC) to undertake monthly quality assurance checks of NCHIs.
* Hate crime performance to be standing agenda item on divisional Tactical Tasking and Co-ordinating meeting.
* Hate crime performance to be standing agenda item on ACC chaired Resource Deployment Board (RDB).
* Each RDB to report hate crime performance to national Operational Delivery Board.
* Analysis Performance Unit (APU) to publish statistics monthly on external dashboard.
* APU to provide statistical update for Q1-Q4 reports with narrative from Policing Together Equality, Diversity and Inclusion unit.

### Policing Together – Equality, Diversity and Inclusion Unit

* National Governance and policy leads
* Review all hate incidents reported to police.
* National dip sample for quality assurance of hate crime and NCHI’s.
* Identify multiple reports of same incident and coordinate a divisional lead.
* Feedback reports to North, East and West Resource Deployment Board’s providing national assessment of recorded hate incidents including incidents of national interest and patterns of note.
* Email – @scotland.police.uk
* Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of public affairs.

## Repeat victimisation.

Police Scotland defines a repeat victim of crime as a person or organisation who has been the victim of a detected or undetected crime (excludes no crime) on one or more occasions within the 365-day period prior to the most recent victimisation.

Police Scotland defines a repeat adult/child concern as a person who has been subject to a concern report on interim Vulnerable Persons Database (iVPD) on one or more occasions within the 365-day period prior to the most recent concern report.

The first time a hate incident is reported to the police will not necessarily be the first time it has occurred. Reporters / victims may be too frightened to report earlier incidents or may not realise that the abuse they are suffering can be reported to the police. Officers and staff should ensure they explore and investigate the circumstances fully including ascertaining any possible history of hate crime or NCHIs. This will allow Police Scotland to monitor potential repeat victims.

Local divisions are responsible for ensuring the monitoring of repeat victims and identifying the most appropriate response. Divisional Risk and Concern Hubs will monitor repeat concerns through the automated and manual escalation protocols where appropriate.

## Community Engagement

Community engagement plays a fundamental role within policing and provides a two-way dialogue between the police and public to better understand communities, their needs and to identify risks and threats. It allows communities to help shape decision making and influence strategic priorities.

There are no ‘hard to reach’ communities, but ‘seldom asked’ or ‘seldom heard’ communities. The latest Census data can assist in understanding the current make-up of Scottish communities.

Effective community engagement can help to mitigate community tensions caused by, but not limited to, anti-social behaviour, hate crimes, non-crime hate incidents, and critical incidents. Failing to engage with communities can undermine public confidence in police.

The top three drivers of public confidence in police are consistent across population groups and locations. These drivers are interdependent and apply to responsive contact, community policing, events, and protests.

1. Visibility – presence in local areas in providing reassurance.
2. Values and behaviours – Showing compassion, care, fairness, and respect. Providing reassurance, being friendly, approachable, using inclusive language.
3. Community engagement – staying connected and keeping communities informed.

It is vital officers and staff are supported to engage with communities at risk of hate crimes and NCHIs. All community engagement should be recorded on a community engagement form Community Engagement Form . All forms should be submitted to divisional Preventions and Interventions units (revert to local arrangements) for onward transmission to Policing Together Equality and Diversity Unit @scotland.police.uk

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## Children and Young People

For any incidents involving children in conflict with the law, follow guidance provided in the Offending by Children Divisional Guidance. Offending by Children Divisional Guidance . The Policing Together Children and Young Persons unit can also provide guidance on the United Nations Convention on the Rights of the Child (UNCRC).

The police have a duty to safeguard and promote the wellbeing of a child in conflict with the law as a primary consideration. This must be balanced against the need to fully investigate crimes, the requirement for ethical recording of crime in line with the Scottish Crime Recording Standards and the needs and rights of victims.

### Incidents on school premises

Scottish Crime Recording Standard directs that when a minor incident occurring on school premises is reported to the police, including those witnessed by, or reported directly to the police school liaison officers, the officer dealing should, in the first instance, invite the victim or the person acting on their behalf to report the matter to the head teacher to be dealt with under normal school discipline procedures.

Such reports should be recorded as an incident only, until or unless: -

* They judge it to be a serious incident\*
* Having brought the matter to the attention of the school, they receive a formal request from the school to investigate.
* The child, parent or guardian or the child’s representative asks the police to investigate.

The above excludes where the:

* Victim or suspect is an adult for example a teacher.
* Victim or suspect is not a pupil at the school where the incident has occurred.
* Incident has occurred on school transport to or from school.
* Incident has occurred on a school trip.
* Incident has occurred out with normal school hours.

The term "school premises" includes residential schools, however, the incident must have occurred during normal school hours within the confines of the teaching or recreational area for the above practice to be considered.

\*A serious incident is one that has led / is intended to lead / be likely to lead / or threatened to lead to serious harm or loss to any school child.

### Disposal Options

When responding to an incident involving a child in conflict with the law, the rights and welfare of the child must be considered together with our responsibility to protect the public and ensure victims are granted an effective remedy. Divisional Youth Justice Assessors will review the incident and the child's welfare, which will determine the appropriate course of action.

#### Prevention through Education

Officers and staff should identify all opportunities to work with partners to prevent the harm caused by hate crime and NCHIs.

Educational materials aimed at preventing prejudice related behaviour are available through I Am Me Scotland’s Learning Platform. This includes the ‘You Judge’ resources which were developed in partnership by I Am Me Scotland, Police Scotland and the Crown Office Procurator Fiscal Service.

I Am Me are a charity raising awareness of disability prejudice. Their materials are also inclusive of other forms of prejudice.

## Online hate

### Guidance when responding to reports of online hate

Should a report be received of malice and ill will (hostility or prejudice) where there is an online aspect, please follow the below guidance (see links for more information):

It may be necessary to capture posts made on social media platforms which constitute a hate crime for the purposes of securing evidence and identifying suspects.

* If this is being reported by an individual then best practice would be to obtain screenshots of the posts / platform, provided by the reporter, ideally capturing the URL and/or usernames of the person responsible for the relevant posts.
* If police are being directed to online posts, for example, via an anonymous reporter, it may be necessary for a trained officer to capture this in an evidential format. In this case officers should seek assistance from a Research Open-Source Internet and Email (ROSIE) trained officer.
* Available / on duty officers can be identified from searching for the ROSIE skill / specialism on the Contact Database section of Scope. ROSIE officers will utilise a Standalone Computer or Portal Solution from a networked Police National Network (PNN) computer.

Applications should not be sent to the Internet Investigations Unit; they should be directed to ROSIE trained officers within divisions in the first instance.

* ROSIE trained officers are a national resource and if their assistance is required for the purpose of capturing online posts, geographical location is irrelevant. However, utilising a ROSIE officer within the same division would be preferable due to potential future court citations.
* Once screenshots or evidential captures are obtained, undertake conventional lines of enquiry, for example, open-source checks on usernames, emails, and witness statements (in an effort to identify the person responsible without the need for more intrusive means).
* If conventional lines of enquiry to identify account user have been exhausted, it may be necessary to submit a Communications Data application via the Communications Investigations Unit (CIU). This is for the purpose of identifying the individual who has posted the relevant comment/s. Applications should be made via CycComms.
* To acquire Event Data under the Investigatory Powers Act 2016 the serious crime threshold needs to be met (Section 3.5 of the Act defines the serious crime threshold).
* Enquiry officers should review the CIU FAQs on the intranet and where additional guidance is required liaise with the CIU.

Helpful links:

* CycComms
* Internet Investigations Unit

##  Intelligence

The gathering of intelligence is vital to tackling the harm caused by malice and ill will (hostility and prejudice).

The submission of intelligence relating to hate crime and NCHIs should be subject to the same considerations as any other incident, crime, or event that police officers or police staff deal with.

When deciding when to record intelligence, officers / staff should use their professional judgement and adhere to the standard grounds for recording intelligence which are as follows:

* in the interests of National Security,
* the prevention or detection of crime and disorder,
* the maintenance of community safety,
* the assessment or collection of any tax or duty or of any imposition of a similar nature,
* otherwise serves a significant public interest.

When submitting an intelligence log the most appropriate headers should be selected.

Where a crime or suspected crime has been committed any relevant crime reference number should be recorded in the action taken field.

As per current guidance, the Scottish Intelligence Database (SID) should not be used simply for recording victims of crime.

Any intelligence submitted will be sanitised and reviewed by trained intelligence officers at which point it will be stored in line with the standard retention schedule or deleted if it does not meet the above grounds. The SID Standard Operating Procedure is available on the Police Scotland Intranet site and further advice can be sought from intelligence trained officers as required. Scottish Intelligence Database (SID) SOP

## Hate Incidents involving officers or staff.

Hate, or any form of abusive behaviour, towards police officers and staff is not part of the job and will not be tolerated.

Police Scotland is committed to ensuring that officers and staff are free from the effects of hate whilst at work and that they receive the standard of service expected by members of the public.

Following an incident of hate, line managers will ensure they consider the risk and impact on the officer / staff, their families, and wider communities. Appropriate referrals should be made. (Refer to section below in Support for officers and staff).

An impact sub statement of the SPR must be completed.

Where an officer or staff is a victim of hate crime on-duty then the standard crime recording processes should be followed. On National Crime under Linked People and Organisations, the Police Worker Victim must be selected.

Hate crimes will not be recorded on iVPD unless there is an identified vulnerability as a direct result of the malice and ill will (hostility or prejudice) related behaviour.

Where the officer or staff is subject of a NCHI then this will be recorded as per the NCHI process. If the officer or staff is the person the behaviour was directed to then their personal details (name, date of birth, c/o police station) will be included on the iVPD.

Where an on-duty officer or staff assess a hate incident meets the standard required for recording an NCHI, but there is no named reporter or person directly targeted, then this will be recorded with the police officer or staff as the subject of concern. However, they will submit using the details below to avoid this being recorded against their personal details.

* + Forename: enter ‘Police Officer’ or ‘Staff Member’
	+ Surname: record your PSI (“PSI1234567” no spaces)
	+ Address: input ‘not known’.
	+ Interpreter Required: input ‘unknown / not known’.
	+ Appropriate Adult: input ‘unknown / not known’.
	+ Disability: input ‘unknown / not known’

The following other mandatory nominal data fields must also be completed but with the correct personal information:

* Date of Birth
* Gender
* Ethnicity

Where a police officer or member of police staff is off duty and reports a hate incident then the standard hate crime or NCHI recording should be followed meaning their personal details will be recorded in the relevant systems.

It is important to note, that before creating a new police officer or staff nominal, users must initially search for their details and PSI number to prevent a duplicate nominal from being created.

Officers and staff should not be responsible for recording the hate crime or NCHI in which they were the target.

Any issues regarding recording on iVPD should be directed to the National Risk and Concern team at @scotland.police.uk

For further support and guidance in completing this risk assessment please contact the Equality and Diversity Unit at @scotland.police.uk

For more information see Your Safety Matters

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of public affairs.

Hate Incidents where police officers / staff reported to be involved

All officers and staff are expected to adhere to Our Values and Our Code of Ethics.  In addition, officers must adhere to the Standards of Professional Behaviour. The behaviours and expectations for authority and police staff are contained in the Code of conduct for authority/police staff.

Behaviour by a police officer or staff member which is motivated by prejudice is not acceptable. If a hate crime or NCHI takes place involving officers or staff, it should be recorded, and appropriate disciplinary procedures should be followed.

You might find the following links helpful.

* Professional Standards Department
* Disciplinary Police Staff

Internal allegations of hate crimes or NCHIs will be investigated by an appropriately trained police officer. 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 an external hate crime, with the extra consideration given to the moral and legal duty to protect officers and staff from abuse.

#### Support for officers and staff.

There is support available to officers and staff -

* Your Wellbeing Matters
* Employee Assistance Programme
* Investigation - Wellbeing Guidance
* Staff Associations and Trade Unions

## Support

Hate Crime Champions

Hate Crime Champions are police officers who have received additional training on hate crime and NCHI to ensure they:

* Feel more confident in recognising hate.
* Can provide advice and support to colleagues on dealing with hate.
* Act as a conduit to share best practice nationally.

### Hate Crime Advisors

Hate Crime Advisors are police officers who can be deployed to events and incidents where there is a likelihood of hate crimes or NCHIs that may be more complex or appear to be above the level of knowledge expected for conventional police officers. This is most likely to be at planned events and protest but may also include serious crime investigations and high-profile reports of hate.

The main role of Hate Crime Advisors is to support Police Scotland’s assessment of hate incidents balancing Human Rights and the rights of people and communities to be protected from hate.

Hate Crime Advisors will always be deployed in pairs as per the Hate Crime Advisor deployment protocol.

All requests for Hate Crime Advisors should be sent to Policing Together Equality, Diversity, and Inclusion Unit on @scotland.police.uk

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## Victim and Witness Care

Victims and witnesses should feel listened to, safe and informed at every stage of the criminal justice process.  Victim and witness care should be trauma-informed and recognise and support the needs of individuals.

The rights of victims and witnesses at each stage of the criminal justice process are set out in the Standards of Service for Victims and Witnesses

### Victim Care Card

Every victim of crime must be provided with a Victim Care Card (VCC) Form 144-002. Either at the time of reporting the crime or as soon as reasonably practicable thereafter. The VCC provides information about victims’ rights including their right to be referred to support services. The VCC is available in 20 languages which can be found in the National Forms catalogue on the Police Scotland intranet. In circumstances where the language or version required is not available, please contact: @scotland.police.uk

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### Victim Support Scotland

Victim Support Scotland (VSS) is the main victim support service to which Police Scotland refer victims and witnesses for support. Where a victim / witness requests to be referred to VSS this request must be recorded using the VSS field on the national crime system. Policing Together is responsible for the sharing and governance of referral data extracted from the national crime system. For further information please contact: @scotland.police.uk

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of public affairs.

Victim Support Scotland have a Hate Crime toolkit that officers and staff can share with victims and witnesses. Hate Crime Toolkit - Victim Support Scotland

Further information about support services can be found here:  Victims and Witnesses

### Accessibility of our services

Police Scotland will ensure reporters, victims, and witnesses of hate crimes and NCHIs have fair and equal access to services and are treated with dignity and respect at all times. We have legal and moral responsibilities to ensure relevant support is provided and any reasonable adjustments made to ensure there is access to information, support services and that reporters, victims and witnesses can participate effectively in the investigation and proceedings. Officers and staff should ensure reporters, victims, and witnesses:

* Can access services in their first or preferred language (including access to British Sign Language).
* Are provided with an appropriate adult where there are any concerns the person is not able to understand procedures or communicate effectively.
* Have reasonable adjustments for disabilities (ask the person what adjustments they require, these will be tailored to the individual, but examples may include hearing loops, physical access to buildings, easy read materials and specific communication needs).

Links to helpful guidance:

* Translation and Interpreting Services
* Appropriate Adults SOP
* Victim and Witness Care National Guidance

## Miscellaneous

### Recording of multiple reports for a single hate crime or NCHI

Where there are multiple reporters of a single hate crime, for example a racially abusive post on social media with a number of reporters across various policing divisions, then an assessment should be made of which local division will lead the enquiry. Consideration should be given to raising a master STORM incident. Only one crime report should be submitted unless there are additional circumstances in any reports that identify a need for other crime reports. The division recording the crime report will be the lead for the enquiry. They will be supported in their investigation by other local divisions who will note statements, seize any evidence, and update the enquiry officer.

For NCHI the lead division will assess for appropriate recording and response.

Policing Together Equality, Diversity and Inclusion Unit will support the national coordination where necessary.

### Anonymous Reports

If a hate incident is received but the reporter is anonymous, officers / staff should assess if there is any actionable information. This could include raising an intelligence log, sharing information with local policing, research on similar incidents / crimes.

A STORM incident should only be raised if there is sufficient information to do so.

Scottish Crime Recording Standards state ‘Anonymous reports of crime must be supported by corroborative evidence prior to the creation of a crime report. Where a victim's details are withheld from the police, the circumstances will be recorded as an incident only.’

### Crimes out with Police Scotland Jurisdiction

Where a crime requires to be transferred to another Force please refer to the Scottish Crime Recording Standards SCRS Transfer of Crime and Dealing with Crimes outside Police Scotland

## Data Retention

### Retention Period of Non-Crime Hate Incident (NCHI) Data

If the threshold for recording an NCHI is met, then the associated information will be recorded within an iVPD (Refer to Recording of NCHI section). Details in relation to the retention periods of NCHI iVPD data can be found within the Police Scotland Record Retention SOP.

### Retention Period of Hate Crime Data

Hate crime data will be recorded on National Crime (Refer to Recording of hate crime section). All crimes fall into the risk categories of high, medium, and low. Low risk crimes with a hate aggravator automatically become a medium grade risk. This means that all Hate crimes fall into one of two categories, namely medium or high risk. The retention period for medium and high risk hate crime data recorded on National Crime can be found within the Police Scotland Record Retention SOP.

The retention period for data recorded in a Hate Crime Concern report, can be found within the Police Scotland Record Retention SOP.

## Key Contacts

@scotland.police.uk – Equality, Diversity and Inclusion Unit

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of public affairs.

## Compliance record

EqHRIA completion/review date: 01/08/2024

Information Management Compliant: Yes

Health and Safety Compliant: Yes

## Version control table

| Version | History of amendments | Approval date |
| --- | --- | --- |
| 1.00 | Initial Approved version | 01/08/2024 |
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## Feedback

All Police Scotland service delivery Policies, Standard Operating Procedures (SOPs) and National Guidance are subject to regular reviews. It is important that user feedback is considered when documents are reviewed.

If any officer / staff member wishes to provide comment, or make suggestions for improvements to this or any associated document, a Service Delivery Policy and Procedure Feedback Form (Form 066-014) should be used.