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**POLICE
SCOTLAND**

Keeping people safe

Hate Crime

Standard Operating Procedure

Owning Department	SCD - Safer Communities
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1. Purpose

- 1.1 This Standard Operating Procedure (SOP) supports the Police Service of Scotland (hereafter referred to as Police Scotland) **Equality, Diversity and Dignity Policy**. This SOP outlines Police Scotland's intent to robustly address Hate Crime and Hate Incidents.
- 1.2 The SOP provides instruction and guidance on the recording, reporting and investigation of Hate Crimes and Hate Incidents. This applies to all Police Scotland police officers and police staff, including Scottish Police Authority (SPA), Special Constable and temporary or agency staff.
- 1.3 Perpetrators of Hate Crimes focus upon victimising individuals on the basis of actual or presumed:
 - sexual orientation,
 - transgender identity,
 - disability,
 - race, or
 - religion.
- 1.4 The spectrum of Hate Crime is wide in nature, such as:
 - physical and emotional harassment,
 - physical and emotional abuse,
 - name calling,
 - bullying,
 - acts of violence and murder.
- 1.5 Hate Crimes affect not only those individuals directly involved but damage the relationship within the communities to which the victims and perpetrators belong.
- 1.6 Hate Crimes can threaten entire communities through harassment, name calling, intimidation, bullying, vandalism or acts of violence. Prejudice against groups can lead to a range of consequences, including an enhanced fear of crime, an inability to participate in social activities, isolation and in extreme cases, vigilantism. Offenders, whether purposefully or not, are sending a message to members of a given group that they are unwelcome and unsafe in a particular community, school, workplace, or other environment.

2. Definitions

2.1 Hate Incident:

2.1.1 Police Scotland defines Hate Incidents as:

“Any incident which is perceived by the victim, or any other person, as being motivated by malice or ill will towards a social group but which **does not** constitute a criminal offence”.

2.1.2 Whilst there may be an insufficiency of evidence to constitute a crime, the impact of a Hate Incident can be just as devastating for victims. The police have a duty to accurately record and **investigate** all Hate Incidents, to ensure that the most vulnerable members of society are protected.

2.1.3 Key aspects to establishing a Hate Incident include:

- The **perception** of the victim and witnesses as to what motivated the perpetrator(s). If an incident is **perceived** by the victim or any other person to be motivated by malice or ill will on the basis of actual or presumed sexual orientation, transgender identity, disability, race or religion, it must be recorded and investigated as a Hate Incident.
- The incident is **motivated** wholly or partly by malice or ill will towards the individual on the basis of their actual or presumed sexual orientation, transgender identity, disability, race or religion.
- **Prior to, at the time of the incident or immediately after the incident**, the perpetrator demonstrates malice or ill will towards the victim on the basis of their actual or presumed sexual orientation, transgender identity disability, race or religion.
- Victims of Hate Incidents **do not require to be members of a social group** in order to be a victim, for example an individual who is the victim of a Transphobic incident does not need to be transgender for this to be perceived, recorded and investigated as a Hate Incident.

2.2 Hate Crime:

2.2.1 Police Scotland defines Hate Crime as:

“Any crime which is perceived by the victim or any other person as being motivated by malice or ill will towards a social group.”

2.2.2 Perpetrators of Hate Crimes focus upon demonstrating malice or ill will towards individuals on the basis of their actual or presumed sexual orientation, transgender identity, disability, race or religion. The police have a duty to accurately record and investigate all Hate Crimes to ensure that members of social groups are protected.

2.2.3 Key aspects to establishing a Hate Crime include:

- The **perception** as to what motivated the perpetrator(s) to commit the crime. If a crime is **perceived** by the victim or any other person to be motivated by malice or ill will on the basis of actual or presumed sexual

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orientation, transgender identity, disability, race or religion, it **must** be recorded and investigated as a hate crime.

- The crime is **motivated** wholly or partly by malice or ill will towards an individual on the basis of their actual or presumed, sexual orientation, transgender identity, disability, race or religion.
- **Prior to, at the time of committing the offence or immediately after committing the offence**, the perpetrator demonstrates malice or ill will towards the victim on the basis of their actual or presumed sexual orientation, transgender identity, disability, race or religion.
- Victims **do not require to be members of a social group** in order to be a victim of a Hate Crime, for example a male who is the victim of a homophobic attack does not need to be Gay for this to be perceived, recorded and investigated as a Hate Crime.
- An individual may be targeted because of their vulnerability. This should not automatically be interpreted as a Hate Crime. Offenders do not usually pick hard targets. They tend not to pick the toughest individual from a group to assault and, based on the risk of themselves being caught or injured, select the individual who they perceive poses the least risk. For example, a person with a physical disability may have been targeted because he / she is vulnerable, as opposed to being targeted due to ill-will or malice. However; targeting the most vulnerable individual, does not automatically remove the element of potential hostility. If the principal criterion for selection is the fact that someone is, for example, black or gay or disable, then recording and investigating the attack as a Hate Crime must be fully explored.

2.2.4 In terms of the perception element of Hate Crimes, staff must always consider:

- Who perceived the incident to be a Hate Crime - **who** perceived and **why** they perceived are essential for the legislation
- Why that person perceived it to be a hate crime (**Witness A perceived this to be a Hate Crime because.....**)
- What the impact has been on the victim. (If there is no impact this does not mean a Hate Crime hasn't been committed). The impact is not necessary to substantiate a Hate Crime however; **if** there is an impact on the victim or the wider community this **must** be highlighted.

2.2.5 Like all criminal proceedings in Scotland the standard of proof remains. The evidence of a single witness, however credible, is not sufficient to prove a charge against an accused person. There must be corroboration of the evidence of that witness, either by the testimony of another witness or by evidence of facts and circumstance.

2.2.6 Examples of Hate Incidents and Hate Crimes can be found in Appendix **'K'**.

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3. Prevention

- 3.1 The core business of Police Scotland is to keep our communities safe by the detection and prevention of crime. However, the responsibility for crime reduction and prevention is one that Police Scotland shares with other agencies.
- 3.2 Police Scotland does not create the environment in which it operates, but will make every effort to influence and respond to challenges within it. The influence is at its strongest when the Service acts in consultation with other agencies, particularly Local Authorities.
- 3.3 Police Scotland shares responsibility for community safety with partner agencies and engages in the community planning process in all Local Authority areas.
- 3.4 To prevent Hate Crime Police Scotland will:
- engage in partnerships with the aim of preventing Hate Crime;
 - share information with other agencies as and when appropriate;
 - utilise the National Intelligence Model (NIM) to gather and collate intelligence to address hate crime in a co-ordinated manner;
 - ensure that individuals involved or suspected of committing Hate Crimes and incidents are identified where appropriate in the Scottish Intelligence Database (SID) and where circumstances allow report to the Procurator Fiscal / Reporter accordingly;
 - work with victims and support agencies to minimise opportunities for repeat victimisation;
 - support education programmes aimed at promoting diversity and good citizenship; and
 - incorporate Hate Crime awareness and prevention into mainstream policing.

4. Initial Investigative Approach

- 4.1 Perpetrators who instigate sustained campaigns of harassment, bullying and violence leave victims feeling vulnerable and isolated. Without robust police action incidents can quickly escalate leaving perpetrators free to continue to victimise the most vulnerable members of our communities.
- 4.2 Never treat a Hate Crime or Incident in isolation, victims may have reported a number of complaints to the police which for a variety of reasons may not have been linked. Your actions could make all the difference to a victim's quality of life.

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- 4.3 Victims may be extremely reluctant to report Hate Crimes / Incidents and may endure many incidents before they feel able to come forward and speak to the police.
- 4.4 Where victims do not initially engage with the police they should be revisited / re-contacted in a way which does not compromise them. For example, not all victims' families and friends may be aware of their sexual orientation or transgender identity. Therefore it is important to establish the most appropriate mechanism for contacting the victims to minimise the risk.
- 4.5 Whilst victims may appear to be uncooperative there may be valid reasons for this. Victims may have fears around providing information about their private life and may not wish to draw further attention to themselves for fear of reprisal, retaliation or escalation. They may also have had previous negative experiences with the police.
- 4.6 Officers and staff should be mindful to take a supportive approach to encourage victims to engage with the police.
- 4.7 **Police Scotland has a duty to undertake a thorough investigation of all Hate Crime / Incidents.** In doing so there may be instances where victims or witnesses are reluctant to engage with the police. There may be valid reasons for this; therefore, it is important that each investigation takes cognisance of the sensitive and often personal issues involved.
- 4.8 A supportive approach will reduce fears or concerns that victims or witnesses may have. This will ensure that offenders are brought to justice, whilst reducing potential negative impact on the victim or witness.
- 4.9 The initial response of the police to any Hate Crime or Hate Incident is crucial in establishing confidence and a good rapport with the victim or witness. The police response must reflect an acknowledgement and understanding of the victim or witness' experience and their perception of the incident.
- 4.10 **Note:** Where a victim does not perceive themselves to be the victim of a Hate Crime; a Hate Crime incident can still be raised if an officer perceives the victim has been targeted by a person motivated by malice or ill will on the basis of actual or presumed sexual orientation, transgender identity, disability, race or religion. This can be based on additional information known to the police, but not to the victim.
- 4.11 It is not necessary for the victim to make a formal complaint. Following a thorough investigation of the circumstances, the police may make the decision to arrest or detain. This will remove responsibility from the victim and allay fears of reprisal or retaliation by the suspect. **In these circumstances it is important that this information is explained to both victim and suspect.**
- 4.12 Victims should be seen and interviewed by a police officer at the earliest opportunity, with areas for follow up enquiry identified and pursued with vigour. On receipt of a complaint concerning a Hate Crime or Incident, the initial

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attending officer must ensure the duty Supervisor is aware of the circumstances.

- 4.13 Every effort must be made to ensure victims are able to report matters in the language they find easiest to use. In addition, all staff must be aware of the individual needs of both witnesses and suspects. Any requirements for interpreting or translating services must be resourced. For further guidance please refer to the [Interpreting and Translating PSoS SOP](#).
- 4.14 It is important that victims are kept informed of progress and updated with the final result of their enquiry. It is the responsibility of the enquiry officer to ensure updates are undertaken timeously and Supervisors must ensure that victims have been updated.
- 4.15 All staff should be aware of the [Vulnerable Witnesses \(Scotland\) Act 2004](#), which applies in this area. This knowledge will assist in giving relevant advice to victims and their families, partners, friends regarding any future legal proceedings, whether criminal or civil.
- 4.16 The [Vulnerable Witnesses \(Scotland\) Act 2004](#) makes provision for the use of special measures for the purpose of obtaining evidence from children and other vulnerable witnesses in criminal or civil proceedings. This allows Courts to take into account:
- the nature of the evidence to be given by the witness;
 - the relationship (if any) between the witness and the accused; and
 - the nature and circumstances of the alleged offence.
- 4.17 In addition, The Court can take into account the witness’
- social and cultural background and ethnic origins;
 - sexual orientation;
 - domestic and employment circumstances;
 - religious beliefs or political opinions; and
 - any disability
- 4.18 It also allows the Courts to take into account any behaviour towards the person on the part of:
- the accused;
 - members of the family or associates of the accused;
 - any other person who is likely to be an accused person or a witness in the proceedings.
- 4.19 A list of victim support organisations is provided at Appendix [‘L’](#).
- 4.20 Further advice can be found in the [Victim Support PSoS SOP](#).

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5. Third Party Reporting

- 5.1 Many people, for various reasons, are reluctant to report directly to the police. Third Party Reporting Centres are organisations that have agreed to assist by submitting a Hate Crimes / Incidents report to police on the behalf of the victim / witness.
- 5.2 Further guidance can be found in the [Third Party Reporting SOP](#).

6. Contact Centre / Control Room Guidance

- 6.1 Contact centre staff are almost always the first point of contact for victims reporting a crime or incident to the police. It is imperative that staff make every effort to establish if the victim perceives that they have been targeted on the basis of their actual or presumed sexual orientation, transgender identity, disability, race or religion.
- 6.2 Leading questions should not be used when trying to ascertain the perception of the victim regarding the perpetrator(s) motive. Examples of appropriate questions include:
“Why did this happen?” or “Why do you think this happened?”
- 6.3 Contact Centre / Control Room staff must:
- ensure appropriate coding has been applied to the command and control incident;
 - advise officers if the complainer is a repeat victim;
 - provide officers with all relevant information in relation to the incident;
 - inform Supervisors that officers have been dispatched to a Hate Crime/ Incident; and
 - ensure officers provide a full update prior to the incident being disposed / finalised.
- 6.4 **Note:** Where a victim does not perceive themselves to be the victim of a Hate Crime; a Hate Incident can still be raised if Contact Centre / Control Room staff perceive the victim has been targeted by a person motivated by malice or ill will on the basis of actual or presumed sexual orientation, transgender identity, disability, race or religion.

7. Investigation of Hate Crimes and Incidents

- 7.1. While it is accepted that not every Hate Incident will result in an offender being identified and criminal proceedings being instigated, this in no way diminishes the effect of such incidents for victims. Police Scotland will ensure each

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reported incident of Hate Crime / Incident is thoroughly investigated in a professional manner using processes that are transparent and accountable.

- 7.2. Police officers receive local and national training regarding investigative techniques and processes.
- 7.3. This training is equally applicable to Hate Crime / Incident, however, there are some considerations applicable to Hate Crime which officers attending incidents should consider in addition to the techniques and processes utilised in other enquiries. These include:
- Victims' care and support;
 - Witnesses' care and support;
 - Community impact;
 - Community tensions;
 - Interpreters (language / sign, etc.); and
 - Cultural awareness and personal sensitivity.
 - Use of Lay / Community Advisors (refer to [Lay - Community Advisor SOP](#))
- 7.4. The initial actions of the police can have a significant impact on the success of any subsequent investigation. It is essential that all victims have the opportunity to relate their concerns and fears to the police. Whilst enquiry officers may not always be able to meet the expectations of victims, good communication and effective investigation are paramount to successful enquires.
- 7.5. Police Scotland enjoy successful partnerships with a wide range of organisations across the country. Some of these partners are particularly proactive within the equality and diversity and Hate Crime arena and offer valuable support and advice on how to best communicate and work with minority communities.
- 7.6. When officers / staff are dealing with Hate Crimes or Incidents and are uncertain about a particular course of action they must seek advice from a Supervisor.
- 7.7 Initial Actions:**
- 7.7.1 **Remember** to be sensitive and patient when dealing with victims and witnesses. They are discussing incredibly personal issues and may take some time to divulge all the relevant information.
- 7.7.2 Identify any special requirements for victims/witnesses:
- Use of an interpreter.
 - They may wish to speak to an officer of the same gender.

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- An appropriate adult be present (refer to [Appropriate Adult PSoS SOP](#)).
- 7.7.3 Ask victims / witnesses if there is anything which may assist them or make them more comfortable in providing a statement to the police. Always ask by what method they wish to be contacted by the police in the future.
- 7.7.4 In terms of section 8 of [the Victims and Witnesses \(Scotland\) Act 2014](#) a person who is, or appears to be, the victim of (offences listed below) must be afforded the opportunity to specify the gender of the interviewing officer (deemed to be the officer noting a full statement).
- an offence listed in any of paragraphs 36 to 59 ZL of [Schedule 3 to the Sexual Offences Act 2003](#);
 - an offence under [Section 22 of the Criminal Justice \(Scotland\) Act 2003](#) (traffic in prostitution, etc.);
 - an offence under [Section 4 of the Asylum and Immigration Act \(Treatment of Claimants, etc.\) Act 2004](#) (trafficking people for exploitation);
 - an offence, the commission of which involves Domestic Abuse;
 - stalking;
 - [Honour Based Violence](#), [Female Genital Mutilation](#) and [Forced Marriage](#).
- 7.7.5 The victim's response will be recorded in the officer's police issue notebook. In **all** cases, a vulnerable persons report must be created and processed on the [Interim Vulnerable Persons Database \(IVPD\)](#). It will be the responsibility of supervisory officers to monitor any decisions made in relation to the use of the statutory exemptions (if complying with it (the request) would be likely to prejudice a criminal investigation, or it would not be reasonably practicable to do so) and satisfy themselves that in all cases it was appropriate. (Further information and guidance can be found on the Force intranet [Guidance flowchart](#))'
- 7.7.6 Always consider the safety of the victim / witness particularly if the crime or incident involves perpetrators they know or who live in their neighbourhood.
- 7.7.7 Think about trying to prevent any repeat incidents and reduce repeat victimisation through methods of prevention:
- Consider notifying a local crime prevention officer for advice / assistance / crime survey;
 - Direct victims to crime prevention websites that provide personal safety and security advice;
 - Note a comprehensive statement from the victim / witness which **must** include:
 - i. Brief details of any previous incidents / crimes;
 - ii. Any emotional and / or physical impact;
 - iii. Perception of the victim / witness as to what motivated the offender in relation to the crime / incident. Leading questions should not be used

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when trying to ascertain the perception of the victim / witness regarding the perpetrator(s) motive. Examples of appropriate questions include: **'Why did this happen?' or 'Why do you think this happened?'**

- Preserve all evidence and if uncertain regarding procedures contact the local Criminal Investigation Department (CID);
- Ensure that a thorough search of the locus and surrounding area is conducted for perpetrator(s);
- Consider potential areas of disposal for weapons, clothing or any article used in the commission of the crime / incident;
- Consider all forensic opportunities, protect the crime scene and where appropriate consider having any weapons / productions photographed in situ;
- Be forensically aware when seizing productions. If unsure, seek advice;
- Trace and identify any witnesses to the crime / incident by conducting full house to house enquiries;
- Where appropriate, obtain a copy of any 999 call;
- Explore all open space / private CCTV;
- Where appropriate, consider use of ANPR;
- Secure any phone / computer / electronic evidence as soon as possible. **Remember** you have the authority to note details of any texts / capture any screen shots as long as the victim / witness operates the electronic device (see Section 7.8.2). Officers should note (**verbatim**) any details relevant to the crime / incident;
- Conduct research of Crime Management, Interim Vulnerable Persons Database and Intelligence databases to identify known offenders, their modus operandi and details of any previous incidents / crimes involving the victim;
- Consider a modus-operandi and speculative search on Criminal History System (CHS) and the Police National Computer (PNC);
- Consider tasking of Covert Human Intelligence Sources (CHIS) via Local Intelligence Officer (LIO);
- Through consultation with Supervisors, consider contact with Corporate Communications regarding a Media Appeal; and
- Encourage victims / witnesses to seek support from partner services / agencies and provide details where required.

7.7.8 Where victims do not initially engage they should be revisited / re-contacted by the police in a way which does not compromise them. Not all victims' families and friends may be aware regarding their sexual orientation or transgender identity. Therefore it is important to ascertain if victims prefer to be contacted via mobile phone / email to arrange to obtain a statement rather than being visited at their home.

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7.7.9 Whilst victims / witnesses may appear to be uncooperative there may be valid reasons for this; victims may have fears around providing information about their private life, may not wish to draw further attention to themselves or may have had previous negative experiences with the police. Officers should be mindful to take a supportive approach to encourage victims / witnesses to engage with the police.

7.8 Internet Enquiries:

7.8.1 Internet crimes are becoming increasingly more common. With this in mind a quick guide to obtaining information for evidential purposes has been outlined below.

7.8.2 If you attend at an incident and require taking information from a computer screen as evidence then **ask the complainer / victim** to carry out the following:

- Press the 'Print Screen' button on the key computer keyboard
- Thereafter open a new word document
- Press 'Ctrl' and 'v' at the same time; the screen shot should appear
- Ask the complainer to print the page
- You should then take a note of the IP address (long letter and numbers on toolbar at top of the internet page)
- Lodge all evidence as a documentary production(s).

7.8.3 Further guidance can be found in the [Digitally Stored Evidence PSoS SOP](#) and [Internet Research and Investigations PSoS SOP](#).

7.9 Interview Strategy:

7.9.1 Guidance on interview strategy can be found in Appendix 'M'.

7.9.2 Staff must be aware of the individual needs of both witnesses and suspects taking cognisance of the crime being investigated. If language is a barrier reference should be made to the [Interpreting and Translating Services PSoS SOP](#).

7.9.3 Enquiry officers should also consider, in consultation with a supervisor and / or CID, whether or not an appropriate adult is required. Refer to the [Appropriate Adult PSoS SOP](#) and [Mental Health and Place of Safety SOP](#).

7.10 Further Guidance:

7.10.1 Additional guidance can be found in the [Diversity Booklet \(A Practical Guide\)](#) and the [Lord Advocates Guidelines on the Investigation and Reporting of Racist Crime](#).

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8. Recording of Hate Crimes and Incidents

8.1 Command and Control:

8.1.1 The following codes should be used to record incidents on STORM:

- Correct initial Hate Crime code(s) have been added: AB58
Disposal Hate Crime Code AB08

and one of the following “Qualifiers” has been added

- Racist
 - Homophobic
 - Religious
 - Disablist
 - Transphobic
- Only through consultation with Supervisors should hate crimes / incidents be re-coded
 - Full details of the incident should be added on STORM, highlighting if a repeat victim is involved and detailing if the victim had any particular requirements which may assist other staff / officers when dealing with the victim again.

8.1.2 Officers and staff working in ‘D’ Division should refer to Appendix ‘H’ for information regarding CAPTOR Command and Control system.

8.2 Crime Management

8.2.1 Please refer to Appendices ‘A’ to ‘I’ for guidance relative to specific Divisional procedures.

8.2.2 Hate Crime Incident and Crime flowcharts detailing how these are managed and recorded in Divisions ‘G’, ‘K’, ‘L’, ‘Q’ and ‘U’ are provided at Appendix ‘P’. Although the recording systems differ regionally; this guidance is beneficial for all staff to refer to.

8.3 Interim Vulnerable Persons Database

8.3.1 The interim Vulnerable Persons Database (IVPD) is an incident based Database that allows officers from Police Scotland to record common concerns that may be a risk to a person's current or future wellbeing. Hate Concerns must be recorded on every occasion: For further information refer to the Interim VPD Rules, Conventions and Data Input Standards doc.

8.3.2 **Officers and police staff must ensure a Hate Concern Report is raised in relation to any hate crime / incident** which contains a sufficiency of detail to allow, if required, another officer / member of staff to competently conduct any further enquires

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- Ensure a Hate Concern Report is raised under the appropriate hate crime (**homophobic, transphobic, disablist, racist or religious prejudice**). Where two aggravations are applicable both of these must be added. (**For example where a victim has been the subject of a racist and homophobic crime / incident, only one Hate Concern Report requires to be raised with the racist and homophobic markers both updated**)

8.3.3 Details of other systems that require to be updated can be found in Appendices 'A' to 'I'. For further information refer to the [Interim VPD Rules, Conventions and Data Input Standards](#) guidance.

9. Intelligence

9.1 Officers should, where appropriate, submit a SID log in relation to the crime / incident. This allows a full intelligence picture to be gathered and can assist in identifying repeat victims / offenders.

9.2 SID logs must be created using the following:

- **Subject header** – HATE CRIME
- **Subheadings** – Racist / Religious / Disablist / LGBT (**Note:** LGBT incorporates homophobic and transphobic crimes / incidents)
- **For example** – STRBA – Gary SMITH – Violent Offender – HATE CRIME (Add appropriate subheading of Racist / Religious / Disablist / LGBT)

9.3 Community intelligence is defined as any information which could be useful in identifying or preventing community tensions which may impact on all sections of the general community, including minority groups, or which could impact on the detection or prevention of crime and disorder.

9.4 Community intelligence by its nature will usually be lower level than specific criminal intelligence.

9.5 However, it is of equal importance, particularly in assessing community tensions. All intelligence relating to Hate Crime should be submitted via SID.

10. Dealing with Offenders in Custody

10.1 In dealing with an offender in custody, the following should be considered:

- Ensure that the Duty Officer / Custody Supervisor is fully aware of the circumstances of the incident and the impact upon the victim
- Consider seeking the assistance of the CID in terms of the interview of the offender(s). Prior to interviewing any offender, officers may wish to refer to Appendix 'M' – Interview Strategy, which may assist in delivering a structured interview.

10.2 In cases of Hate Crime where evidence is sufficient to merit a report to the Procurator Fiscal, accused person(s) should be reported as custody cases

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where consistent with the Lord Advocate's existing guidelines on Bail.

- 10.3 Where a custody case is not appropriate, the accused should be liberated to appear on Undertaking in early course unless there is a good reason not to proceed in this way.
- 10.4 In cases where an early arrest is not possible, the police should ensure that an early report is submitted to the Procurator Fiscal in order that consideration may be given to an application for a Warrant to arrest.

11. Case Reporting – Standard Police Report Content

- 11.1 The region-specific guidance given in the geographical appendices attached to the [Case Reporting PSoS SOP](#) should be followed when completing the Standard Police Report (SPR). In addition, the following must be also considered for inclusion in the SPR:
- That the '**charge**' field is completed correctly. Ensuring where an incident is an **offence of Aggravation by Prejudice the correct markers are highlighted. (i.e. Sexual Orientation / Transgender / Disability / Racial / Religious). Please note: More than one marker may be highlighted.**
 - In cases of **transgender** incidents the victims / offenders full details must be updated with any previous and current names / identities highlighted. **The name the victim wishes to be known as must be made clear in the SPR.**
 - A **transgender** person's previous name is highly personal information which is often associated with a time when the person was experiencing a great deal of distress. Officers should therefore ask for such information with the utmost sensitivity, where possible, in private, and reassure the person that it will be treated it as confidential.
 - In cases involving **transgender** victims, all previous convictions relative to any previous and / or current identities must be disclosed (ensure sensitivity in this area).
 - Where it appears the victim or witnesses' family may have specific cultural or religious needs, the SPR should clearly specify their ethnic and religious background to ensure that liaison takes place in a manner sensitive to both needs.
 - If the victim or witnesses indicate there are none and this section is not applicable this should, however, still be included so that the Procurator Fiscal knows the matter has been explored.
 - Highlight the victims preferred language in written and spoken word. (i.e. when requesting an **interpreter for face to face or using telephone interpreting service**). The accused, victim or witnesses should be asked whether any correspondence or documentation sent to them will require to be translated. The language and dialect should be specified in the report and in any subsequent statements which are submitted to the Procurator Fiscal.

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- Highlight any **disabilities** which may require special measures when the victim/ offender attend at court. Inclusion of such details may also add to the overall circumstances of the report by highlighting the existence of a disability.
- Highlight if the victim has been the subject of any previous crimes / incidents.
- Highlight the impact that the crime has had on the victim and where appropriate if this has impacted upon the wider community.

11.2 **Note:** The police **must** ascertain the perception of the victim and witnesses as to the motive. In all cases of Hate Crime, including cases where police officers are the victims, the analysis of evidence section of the case to the PF must include:

- **Who** perceived the incident to be a Hate Crime;
- **Why** that person perceived it to be a Hate Crime (**Witness A perceived this to be a Hate Crime because.....**); and
- **What** the impact has been on the victim (**If there is no impact this does not mean a Hate Crime hasn't been committed**). WHO perceived and WHY they perceived are essential for the legislation. The impact element is not necessary to substantiate a Hate Crime however; if there is an impact on the victim or the wider community this must be highlighted in the SPR.

11.3 Further guidance is provided in the [Case Reporting SOP](#) and [Lord Advocates Guidelines on Offences Aggravated by Prejudice](#).

12. Family Liaison Officers

12.1 Family Liaison Officers may be deployed in incidents of death and other critical incidents, including incidents relating to Hate Crime. Reference should be made to [Family Liaison PSoS SOP](#) for further information.

12.2 The definition of a critical incident is:

‘Any incident where the **effectiveness** of the police response is **likely** to have a **significant** impact on the **confidence** of the victim, their family and / or the community.’

- **Effectiveness** – a measure of the professionalism, competence and integrity evident in the police response to an incident.
- **Likely** – all incidents that the police deal with could have a significant impact on confidence, but are they likely to?
- **Significant Impact** – significant should be interpreted as being particular to each incident but critically relates to the impact on the individual, family or community.

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- 12.3 Further guidance can be found in the [Critical Incident Management PSoS SOP](#).

13. Translating and Interpreting Services

- 13.1 Police Scotland recognises the rights of all persons in their contact with the police to understand and to be understood. These rights are enshrined in a number of legal judgements, and in certain statutes, both British and European.
- 13.2 The use of a qualified interpreter to facilitate communication with a person whose first language is not English shall be **mandatory** on those occasions when:
- that person is required to provide a witness statement that may be used in the course of the formal judicial process;
 - that person is to be interviewed under caution in relation to a crime or offence;
 - that person is to be required to submit to participation in an identification parade; and
 - that person is to be cautioned and charged in relation to a crime or offence.
- 13.3 The use of police officers / staff as interpreters in circumstances that might lead to their involvement in the formal judicial process is **not** permitted.
- 13.4 In the event of doubt as to the requirement of the services of an interpreter, the advice of a Supervisor should be sought at the earliest stage. In arriving at a decision in such cases, the principle of fairness to the accused or suspect should be the prime consideration.
- 13.5 Further information on Interpreting and Translating Services can be found in the [Interpreting and Translating Services SOP](#).

14. Summary of Roles and Responsibilities

14.1 Supervisors Responsibilities:

- 14.1.1 The supervision and quality assurance of the initial response to Hate Crimes and incidents is the responsibility of supervisors. As such, supervisors have a responsibility to provide assistance to officers / staff who are dealing with Hate Crimes or Incidents and consider:
- attending the locus to provide advice and assistance;
 - where not attending they should obtain a full update from the officers at scene;
 - confirming that all evidential opportunities are being exploited;

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- ensuring that detailed statements have been noted from the victim;
- all witnesses have been traced and full statements obtained;
- establishing if a victim, particularly a repeat victim, is involved. Consider whether or not further action is required by the police to reassure and keep the victim(s) safe. Consideration should be given to crime prevention strategies and checking that victims have been placed in contact with partner agencies;
- Ensuring that all recording systems are fully updated.

14.1.2 Supervisors should ensure that **under no circumstances** should officers / staff alter coding on any of the recording systems without prior consultation.

14.2 Briefing / Debriefing Considerations:

14.2.1 Supervisors should remind officer / staff that where victims do not initially engage with the police they should be revisited / re-contacted in a way which does not compromise them. Not all victims' families and friends may be aware regarding their sexual orientation or transgender identity. Therefore it is important to ascertain if victims prefer to be contacted via mobile phone / email to arrange to obtain a statement rather than being visited at their home.

14.2.2 Whilst victims may appear to be uncooperative there may be valid reasons for this; victims may have fears around providing information about their private life, may not wish to draw further attention to themselves or may have had previous negative experiences with the police.

14.2.3 Supervisors should reinforce to officers / staff that they should be mindful to take a supportive approach to encourage victims to engage with the police.

14.2.4 Supervisors maintain responsibility for overseeing all enquiries undertaken by staff under their responsibility. They must:

- ensure that a full debriefing has taken place and that all possible avenues of enquiry have been explored;
- ensure victim / witnesses have been offered the appropriate contact with support agencies;
- ensure that victims are updated with the outcome of enquires;
- ensure comprehensive details have been provided by officers particularly in cases of uncooperative complainers and where a Hate Crime / Incident has not been established; and
- ensure that a full package with comprehensive statements is passed on where follow up enquires are to be undertaken by other officers / departments.

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14.3 Local Policing Commanders Responsibilities:

14.3.1 Local Policing Commanders have an overarching responsibility to ensure that officers and staff have conducted robust investigations and exhausted all lines of enquiry to ensure that offenders are brought to justice. They have direct responsibility for ensuring:

- that all staff under their command are familiar with the content of this SOP and are cognisant with how to effectively deal with all Hate Crimes / Incidents ;
- that **incidents are not treated in isolation** and steps are taken to identify repeat victims / offenders;
- effective monitoring, auditing and quality control measures for all recording systems;
- that officers / staff have exhausted all lines of enquiry especially with regard to uncooperative victims and that prior to any crime report / Crimefile / being finalised they are satisfied that an offender cannot be identified;
- victims have received comprehensive update(s) regarding their enquiry;
- victim letters are sent to individuals in relation to all hate crimes / incidents (within plain unmarked envelopes) – refer to [sample victim letter](#);
- regular and effective multi agency liaison; and
- the overall effective management of hate crimes within their subdivision.

14.4 National Safer Communities Department:

14.4.1 The National Safer Communities Department of the Specialist Crime Division have a national role in providing advice, assistance and support in terms of dealing with Hate Crime and other related matters. They have access to various national groups and may assist in either preventing or dealing with hate crime in communities.

14.4.2 For further information please contact:

- SCDEdinburghDiversityUnit@scotland.pnn.police.uk
- Diversityunit@scotland.pnn.police.uk

15. Criminal Legislation

15.1 Criminal Law (Consolidation) (Scotland) Act 1995

15.1.1 While racist crimes can occur in many forms, the racially motivated crimes introduced by the [Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#), are of particular significance. This Act created the crime categories of:

- Racially aggravated harassment - [Section 50A\(1\)\(A\)](#) - Which is intended to address cases of serial harassment, i.e. two or more related incidents and should be libelled as an offence in its own right

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- Racially aggravated conduct - [Section 50A\(1\)\(B\)](#) - Is designed for use in relation to one off cases and may be likened to a statutory racist Breach of the Peace.
- 15.1.2 These offences should only be recorded where there is corroborative evidence of racial motivation as per SCRS guidelines. Examples of such evidence are written word or remarks made. Where no such evidence exists and a crime is perceived to be racist by the victim / complainer, a crime under common law or statute should be recorded as normal with the appropriate hate crime marker applied to the Crime Report / Crimefile.
- 15.1.3 A person convicted of either offence will effectively acquire a conviction for being racist.
- 15.2 **The Offences (Aggravation by Prejudice) (Scotland) Act 2009**
- 15.2.1 The [Offences \(Aggravation by Prejudice\) \(Scotland\) Act 2009](#), creates a statutory aggravation to protect victims of crime who are targeted as a result of hatred of their actual or presumed disability, sexual orientation or transgender identity. These are:
- [Section 1](#) - places an onus on the Court to take account of any element relating to disability prejudice to a crime of offence when determining an appropriate sentence;
 - [Section 2](#) - places an onus on the Court to take account of any prejudice element relating to sexual orientation or transgender identity to a crime of offence when determining an appropriate sentence.
- 15.2.2 The substantive charge will be subject to the normal standard of proof in criminal cases, i.e. beyond reasonable doubt. However the prejudice element will not require corroboration. **The evidence of a single witness will be sufficient to establish the offence as aggravated.**
- 15.2.3 These aggravations are not criminal offences alone and can only be used in conjunction with a separate substantive corroborated crime.
- 15.3 **Criminal Procedure (Scotland) Act 1995**
- 15.3.1 [Section 234A](#) of the [Criminal Procedure \(Scotland\) Act 1995](#), which was inserted by the [Protection from Harassment Act 1997](#), provides Courts with powers to impose Non-Harassment Orders on any person convicted of an offence involving harassment.
- 15.3.2 This is designed to protect the victim of the offence from further harassment or fear of violence. Case law decided that in order to grant a Non-Harassment Order, there must have been harassing conduct on at least two occasions.
- 15.3.3 Officers should consider carefully the circumstances of any offences of aggravated behaviour and on each occasion discuss with the complainer if they wish application made for an Order under this Section. If they do, the relevant information should be included in the Offence Report to the

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Procurator Fiscal. A negative response should also be included.

15.4 Miscellaneous:

- 15.4.1 Other legislation by which a Hate Crime may be committed include [The Public Order Act 1986](#), which contains various offences for inciting racial hatred, including publishing or displaying written material of a racist nature or public performances or plays which are intended to stir up racial hatred.
- 15.4.2 [Part 2 of the Antisocial Behaviour etc. \(Scotland\) Act 2004](#), replaced the provisions of [the Crime and Disorder Act 1998](#), regarding Antisocial Behaviour Orders (ASBOs), which provide a further option for perpetrator-based action regarding antisocial behaviour impacting on diversity issues.
- 15.4.3 [Section 74 of the Criminal Justice \(Scotland\) Act 2003](#) places an onus on the Court to take account of any religious prejudice element to a crime or offence when determining an appropriate sentence. Where a crime has been established which is, or is perceived to be, aggravated by religious prejudice, the appropriate crime should be labelled with the relevant aggravation highlighted to the PF.
- 15.4.4 Information on reporting sectarian offences at football matches can be found in the [Football Banning Orders PSoS SOP](#) and within the [National Strategy for Policing Football in Scotland](#).
- 15.4.5 Although not a Hate Crime, officers may require to refer to the [Gender Recognition Act 2004](#).

16. Hate Crimes / Incidents Involving Staff

- 16.1 As a service, Police Scotland is committed to dealing appropriately with Hate Crime / Incident and all other forms of discrimination, it is vital that we provide the same high level of investigative process, respect and support to internal victims, as we provide to members of the public. We recognise that members of the police service may be victims of Hate Crime or Incidents:
- when interacting with the public in connection with their duties, or
 - within or outwith the workplace and a member of the police service is the offender.
- 16.2 The principles underpinning the recommended investigative process, and also that of victim support, should be equally applied to the management and practice of investigating internal allegations of Hate Crimes or Incidents.
- 16.3 There is a clear distinction between Hate Crime and Incidents in the workplace, and the civil law relating to harassment and discrimination in the workplace. Hate Crime requires a motivation of malice or ill-will, but harassment and discrimination at work do not require such malicious intent to constitute civil wrongs. The liabilities and responsibilities of staff and

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employers in such cases are clearly laid down in civil law and are in no way diluted or set aside by the provisions of the Hate Crime legislation. The following general principles apply to all police employees:

- Police officers or members of staff, whether on or off duty, who believe or perceive they were the specific intended victim of a Hate Incident carried out by a member of the public should be treated as any other victim.
- Supervisors should speak with the individual concerned and, where appropriate, ensure they are offered the full range of help and support available (for example, Occupational Health, Welfare Staff, or Staff Associations).
- There is a clear distinction between inappropriate comments, conduct or communication made in the workplace, or connected to work and the workplace, where there is no malicious intent evident, and conduct where a group, or individual member of the police service, is the specific, intended victim of prejudice or hatred.

- 16.4 These principles are not designed or intended for making complaints that would normally be dealt with under the Police Conduct Regulations or Police Staff Disciplinary Policy. If there is a suggestion that the issue concerns disciplinary or criminal proceedings against a police officer or member of Police Staff, advice should be sought from Professional Standards (for Police Officers and Special Constables) or Human Resources (for members of Police Staff and Police Cadets).
- 16.5 Any internal Hate Incident, which amounts to a recordable Hate Incident or Hate Crime, must be referred to the Professional Standards Department for recording and investigation.
- 16.6 For further guidance please refer to PSOS (Conduct) Regulations 2013 (Appendix I) or PSOS/SPA Grievance SOP (Appendix J).
- 16.7 It must be recognised that confidentiality to victims and those who report Hate Crimes / Incidents cannot always be guaranteed. This should be addressed in discussions with victims, at an early stage.
- 16.8 A full list of staff associations can be found within the [Police Scotland intranet](#).

17. Hate Crimes at Public Order Events

- 17.1 The Police have statutory powers and duties in relation to the policing of protest, including those set out in [The Public Order Act 1986](#), [the Civic Government \(Scotland\) Act 1982](#), [the Criminal Justice and Public Order Act 1994](#), [the Police and Fire Reform \(Scotland\) Act 2012](#), and common law powers and duties, including powers to prevent breaches of the peace.
- 17.2 Accordingly, the use of all police powers under public order legislation and common law must be in accordance with the European Convention on Human

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Rights (ECHR). The following ECHR Articles, taken together, form the basis of an individual's right to participate in peaceful protest.

- ECHR Article 9 - Freedom of Thought Conscience and Religion;
- ECHR Article 10 - Freedom of Expression;
- ECHR Article 11 - Freedom of Assembly and Association;

- 17.3 The right to freedom of peaceful assembly under ECHR Article 11 protects the right to protest in a peaceful way. It includes static protests, marches, parades and processions, demonstrations and rallies. It does not include participation in violent protests.
- 17.4 The right to freedom of peaceful assembly places both negative and positive duties on the police. The negative duty means that police must not prevent, hinder or restrict peaceful assembly (e.g. imposing conditions that a counter-demonstration takes place after the demonstration has dispersed or imposing a condition on the location of a protest which effectively negates the purpose of the protest).
- 17.5 Conversely, the police have a positive duty, in certain circumstances, to safeguard the right to peaceful assembly.
- 17.6 Where there is a threat of disruption or disorder from others, the police are under a duty to take reasonable steps to protect those who want to exercise their rights peacefully. Accordingly, the starting point for policing public protest is the presumption in favour of facilitating peaceful assembly.
- 17.7 Hate Crime Advisors have been deployed to public order related events and their intimate knowledge and understanding of Hate Crime legislation and stated cases has proved invaluable to Bronze commanders in identifying offenders, as well as providing a specialist briefing to public order officers prior to deployment.
- 17.8 Accordingly, it is assessed that where deemed appropriate by the Gold commander, Hate Crime Advisors should become an intrinsic part of the public order deployment model.

18. Scottish Crime Recording Standard

- 18.1 Instruction is provided in the [Crime Recording PSoS SOP](#).

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'C' Division

Recording of Hate Crimes and Incidents

Crime Management System

If a crime / incident has been substantiated, a detailed crime report must be submitted with a sufficiency of detail to allow, if required, another officer / member of staff to competently conduct further enquires. The following should be strictly adhered to:

- The appropriate Hate Crime box on the front page of the Crimefile should be marked YES.
- The Hate Incident Box within the complainers nominal should be marked and completed.
- The Keywords within the MO section should be completed appropriately and include details of the Hate Crime.
- The correct Hate Marker on the Administration page should be added, but only if a Hate Crime has been deemed to have occurred.
- In cases of **transphobic incidents** the victims full details must be updated with any previous and current names / identities highlighted. The name the victim wishes to be known as **must** be made clear

Prior to finalising any undetected Crime Report the victim must be updated as to the outcome of all police enquires.

'V' Division

Recording of Hate Crimes and Incidents

Officers must ensure that the following systems have been fully updated:

IMAGE

- Correct initial Hate Crime aggravator(s) to be ticked:
 - Race
 - Transgender identity
 - Disability
 - Religion
 - Sexual Orientation
- Full details of the incident should be added to IMAGE, stating the method of reporting; e.g. through a Third Party Reporting Centre, and any particular requirements which may assist other agencies / officers when dealing with the victim. An explanation as to why this is a hate crime / incident should also be added including nationalities of suspect / victim if a race crime
- To enable Police Scotland to correctly monitor / gauge community tensions following any international incidents; when updating IMAGE include details of hatred comments made by the suspect / accused in the résumé.
- All Hate Crime / Incidents are monitored through the weekly performance meeting. Ensure that all enquiries/updates are shown on the image entry.

'P' Division

Recording of Hate Crimes and Incidents

- Where there is insufficient evidence to substantiate a crime, full details of the victim(s) including ethnicity, any protected characteristic and any other relevant information, must be added to the call card to allow accurate recording of the hate incident.
- All Hate Crimes and Hate Incidents are extracted from Crimefile and STORM and details recorded on a spreadsheet. This allows for early identification of trends, patterns and repeat victims.
- All relevant Area Chief Inspectors are notified accordingly and the relevant Community Inspector is tasked with allocating repeat victims to a specified Community Officer, who will be required to implement further actions to address issues and reduce repeat victimisation

'A' and 'B' Divisions

Referral to Other Agencies

In instances where the victim wishes to be referred to another agency for support, the Hate Concern Report must be updated to this effect. An answer of yes or no is required, 'N/A' is not acceptable. If the victim identifies specific agencies they wish referred to, this should be reflected in the Report.

The support of other agencies, case conferencing and counselling has proved to be invaluable in many previous cases. It is therefore crucial that all Officers consider such support. **As with previous referral procedures, expressed consent must be given by the victim and recorded accordingly in the Officer's notebook. This consent can be given verbally.**

Where support is requested, relevant details from the Hate Concern Report will be passed on by the Public Protection Unit (PPU) Administrator processing the form. There is no requirement for the enquiry officer to do this, unless the circumstances are extreme and require immediate action.

'E' and 'J' Divisions

Recording of Hate Crimes and Incidents

When a Crime Report is allocated to an **Enquiry Officer** he / she is responsible for:

- Ensuring that the Crime Enquiry Log is updated with all directions given and all actions taken, at all stages of the investigation. This process will ensure the integrity of the enquiry.
- All activities, and in particular, details of any contact made with the complainer and the issue of an initial letter, must be added to the Crime Enquiry Log. This will ensure that an audit trail is established and maintained throughout the investigation, which will assist any future review.

Divisional Recorded Crime Management Teams are Responsible for:

The Divisional Recorded Crime Management Team (RCMT), or its equivalent, will ensure that Hate Crime reports are processed timeously and in accordance with divisional procedures.

More specifically, the Divisional RCMT:

- Will email Station / Sector Inspectors to inform them of any / all hate crime or hate incidents;
- Will be responsible for the quality monitoring of all Hate Crimes and prior to finalisation, will endorse each crime enquiry log accordingly;
- On receipt of a Hate Crime report, Divisional RCMT will compose and dispatch an acknowledgement letter - Force Forms ta54 and ta55 (repeat victim) refer - to the complainer, and will update the crime enquiry log accordingly (letters will be personalised to suit individual complaints, and will include appropriate Victim Support information); and
- Having received notification that the relevant enquiry has been completed, will compose an appropriate finalisation letter, and will forward it to the victim (legacy force forms ta54, ta55 and ta56 refer), and will update the crime enquiry log. To facilitate this, notification of completed enquiries must be endorsed by the relevant supervisor and emailed to the appropriate Divisional RCMT or equivalent.

Divisional Safer Communities Departments are Responsible for:

- In conjunction with the Divisional RCMT, monitoring all instances of Hate Crime;
- Identifying and responding to repeat victimisation, critical incidents, and crimes that may affect identifiable areas of our community as a whole; and
- In association with the Divisional Intelligence Units, providing crime reduction advice for inclusion in the Level One Tactical Assessment in relation to Hate Crime.

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The Divisional Safer Communities Department Inspector (or equivalent) will be responsible for monitoring community tension in relation to specific instances of Hate Crime and will be in a position to consult and address issues where necessary.

'E' Division Only:

The Prevention, Interventions and Partnerships Department are responsible for:

- Monitoring all instances of Hate Crime in conjunction with the divisional RCMT
- Identifying and responding to repeat victimisation, critical incidents, and crimes that may affect identifiable areas of our community as a whole; and

The Prevention, Interventions and Partnership department will be responsible for monitoring community tension in relation to specific instances of Hate Crime and will be in a position to consult and address issues where necessary.

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'N' Division

Recording of Hate Crimes and Incidents

At a local level, Equality and Diversity Single Points of Contact (SPOC) have been designated across the Force area and they maintain an overview of operational incidents, ensuring the local command team maintains awareness, at the daily tactical meetings.

At a local level, liaison with community groups is maintained by the SPOC Contact linking in to local policing command teams, any of whom are able to escalate awareness of operational incidents for a senior manager overview by the territorial policing Commander.

'G', 'K', 'L', 'Q' and 'U' Divisions

Recording of Hate Crimes and Incidents

Crime Management System:

If a crime has been substantiated a detailed crime report must be submitted with a sufficiency of detail to allow, if required, another officer / member of staff to competently conduct further enquires. The following should be strictly adhered to:

- The appropriate ghost marker(s) must be added
- Where appropriate, the repeat victim ghost marker is added
- In cases of **transphobic incidents** the victims full details must be updated with any previous and current names / identities highlighted. The name the victim wishes to be known as must be made clear
- Prior to finalising any undetected Crime Report the victim must be updated as to the outcome of all police enquires

Interim Vulnerable Persons Database:

- Prior to finalising any undetected iVPD the victim must be updated as to the outcome of all police enquires and ensure victims have been provided with a copy of the [sample victim letter](#).

E 3:20:1

- If an accused is identified then officers must complete an E 3:20:1 prior to completing duty.

'D' Division

Recording of Hate Crimes and Incidents

Initial Call:

If the call is race related the call taker will:

- Create a CAPTOR log with the opening code of 36 Racist Incident attached.
- Obtain as much information from the informant as possible
- Grade Call according to information obtained, this will normally be a priority response.

The incident is then dispatched to an officer who will attend and deal with the call and ensure the following is updated prior to retiring from duty:

- Ensure the CAPTOR log is fully updated
- If a Hate Crime or Hate Incident (racial) has occurred then the call is closed with the disposal code AB 58.
- If a Hate Crime or Hate Incident has been identified then a crime report is created and updated with all directions given and all actions taken to date.
- In all instances a Hate Concern Report must be raised on the Interim Vulnerable Person Database

The Crime Report is then allocated to an **Enquiry Officer** who is responsible for:

- Ensuring that the Crime Enquiry Log is updated with all directions given and all actions taken, at all stages of the investigation. This process will ensure the integrity of the enquiry.
- All activities, and in particular, details of any contact made with the complainer and the issue of an initial letter, must be added to the Crime Enquiry Log. This will ensure that an audit trail is established and maintained throughout the investigation, which will assist any future review.

Divisional Crime Management Teams are Responsible for:

The Divisional Crime Management Team, or its equivalent, will ensure that Hate Crime reports are processed timeously and in accordance with Divisional procedures. More specifically, the Divisional DCMT:

- Will be responsible for the quality monitoring of all Hate Crimes and prior to finalisation, will endorse each crime enquiry log accordingly;
- Having received notification that the relevant enquiry has been completed, will compose an appropriate finalisation letter, and will forward it to the victim and will update the crime enquiry log. To facilitate this, notification of completed enquiries must be endorsed by the relevant supervisor and e-mailed to the appropriate divisional DCMT or equivalent.

List of Associated Legislation

- [Antisocial Behaviour etc. \(Scotland\) Act 2004](#)
- [Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#)
- [Criminal Procedure \(Scotland\) Act 1995](#)
- [Gender Recognition Act 2004](#)
- [Protection from Harassment Act 1997](#)
- [Public Order Act 1986](#)
- [The Offences \(Aggravation by Prejudice\) \(Scotland\) Act 2009](#)
- [Vulnerable Witnesses \(Scotland\) Act 2004](#)
- [Victim and Witnesses \(Scotland\) Act 2014](#)
- [Offensive Behaviour at Football and Threatening Communications \(Scotland\) Act 2012](#)
- [PSOS \(Conduct\) Regulations 2013](#)

List of Associated Reference Documents

Policy

- **Equality, Diversity and Dignity Policy**

Standard Operating Procedures

- Appropriate Adult SOP
- Digitally Stored Evidence SOP
- Interpreting and Translating Services SOP
- Internet Research and Investigations SOP
- Lay – Community Advisors SOP
- **Mental Health and Place of Safety SOP**
- Third Party Reporting SOP
- Victim Support SOP
- PSOS/SPA Grievance SOP

Guidance

- Diversity Booklet (A Practical Guide)
- Interim VPD Rules, Conventions and Data Input Standards
- Lord Advocates Guidelines for the Investigation and Reporting of Racist Crime
- Lord Advocates Guidelines on Offences Aggravated by Prejudice
- National Strategy for Policing Football in Scotland

Examples of Hate Crimes and Incidents

Racist Hate Crimes and Incidents

Scotland is not immune from acts of racism. The emergence of right wing extremist activity demonstrates that there are individuals and groups who wish to incite racial hatred within Scottish communities. Any form of racism will not be tolerated by Police Scotland and will take every step to ensure racism is always robustly challenged.

The legislation in terms of racist hate crime can be applied differently dependent upon circumstances. The following are examples of how officers and staff may be required to apply this legislation in an operational environment.

Example – Racist Crime (Uncorroborated)

A racist crime can be defined as, **'any crime which is perceived to be racist by the victim or by any other person'**.

'I don't get on with my neighbour she doesn't like me because I am from the travelling community. Recently she was shouting and swearing at me and calling me a 'gypo' and a 'tink'. **She made sure that no one witnessed this so it was just my word against hers.** I have had to get tablets from the doctor as I am so nervous and scared all the time'.

Identified crimes

[Section 38 Criminal Justice and Licensing Scotland Act 2010](#) (Where there is only one source of evidence of the racial element of the crime then officers should raise the racial aggravation).

Example – Racist Crime (Racially Aggravated Manner)

'I don't get on with my neighbour she doesn't like me because I am from the travelling community. She was shouting and swearing at me calling me a 'gypo' and a 'tink'. **My friend heard her abusing me and calling me a 'gypo' and a 'tink'.** I have had to get tablets from the doctor as I am so nervous and scared all the time'.

Identified crimes

As there are **two witnesses** speaking to the 'breach of the peace' and racial element officers can libel [Criminal Law Consolidation \(Scotland\) Act 1995 Section 50A 1\(A\)](#) (Acts in a manner which is racially aggravated and which is intended to cause alarm or distress).

If there was only **one witness** speaking to the racial element ('gypo' and 'tink') then officers would libel a [Section 38](#) of the [Criminal Justice and Licensing Scotland Act 2010](#) with a racial aggravation.

Example – Racist Crime – (Course of Conduct)

‘I don’t get on with my neighbour she doesn’t like me because I am from the travelling community. She was shouting and swearing at me calling me a ‘gypo’ and a ‘tink’, this must have gone on for ten minutes; she ran up to me on three occasions shouting these words and just wouldn’t stop. **My friend witnessed her abusing me and calling me a ‘gypo’ and a ‘tink’.**

Identified crimes

As there are **two witnesses** speaking to the ‘breach of the peace’ and racial element officers can libel [Criminal Law Consolidation \(Scotland\) Act 1995 Section 50A 1\(A\)](#) (**racially aggravated course of conduct**).

If there was only one witness speaking to the racial element (**‘gypo’ and ‘tink’**) then officers would libel a [Section 38](#) of the [Criminal Justice and Licensing Scotland Act 2010](#) with a racial aggravation.

Example – Racist Crime

‘I was out with my friends in Glasgow when there was a group of guys handing out leaflets. When we read them, they had horrible words and pictures on them which said ‘Send all Blacks back’. I was horrified by this and contacted the Police’.

Identified Crimes

[Public Order Act 1986 Part III \(Sections 17 – 29\)](#). (This legislation can apply to offenders who publish or display written material of a racist nature, public performances or plays which are intended to stir up racial hatred or any visual images or sounds which are of a racial nature).

Example – Racist Incident

A racist incident can be defined as, **‘any incident which is perceived to be racist by the victim or by any other person’.**

‘I was out with a group of friends and we were all refused entry into our local night club. The bouncer says it was because we were wearing our jeans but he let other people in who were dressed like us. I think it was because we were a group of young Asian guys and he didn’t want us in. This makes me really annoyed as I am Scottish and I get really angry when people treat me differently because of the colour of my skin.’

Crime

There is insufficient / no evidence to establish that a crime has been committed.

Religious Prejudice Hate Crimes and Incidents

There is often a significant media focus on incidents motivated by religious prejudice which target victims who are either Catholic or Protestant. However crimes and incidents motivated by religious prejudice are far more wide reaching and have the potential to impact on any religion or faith.

Crimes or incidents motivated by religious prejudice can take place anywhere and are not simply restricted to particular events or venues.

Example – Religious Crime

A religious crime can be defined as, **‘any crime which is perceived to be based upon prejudice or hatred of the faith of the victim, their membership of a religious or social / cultural group with a perceived religious affiliation and which is so perceived by the victim or any other person’.**

‘I am a caretaker for my local Mosque and our walls keep getting vandalised with ‘Muslims go home’. This has left our members feeling devastated and very suspicious of the community which we are living in because it could be anyone of them who is targeting us’.

Identified Crime

Section 52 [Criminal Law \(Consolidation\) \(Scotland\) Act 1995 \(Vandalism\)](#). In practical terms this requires officers to add a religious prejudice ghost marker to the Crime Report, and a religious prejudice aggravation to the CHS record (via E3:20:1 or equivalent) and SPR.

Example – Religious Incident

A religious incident can be defined as, **‘any incident which is perceived to be based upon prejudice or hatred of the faith of the victim, their membership of a religious or social / cultural group with a perceived religious affiliation and which is so perceived by the victim or any other person’.**

‘I received a message on my Facebook wall which said I was a dweeb for going to chapel on a Sunday with my family and that if I kept going I would need to go sit with the other freaks at lunchtime. I have fallen out with my family about this as they keep making me go. I am frightened of being bullied at school so I keep pretending to be sick to avoid going to chapel’.

Crime

There is insufficient / no evidence to establish that a crime has been committed.

Homophobic Hate Crimes and Incidents

Individuals who are the subject of homophobic crimes or incidents are targeted simply because they are perceived by perpetrators as being attracted to people of the same sex.

When dealing with any homophobic crimes or incidents, officers and staff should be aware that not all victims are open about their sexual orientation to friends, family or colleagues. By failing to ascertain if victims are open about their sexuality officers may inadvertently 'out' victims during the course of the enquiries.

Example – Homophobic Crime

A homophobic crime can be defined as, '**any crime which is perceived to be homophobic by the victim or by any other person**'.

'I was out with my friends when a group of guys started calling me names saying I was a 'queer' and that I loved boys. One of them came up and spat in my face and told me that's all us 'gay boys' deserved. I am so nervous and scared about going out now, I was thinking about telling my family that I was gay but after this I can't because they might react the same way. Some days I wish I would die as it would be easier than living a lie'.

Identified Crimes

Assault (Homophobic aggravation). In practical terms this requires officers to add a homophobic ghost marker to the Crime Report, and a homophobic/transphobic aggravation to the CHS record (via E3:20:1 or equivalent) and SPR.

Example – Homophobic Incident

A homophobic incident can be defined as, '**any incident which is perceived to be homophobic by the victim or by any other person**'.

'I am a lesbian and I recently phoned a bed and breakfast to book a weekend away for myself and my partner. I was told by the proprietor that they didn't care to have our sort staying. I was really upset and I had to visit the Doctor because I was so devastated by what happened'.

Identified Crimes

There is insufficient / no evidence to establish that a crime has been committed. To ensure quality of service please consider giving guidance that this matter could be pursued as a civil matter.

Transphobic Hate Crimes and Incidents

When dealing with transgender individuals officers and staff should be sensitive to the needs of victims and be mindful to respect victims chosen gender. This is particularly important in cases where victims require to be searched, photographed or medically examined. Officers should not be wary of asking the victim direct questions about their gender if this is relevant to the crime or incident.

Example – Transphobic Crime

A transphobic crime can be defined as, **‘any crime which is perceived to be transphobic by the victim or by any other person’**.

‘I have my windows smashed regularly, the other day someone had written offensive graffiti on my wall because I am living as a woman but I was born a man. I am trying so hard to get on with my life but I am so scared all the time I just don’t know what to do anymore’.

Identified Crime

Section 52 [Criminal Law \(Consolidation\) \(Scotland\) Act 1995 \(Vandalism\)](#).

In practical terms this requires officers to add a transphobic ghost marker to the Crime Report, and a transphobic aggravation to the CHS record (via E3:20:1 or equivalent) and SPR.

Example – Transphobic Incident

A transphobic incident can be defined as, **‘any incident which is perceived to be transphobic towards the victim, by the victim or by any other person’**.

‘My friend collapsed in the street and I was so frightened because I thought she was dead. Two workmen who were on the street said they knew first aid. They started to perform CPR but then stopped when they realised she was transgender. I was terrified and called 999. My friend felt so ashamed and keeps talking about wishing she had died’.

Identified crimes

There is insufficient / no evidence to establish that a crime has been committed.

Disablist Hate Crimes and Incidents

Individuals who are the subject of Disablist crimes or incidents are targeted because they have an impairment or a long term health condition which has an adverse effect on their ability to carry out normal day to day activities.

Officers and staff should not be wary of asking direct questions about the victim's disabilities as these may not always be visible; assumptions should never be made based on a person's appearance. Officers should endeavour to ascertain if there is anything that would assist the victim in engaging with the police. This may include being more comfortable within a particular environment or having someone present when they are providing a statement. Utilising an appropriate adult may prove advantageous to the progression of the enquiry.

Example – Disablist Crimes

A disablist crime can be defined as, '**any crime which is perceived to be disablist by the victim or by any other person**'.

'I am deaf. I recently had my home broken into and my computer was stolen. I found it really awful that the people who broke in smashed my spare hearing aids as well. I just want to move I am so scared and have been barricading myself in at night'. **I believe I was targeted because I am disabled**'

Identified Crimes

Theft by Housebreaking (**Disablist aggravation**). In practical terms this requires officers to add a disablist ghost marker to the Crime Report, and a disablist aggravation to the CHS record (via E3:20:1 or equivalent) and SPR.

Example – Disablist Incident

A Disablist incident can be defined as, '**any incident which is perceived to be disablist by the victim or by any other person**'.

'I am a cancer sufferer and I feel bad as I am always having to take time off work to receive treatment. There is this one guy at work that keeps saying that all cancer suffers bleed the system dry. I find it really hurtful and I keep crying at work but don't know what to do about it'.

Identified Crimes

There is insufficient / no evidence to establish that a crime has been committed.

Victim Support Organisations

Capability Scotland

This organisation provides services direct to around 1000 disabled people at over 25 locations around Scotland, supporting people at every stage of their lives and at home, work and school. It is also a campaigning organisation, committed to using influence to ensure disabled people achieve the same human and civil rights as the rest of society.

Head Office
Westerlea
11 Ellersly Road
Edinburgh
EH12 6HY

Telephone - 0131 337 9876

Textphone - 0131 346 2529

LGBT Helpline Scotland

Information and support for lesbian, gay, bisexual and transgender people, those questioning their sexual orientation or transgender identity and their families, friends and supporters.

Telephone number - 0300 123 2523

(Tuesdays and Wednesdays 1200 hours – 2100 hours)

Scottish Interfaith Council (SIFC)

SIFC promotes mutual understanding and builds good relations between individuals of different faiths. SIFC also raises awareness of the teachings, traditions and practices of different faith communities throughout Scotland.

SIFC
532 Shields Road
Glasgow
G41 2RF

Telephone - 0141 420 6982

Email – enquiries@scottishinterfaithcouncil.org

Scottish Refugee Council (SRC)

The SRC is an independent charity dedicated to providing support and advice to refugees living in Scotland and people seeking asylum.

SRC
5 Cadogan Square
170 Blythswood Court
Glasgow
G2 7PH

Telephone – 0141 248 9799

Email – info@scottishrefugeecouncil.org.uk

NOT PROTECTIVELY MARKED

Black and Ethnic Minority Infrastructure Scotland (BEMIS)

BEMIS supports the development of the Ethnic Minorities Voluntary Sector in Scotland. It exists to promote the interest of ethnic minority voluntary organisations, develop capacity and support inclusion and integration of ethnic minority communities.

Glasgow Office
The Centrum Building
Third Floor
38 Queen Street
Glasgow
G1 3DX

Telephone - 0141 548 8047

Interpreting Services

For full details please refer to the [Interpreting and Translation SOP](#).

Victim Support Scotland

Victim Support Scotland is the lead voluntary organisation in Scotland helping people affected by crime. It provides emotional support, practical help and essential information to victims, witnesses and others affected by crime. The service is free, confidential and is provided by volunteers through a network of community based victim and youth justice services and court based witness services

The National Office is in Edinburgh:

15/23 Hardwell Close
Edinburgh
EH8 9RX

Telephone: 0131 668 4486
Fax: 0131 662 5400
Email: info@victimssupportsco.org.uk

Scottish Alliance of Regional Equality Councils – SAREC

The Scottish Alliance of Regional Equality Councils (SAREC) is an organisation with equality at its core. SAREC is a national voice that champions equality and human rights across the country and challenges all forms of discrimination.

Membership is made up of the four Regional (formerly Racial) Equality Councils (RECs) in Scotland:

c/o Edinburgh and Lothians Regional Equality Council (ELREC)
14 Forth Street
Edinburgh
EH1 3LH

Telephone: 0131 556 0441
Fax: 0131 556 8577
Email: info@sarec.org.uk

NOT PROTECTIVELY MARKED

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West of Scotland Regional Equality Council (WSREC)

West of Scotland Regional Equality Council
39 Napiershall Street
Glasgow
G20 6EZ

Telephone: 0141 337 6626
Fax: 0141 339 2647
Email: admin@wsrec.co.uk

Central Scotland Racial Equality Council (CREC)

Community Education Centre
Park Street
Falkirk
FK1 1RE

Telephone: 01324 610950
Fax: 01324 610955
Email: admin@centralscotland.org.uk

Edinburgh & Lothian Racial Equality Council (ELREC)

14 Forth Street
Edinburgh
EH1 3LH

Telephone: 0131 556 0441
Fax: 0131 556 8577
Email: admin@elrec.org.uk

Grampian Regional Equality Council (GREC)

41 Union Street
Aberdeen
AB11 5BN

Telephone: 01224 595505
Email: info@grec.co.uk

Scottish Transgender Alliance

The Scottish Transgender Alliance was formed to address issues of prejudice and the lack of information and support for transgender people in Scotland. The Scottish Transgender Alliance membership is drawn from transgender individuals, community groups and allies engaged in developing work or delivering services for the benefit of transgender people throughout Scotland.

30 Bernard Street
Edinburgh
EH6 6PR

Telephone: 0131 467 6039
Email: sta@equality-network.org
or info@scottishtrans.org

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Interview Strategy

This strategy is not intended to be prescriptive or exhaustive and can be altered to suit the circumstances of the interview. Where officers are unsure regarding the interviewing of suspects seek advice from a Supervisor or CID officer.

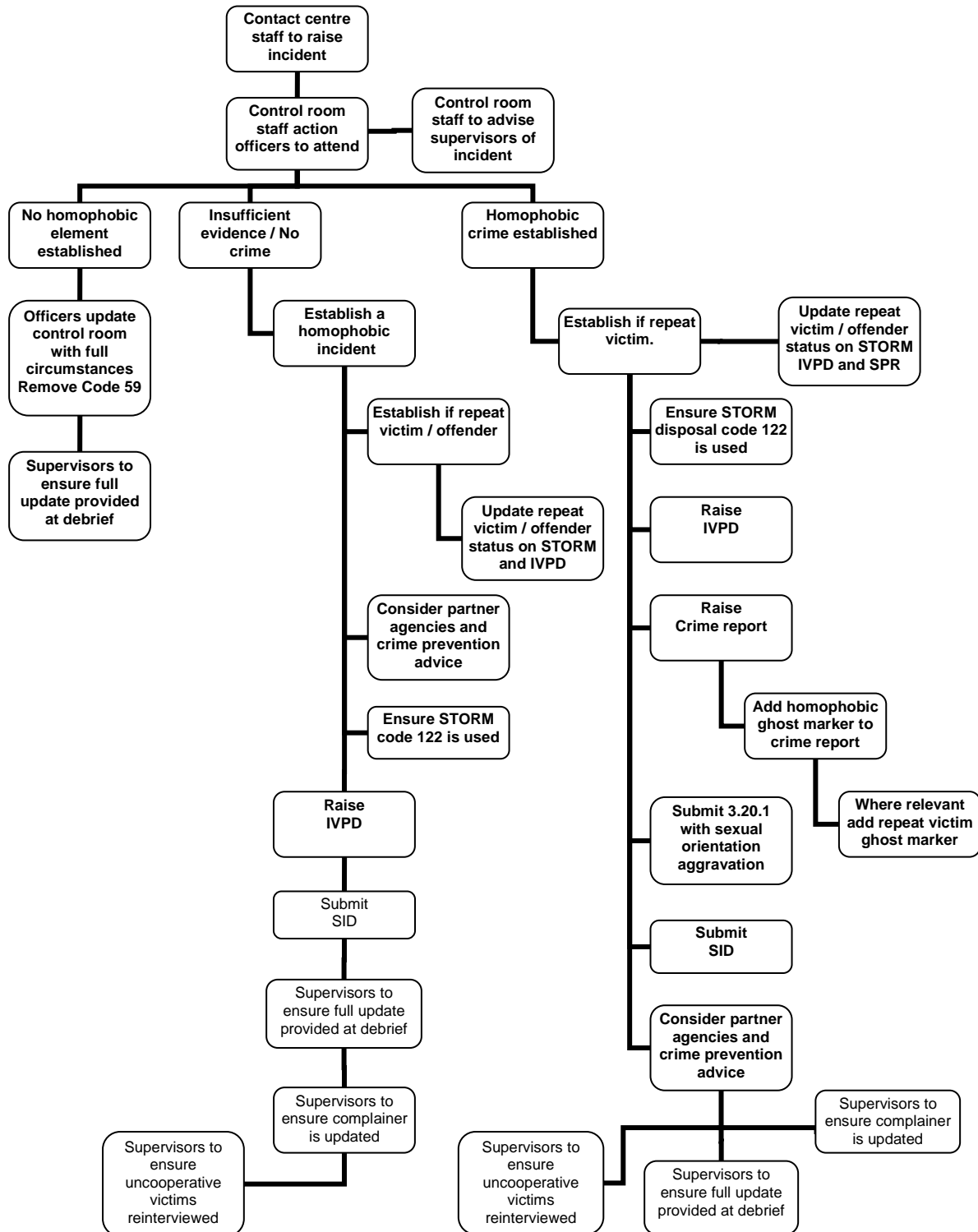
- **Caution** – To be specific, make sure the suspect understands the nature of the allegation being made against them. Clarify with the suspect that they understand what you are questioning them about.
- **Impact question / statement** – This should be an 'open' question / statement and will be determined by the circumstances. An example of an impact question / statement at this stage may be similar to:
'It has been alleged that you have What can you tell me about this allegation?'
- If an admission is made then allow free narrative from the suspect with limited appropriate questions for clarification.
- **Secondary question / statement** – Will be dependant on reply to the impact question / statement. If a denial or no comment is made, the words to be chosen will again be dependant on the circumstances – an example of a challenging secondary question may be inclusive of one or more of the following:
 - (Name of victim) has injuries / is distressed– tell me how he / she sustained the injuries / became distressed
 - There is no other person present who may have caused the injuries / distress – so if it was not you, who was responsible
 - The allegation is made against you - why is that
 - Also consider the use of digital images, if obtained, in order to support the impact of the secondary questions
- Should the suspect continue to deny or make no comment, the following areas should be considered in terms of further questioning:
 - Reason for presence at locus
 - Movements / actions during time in question
 - Alibi
 - Motive
- **Closing question** – This should be a closed question, an example of which may be: 'Did you (assault / verbally abuse) the victim'

This will provide evidence of a structured interview if the case is submitted to the Procurator Fiscal.

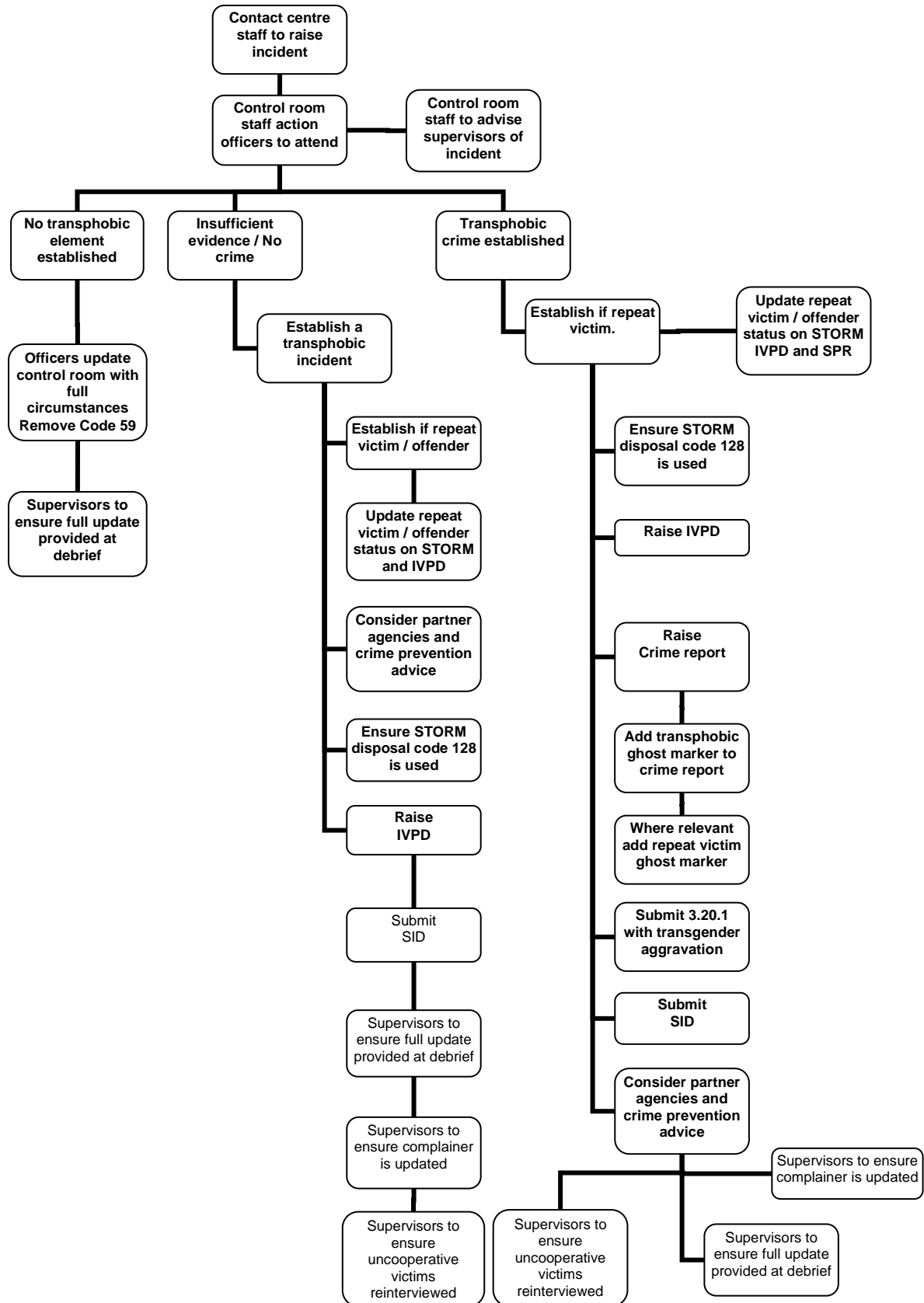
Hate Crimes and Incidents – Flowcharts

These flowcharts apply to Divisions 'G', 'K', 'L', 'Q' AND 'U', however this guidance is beneficial for all staff to refer to.

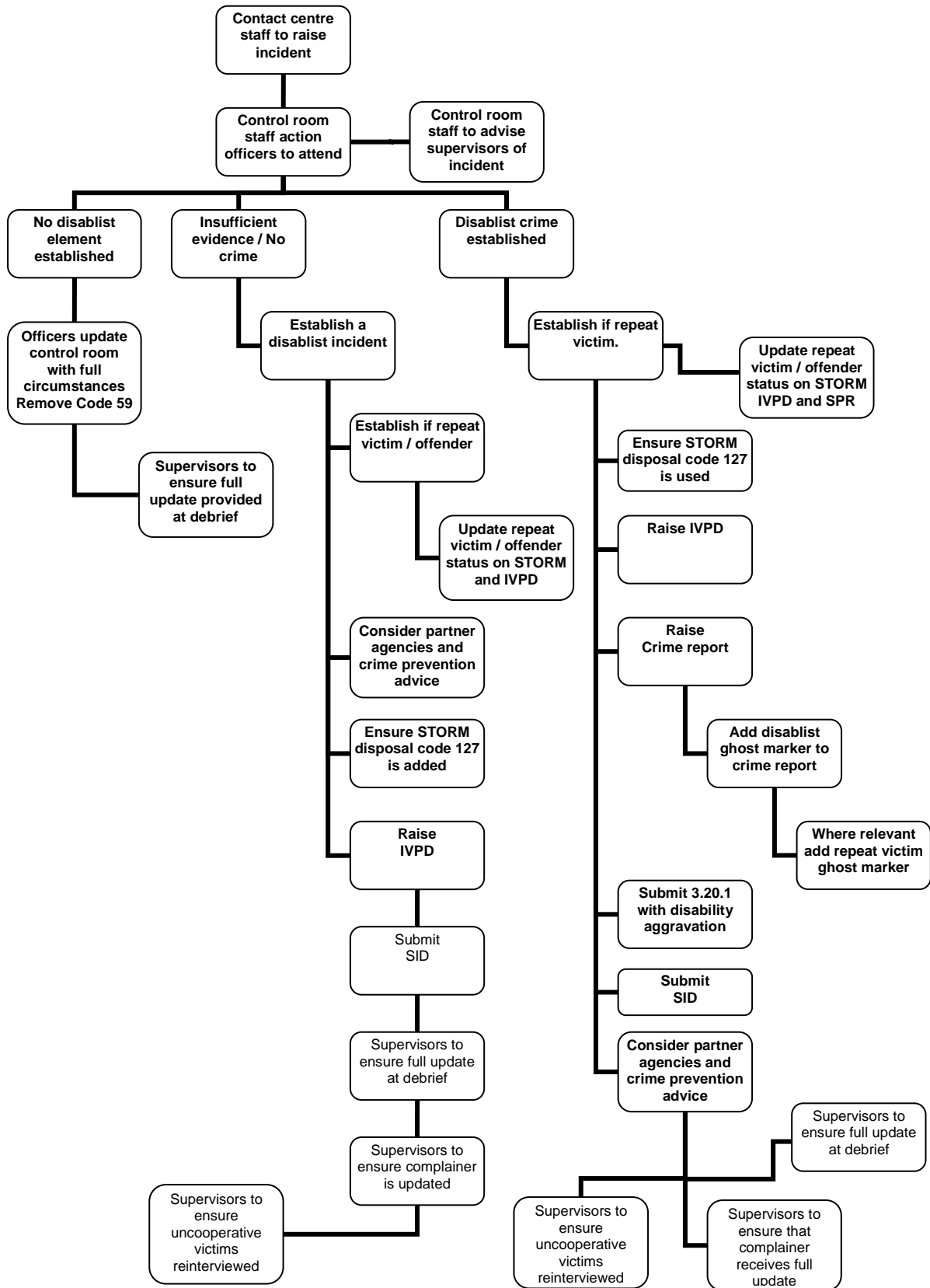
'Homophobic Hate Crimes and Incidents – Flowchart'



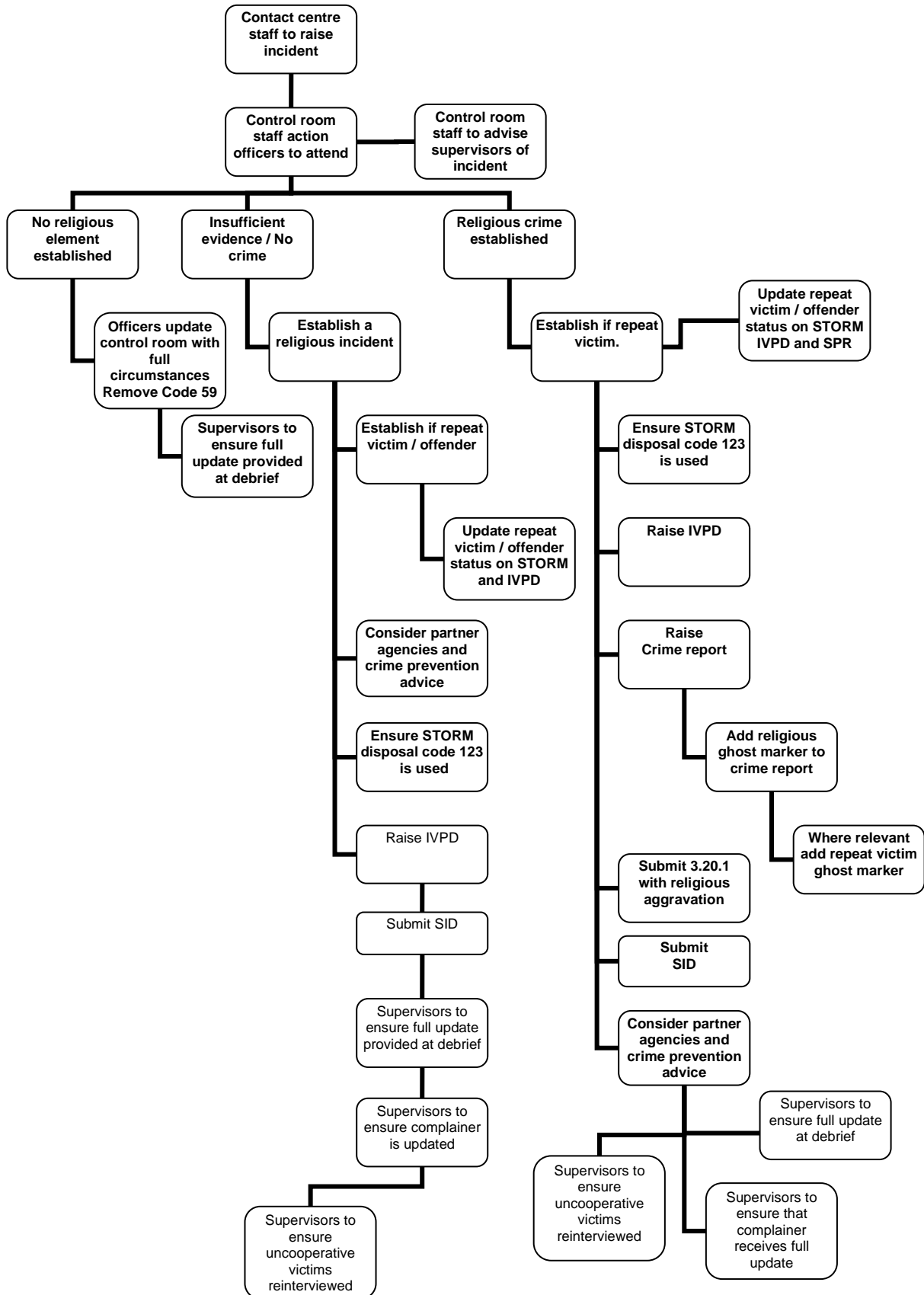
Transphobic Hate Crimes and Incidents – Flow Chart



Disablist Hate Crimes and Incidents – Flowchart



Religious Hate Crimes and Incidents – Flowchart



Racist Hate Crimes and Incidents – Flow Chart

