

# Responding to hate

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Police officers and staff should respond positively to allegations, signs and perceptions of hostility and hate. Chief officers should ensure that their force has a clear policy that sets out a standard for the priority response to, and investigation of hate crime and non-crime hate incidents ensuring the response is proportionate. Supervisors and managers should proactively check reports of hate crime and non-crime hate incidents to ensure that the appropriate action has been taken and that allegations are investigated in a consistent and proportionate manner. Chief officers, with the support of the police and crime commissioners (PCCs) (or deputy mayors for policing and crime in London and Greater Manchester) should ensure that supervisory, management and performance processes support an effective response to hate crimes and non-crime hate incidents. There are five monitored strands of hate crime:

- disability
- race
- religion
- sexual orientation
- transgender

These strands are monitored as part of the [annual data return](#). Hate crimes and non-crime hate incidents motivated by hostility are also committed against people who are targeted because of a [non-monitored](#) personal or protected characteristic. This guidance also applies to those allegations.

Note: non-crime hate incidents are not included in the annual data return, but this data may be collated locally to inform community engagement initiatives.

## Agreed definitions

The following definitions are shared by all criminal justice agencies and form the basis for national hate crime data recording. This does not deny hate as a motivating factor in other crimes. These definitions are inclusive and apply to both majority and minority groups.

## Hate motivation

Hate crimes and incidents are taken to mean any crime or incident where the perpetrator's hostility or prejudice against an identifiable group of people is a factor in determining who is targeted. This is a broad and inclusive definition. A victim, complainant or the person reporting the incident does not have to be a member of the group. In fact, anyone who is perceived to be or associated with an identifiable group of people (even mistakenly), could be a victim of a hate crime or targeted by a non-crime hate incident motivated by hostility.

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

## Non-crime hate incident

Any incident where a crime has not been committed, but where it is perceived by the reporting person or any other person that the incident was motivated by hostility or prejudice based on:

- a person's race or perceived race
  - any racial group or ethnic background including countries within the UK and Gypsy and Traveller groups
- a person's religion or perceived religion
  - any religious group including those who have no faith in a theology
- a person's sexual orientation or perceived sexual orientation
  - any person's sexual orientation
- a person's disability or perceived disability
  - any disability including physical disability, learning disability and mental health or developmental disorders

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

See also:

- [Recording non-crime incidents perceived by the reporting person to be motivated by hostility](#)
- [Responding to non-crime hate incidents](#)

## Hate crime

A hate crime is any criminal offence which is perceived by the victim or any other person to be motivated by a hostility or prejudice based on:

- a person's race or perceived race
  - any racial group or ethnic background including countries within the UK and Gypsy and Traveller groups
- a person's religion or perceived religion
  - any religious group including those who have no faith in a theology
- a person's sexual orientation or perceived sexual orientation
  - any person's sexual orientation
- a person's disability or perceived disability
  - any disability including physical disability, learning disability and mental health or developmental disorders
- a person who is transgender or perceived to be transgender
  - including people who are transsexual, transgender, cross dressers and those who hold a Gender Recognition Certificate under the Gender Recognition Act 2004

These definitions are based on the [1999 Stephen Lawrence Inquiry report](#).

While a crime may be recorded and flagged as a ‘hate crime’, it may only be prosecuted as such if [evidence of hostility](#) is submitted as part of the case file.

## Hate crime prosecution

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

## Hostility

The term ‘hate’ implies a high degree of animosity. The term ‘hate crime’ is a globally and historically recognised term which is widely used. Our definition, however, and the legislation it reflects, requires that the crime or incident involves demonstration of or is motivated (**wholly or partially**) by hostility or prejudice which may set a lower threshold than the term ‘hate’ may suggest.

The [CPS](#) gives the following guidance to prosecutors.

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

See also [Evidencing hostility](#).

Note:

- racial group includes asylum seekers and migrants
- religion includes sectarianism and ethno-religion
- antisemitism can be both racial hostility – for example, targeting Jewish people or communities – or religious hostility targeting Judaism. The International Holocaust Remembrance Alliance (IHRA) supports a working definition to help professionals understand the nature of antisemitism. For further information, see [the IHRA working definition of antisemitism](#)

## Perception-based recording

## Recording hate crimes

Any crime may be motivated by hostility. Where the victim, or any other person, perceives that they have been targeted because of hate or hostility against a monitored or non-monitored personal characteristic, the crime should be recorded and flagged as a hate crime. 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 hostility.

At the time of reporting, the victim or person reporting does not have to justify or provide evidence of their perception that the crime was motivated by hostility. Officers and staff should not challenge this initial perception.

Accepting the perceived motivation of hostility 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.

To support a prosecution for a hate crime, investigators must provide material that demonstrates the hostility element of the crime. Where supporting material is not found, the crime will not be charged or prosecuted as a hate crime.

See [Hate crime prosecution](#).

Where the case is not prosecuted as a hate crime, the hate flag will, however, remain on file, unless the flag was added in error or the victim, or the person who perceived the hostility, changes their perception based on new information.

## Recording non-crime incidents perceived by the reporting person to be motivated by hostility

The [Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data](#) ('the Code') came into force in June 2023. This APP is intended to support operational implementation of the Code and to reflect its intentions, and should be read in conjunction with that Code.

A non-crime incident may be recorded in the following instances.

- An incident is initially reported to the police as a crime, but it is not clear from the report whether a crime has been committed or not. Circumstances will often be unclear. A record will be made to support investigative actions to determine what has happened, and to record any decisions. Where it is determined that a crime has not been committed, the crime record should be cancelled and treated as a non-crime incident.
- An incident is reported and the nature of the incident means that it is necessary to record the information for intelligence purposes. This may be because it contributes to – or involves people, objects, locations or events relevant to – a developing intelligence picture. It may help identify patterns of behaviour and/or incident hot spots associated with a specific location, group or person. It may also provide evidence of repeat targeting, or other anti-social behaviour directed towards the same complainant or group sharing a protected characteristic, or same location. It is not usually necessary to record the personal data of the subject to achieve this purpose. See also [Intelligence](#).
- An incident is reported where the alleged behaviour falls short of criminal activity, but the surrounding circumstances suggest that the behaviour may contribute to – or become evidence of – a course of criminal conduct (such as harassment). Recording the incident will allow the police to investigate the circumstances and determine whether the information is, or may become, relevant to a crime investigation and whether it is necessary to retain the personal data of the subject.

Incident data supports statistical analysis of non-crime hate incidents (NCHIs) and helps to improve understanding of the type and nature of hostility or prejudice in a locality. Once redacted, this information can, where appropriate, be shared with partners to support the development of local prevention and intervention initiatives.

While an auditable record should be made of all incidents reported to the police, not all incidents should be recorded as an NCHI, (meaning that a hate or prejudice qualifier is added). An NCHI can only be recorded if the following conditions are met.

- A report is perceived by the reporting person to be motivated by hostility or prejudice.
- The reporting person's perception is assessed to be reasonable – for example, the complaint is not irrational, trivial or malicious.
- The incident meets the threshold set out in the [national standard for incident recording \(NSIR\)](#).

The personal data of the subject may only be included where the incident meets the additional threshold set out in the Code.

## Overarching principles

### Home Office Counting Rules

Home Office Counting Rules for recorded crime state that:

*all reports of incidents, whether from victims, witnesses or third parties and whether crime related or not, will, unless immediately recorded as a crime, result in the registration of an auditable incident report by the police.*

### Definition of an incident

The NSIR defines an incident as:

*a single distinct event or occurrence which disturbs an individual's, group's or community's quality of life or causes them concern.*

### Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data

An NCHI is an incident or alleged incident that involves, or is alleged to involve, an act by a person ('the subject') that is perceived by a person other than the subject to be motivated – wholly or partly – by hostility or prejudice towards persons with a particular characteristic.

A particular characteristic, for the purposes of NCHI recording, means a characteristic that is protected under hate crime legislation.

The Code applies specifically to incidents involving particular characteristics, but there may be cases where a force considers it necessary to record incidents involving protected or other characteristics not covered by hate crime legislation – for example, incidents that target homeless people. Although outside the scope of the Code, police officers and staff should apply the same decision making, particularly in the context of the need to protect the right to freedom of expression and when considering whether to record the personal data of the subject.

Hostility or prejudice have no specific legal definition. Hostility represents the legal threshold for prosecuting hate crimes in law, whereas prejudice only features in NCHI recording. For the purposes of NCHI recording, either factor may be present, in line with the ordinarily understood meaning of these terms. See also [Hostility](#).

The Code sets out two subsets of NCHI records:

- those that include personal data of the subject
- those that do not include personal data of the subject

Personal data may only be included in an NCHI record if the incident ‘presents a real risk of significant harm to individuals or groups with a particular characteristic(s) and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s)’.

The Children Act 1989 introduced the concept of ‘significant harm’, but there is no specific definition of significant harm. Harm is defined in the Anti-social Behaviour, Crime and Policing Act 2014, section 20, as including ‘serious ill-treatment or abuse, whether physical or not’. Significant can be defined as large or important enough to have an effect or be noticed. In *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050, the judge held that significant harm is ‘fact specific’, but it is clear it must be something unusual, at least something more than commonplace human failure or inadequacy.

It may be a single, traumatic event (for example, a violent physical assault). It may also be the accumulation of less serious low-level incidents or psychological harm that together constitute significant harm. It is important to consider the impact on the individuals affected.

The vulnerability of the individual may increase the risk of significant harm. For further information on recognising vulnerability-related risk, see [Introduction to vulnerability-related risk](#).

In the case of Fiona Pilkington and her daughter, Francecca, it was the accumulated impact of psychological harm over an extended period of time that caused Fiona to take her own life and that of her daughter. This accumulation represented significant harm.

See also [Significant harm](#).

**Common sense and judgement**

When making a record, call takers, police officers and staff must use common sense and judgement to determine whether the additional threshold has been met. This may include examples where the behaviour of the subject falls short of criminal conduct but may later be evidence of a course of conduct (for instance, harassment).

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

**Example 1 – Home Office Code, Example A**

A report is made about an individual (the subject) who used derogatory language when referring to a politician with a particular characteristic in an online social media post. A non-crime incident record is made on the force's command and control system.

A community police officer is tasked with following up on the incident to determine whether it constitutes an NCHI. The officer determines that the subject is a refugee who does not speak English as a first language. As such, the officer is of the view that while the language used usually denotes hostility, in this instance, the hostility exhibited in the post was unintentional because the subject did not fully understand the language they had used.

The incident therefore is not recorded as an NCHI, and the personal data of the subject is not recorded. The personal data of the subject (in the form of the subject's social media handle) that was initially recorded by the call taker is also removed from the policing system.

**Example 2 – Home Office Code, Example B**

A religious person (the complainant) reports an online post that contains an interpretation of their religion that differs from their own beliefs. The complainant is offended by the text, and asks the police to order its removal and speak to the person who posted it.

The police record the incident as a non-crime incident, but decide that there is no evidence of 'hostility' and it is therefore not an NCHI. They notify the complainant that they will not intervene.

The incident therefore is not recorded as an NCHI, and the personal data of the subject is not recorded. The personal data of the subject (in the form of the subject's name) that was initially recorded by the call taker is also removed from the policing system.

#### **Incidents that do not pass the additional threshold**

Where an incident does not pass the additional threshold, or if a policing purpose no longer exists for the information to be retained following investigation, any personal data about the subject should be deleted. If all the other criteria required to record an NCHI are met, an NCHI without the personal data of the subject may be recorded instead. This should include the personal data of the complainant, the circumstances of the incident, location and behaviour.

Recording location data and an overview of the circumstances may be sufficient to meet problem-solving, analysis and auditing needs.

Individuals may be reluctant to reveal that they think they are being targeted because of their ethnicity, religion or other protected characteristic. They may also not be aware that an NCHI has occurred, even in instances where this is clear to others. This should also be considered when making a record.

#### **Example 3 – Home Office Code, Example G**

A heterosexual individual (the complainant) is verbally abused by a stranger when leaving a venue popular with LGBT people. They report the incident to the police. A record of the incident is made on the force's command and control system. A police officer is tasked to follow up the report, and they determine that the incident does not constitute a public order offence.

The officer confirms that the incident was motivated by hostility towards LGBT people and is therefore an NCHI (albeit based on a misconception that the complainant was LGBT). However, no personal details of the subject are available to be recorded, and the police officer judges that recording the location data of the incident will be sufficient to ensure that police patrols in the area are increased to prevent future occurrences of this type of abuse, and it would not be a proportionate use of police resources to investigate further.

An NCHI record with only locational data is therefore recorded.

**Example 4 – Home Office Code, Example H**

A police officer witnesses an individual (the subject) expressing hostility towards a Muslim woman and intervenes. The officer's judgement that hostility was present is confirmed during the follow-up conversation they have with the subject.

While the subject's behaviour does not constitute a criminal offence, the surrounding circumstances suggest that the behaviour could potentially contribute to, or become evidence of, a course of criminal conduct – for example, harassment. The incident therefore passes the additional Threshold Test.

As such, the officer records the personal information of the subject and creates an NCHI record. The officer notifies the subject that their personal data has been processed in an NCHI record.

**Non-crime terminology**

Non-crime terminology should be used to refer to the parties involved in a non-crime incident (for example, 'complainant' for the person making the report and 'subject' for the party being complained about).

**Trivial, malicious or irrational**

An NCHI must not be recorded if the complaint is trivial, malicious or irrational, and a hate or prejudice qualifier should not be added to the record in these instances. For example, if there is no evidence to support the perception of the complainant – or any other person – that the incident is motivated by hostility or prejudice against a monitored strand or particular characteristic, an NCHI must not be recorded.

**Example 5 – Home Office Code, Example C**

In an online social media post, an individual (the subject) expresses their belief that a person's biological sex is more important than self-identified gender, and that biological sex should be

prioritised when decisions are made about access to single-sex spaces. The post is not directed at any individual. However, another individual (the complainant) believes it to be transphobic and reports it to the police.

The reviewing officer assesses that the perception of hostility is irrational. The expression of a view that conflicts with those of other people is not an indication of hostility without further evidence.

The subject's views are an example of a person exercising their freedom of expression to outline a personally held belief and a reasonable person would accept the discussion as a contribution to a lawful debate, even if they found it offensive or disagreed with it.

An NCHI is not recorded, and the personal data of the subject is not recorded. The personal data of the subject (in the form of the subject's social media handle) that was initially recorded by the call taker is also removed from the policing system.

#### **Malicious calls**

Some people may be motivated by malice and may try to distort the truth and misuse the reporting and recording process to target individuals or communities. Malicious calls may be more likely to target those engaged in political speeches or legitimate debate on potentially controversial subjects because they have a public platform. Callers may do this to further an ideological (or other) agenda or will seek to undermine the efforts of authorities to uphold the rights of others. Some reports are intended to promote bigotry that they purport to be complaining about.

For the purposes of the NSIR, a malicious call is classed as a hoax call.

#### **Example 6 – Home Office Code, Example D**

An NCHI report is made to the police by an individual (the complainant) who alleges that their neighbour (the subject) has committed multiple NCHIs against them. The police initially record this incident as a non-crime incident.

Following further investigation, it becomes apparent that the complainant and subject have been embroiled in arguments for many years over rights to a parking space. There is no evidence that

the incidents are motivated by hostility towards a particular characteristic and, given the context, the recording officer judges that it is a malicious report that was not made in good faith.

As such, the incident is not recorded as an NCHI, and the personal data of the subject is not recorded. The personal data of the subject (in the form of the subject's name and address) that was initially recorded by the call taker is also removed from the policing system.

### **Freedom of expression**

A chilling effect, in the context of an NCHI, occurs where the police response to an incident potentially inhibits a person from expressing their views, or where that person believes that lawful speech may risk criminal sanction (even where this perception is misplaced).

When a person expresses an unpopular or controversial view – for example, during a politician's speech or during other public debate on a controversial subject, including debate in the online space, such as on social media – [Article 10 of the European Convention on Human Rights \(ECHR\)](#), given legal force in the UK by the Human Rights Act 1998, provides protection for that individual's right to freedom of expression. The Act states that it is unlawful for a public authority to act in a way that is incompatible with a right conferred by the ECHR.

Freedom of expression is a qualified right and requires a balance to be struck between the rights of the individual and those of the wider community. Interference with a qualified right is not permitted unless it is:

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

The primary role of the police is to prevent harm. The police also have a duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by, or under, the Act.

The police must respond to allegations of hate speech proportionately, in a way that does not have a chilling effect on the speaker's freedom of expression. Any interference with the speaker's

freedom of expression must be no more than is strictly necessary to achieve the legitimate policing purpose.

The Code states that the personal data of the subject should only be recorded where the incident: 'presents a real risk of significant harm to individuals with a particular characteristic(s) and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s)'.

Even where the speech is potentially offensive, a person has the right to express their personally held view in a lawful way.

Disagreement and debate do not, on their own, indicate hostility. See also [Impact factors](#).

#### Example 7 – Home Office Code, Example E

An influencer (the subject) publishes recordings of 'one-liner' jokes on a popular video streaming site. This includes material that plays on identity-based stereotypes. The individual claims their jokes are 'ironic' and 'satirical'. The jokes are not directed at any individual and would not meet the threshold for inciting racial hatred. Nonetheless, a reasonable person may find the humour distasteful and offensive.

A person (the complainant) views the recordings and reports them to the police as being motivated by hostility, claiming that they 'create a culture that accepts and promotes racism and abuse'. The recording officer assesses that the perception of hostility may be reasonable. However, the material does not present a real risk of significant harm to individuals or groups with a particular characteristic(s) and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s). There is no evidence that the influencer intended to incite hatred or target any one individual or group specifically, and the material itself is in no way inciteful.

The recording officer also determines, giving due regard to the content and the low risk it presents, that it would be disproportionate to infringe on the subject's freedom of expression in this case. As such, the personal data of the subject is not recorded and, given there is no locational data to record (and it is judged that an overview of the circumstances would not provide any intelligence value), an NCHI is not recorded. The personal data of the subject (in the form of the subject's

name) that was initially recorded by the call taker is also removed from the policing system.

#### Breaches of criminal law

When the speaker acts in a way that breaches the criminal law – for example, incitement to violence – the incident should be recorded and responded to as a crime. See:

- [Recording hate crimes](#)
- [Inciting hatred](#)
- [Online hate](#)

#### Example 8 – Home Office Code, Example F

A journalist (the subject) has written an article in which they express their views on immigration. An individual (the complainant) is offended by these views and reports the journalist to the police, claiming that the journalist's views are xenophobic.

The recording officer determines that no hostility is present, and that the journalist was expressing lawfully held personal views while writing an opinion piece on immigration.

The recording officer decides that recording the incident as an NCHI would represent a clear chilling effect on free speech. They also determine that there is no real risk of significant harm to individuals or groups with a particular characteristic(s), nor is there a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s) because of the views expressed by the subject.

As such, the incident is not recorded as an NCHI, and the personal data of the subject is not recorded. The personal data of the subject (in the form of the subject's name) that was initially recorded by the call taker is also removed from the policing system.

#### Example 9 – Home Office Code, Example I

A football supporter (the subject) tagged a high-profile footballer (the complainant) in on online social media post that the complainant views as racist. A further two reports are made to the police

by members of the public who saw the post and are also of the view that it is racist.

The UK Football Policing Unit (FPU) assesses that the three complainants' perception of hostility is reasonable, but the post does not constitute a crime because it does not meet the threshold set out in the Malicious Communications Act 1988. In line with the additional Threshold Test, the reviewing officer is of the view that due to the racist nature of the post, it presents a real risk of significant harm to individuals or groups with a particular characteristic(s) and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s).

The police officer flags the reported incident as being motivated by hostility. Even though three reports were received, only one NCHI is recorded on policing systems because the reports relate to the same incident. The NCHI record will contain the subject's personal data in the form of the subject's social media handle. The incident information will also be shared with a specialist officer who works to address hate in football to determine whether any further action should be taken.

#### **Notifying the subject**

Where it is reasonable to make a record that includes information that could identify the subject, the subject of the complaint should be informed promptly. The only exception is if there is a reasonable belief that such a notification could present a safeguarding risk to the complainant.

Where multiple reports are made about the same incident, only one notification to the subject is required.

See also [Management of police information](#).

Where there is any doubt, seek advice from your duty silver commander, a hate crime expert or your local crime registrar.

See also [Responding to non-crime hate incidents](#).

#### **Incidents in schools**

Non-crime incidents involving school-aged children, where the alleged behaviour takes place on school premises, should be referred to the school's management team to assess the risk and decide on a proportionate response.

This includes incidents in a classroom during a lesson, or in the playground. It may also include incidents involving a school employee and/or content or forms of expression that are provided by teaching staff as part of the school curriculum. It does not apply to incidents during school trips or on school transport to and from school.

The school management team should implement appropriate safeguarding measures for any children involved, and where appropriate, should ensure that a parent or guardian is notified and present when a child may be questioned.

A record should be made on the police command and control systems, noting that the matter has been passed to the school to manage. See [Process for recording non-crime incidents](#).

The record should include any other actions taken. Incidents in schools should not be recorded as NCHIs and the personal data of the subject should not be retained.

If the matter is reported directly to a police officer already on school premises, it does not need to be recorded on police recording systems, as long as the incident has been recorded by the school in accordance with the agreed school protocol.

If there is a concern that the school may not be able to adequately address the concern, or there is a risk that the incident may escalate further or result in criminal conduct (either within or outside the school), this may warrant further police involvement.

For further information, see:

- [the national standard for incident recording, section 1.9](#)
- the Home Office counting rules for recorded crime, Annex B, Crime recording (schools' protocol)

**Example 10 – Home Office Code, Example K**

A school-aged complainant reports to the police that she was called a derogatory name referring to her religion during a lesson by a fellow pupil.

The appropriate police response would be to refer the matter to the school management team, and to offer advice to the complainant about available support. The school should assess the risk and decide on a proportionate response.

The recording officer should record the incident, the police interactions and the results of those actions. However, this would not be recorded on a police database as an NCHI.

The recording officer therefore ensures that the personal data of the subject (in the form of their name) that was initially recorded by the call taker is removed from the policing system.

### Incidents in a private dwelling

Some incidents motivated by hostility or prejudice are a criminal offence if committed in a public place, but not if they take place in a private dwelling. This means that this conduct cannot always be prosecuted as a hate crime. Where this is the case, an NCHI should be recorded instead.

Name-calling or verbal abuse could amount to an offence under section 5 or section 4A of the Public Order Act 1986. If this behaviour takes place on more than one occasion, it may amount to an offence under section 2 of the Protection from Harassment Act 1997, even where the behaviour took place in private.

#### Example 11 – Home Office Code, Example J

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

This incident should be recorded as a crime. Given the demonstrated hostility, it should also be recorded as a disability hate crime and investigated as such. The victim should be given appropriate support, in accordance with the [Victims' Code of Practice](#).

#### Example 12 – Home Office Code, Example J

The same person reports another incident similar to that in Example 11, but this time the incident takes place at a party at the complainant's home. Given that the offence in Example 11 is not enforceable in a private dwelling, this incident should be recorded as an NCHI.

The officer decides that a proportionate response would be to record the incident as an NCHI. It is proportionate and necessary to record the personal information of the subject, given the threatening

language that was used and the potential for this behaviour to escalate in the future. In line with the code, the subject is notified that their personal data has been processed as part of an NCHI record.

### Impact factors

The surrounding circumstances and context of an incident are often as important as the incident itself when considering whether it is reasonable for the complainant to hold their perception of hostility or prejudice. There are a range of impact factors that may increase or reduce the likelihood that hostility or prejudice are present. These include the:

- [intentions](#)
- [audience](#)
- [proximity](#)
- [medium of distribution](#)
- [risk of violent reactions](#)
- [potential harm](#)

Everyone has the right to freedom of expression under [Article 10 of the ECHR](#). They have a right to express themselves and their opinions about potentially controversial subjects and to enter into legitimate debate. This can include potentially offensive views or opinions about political, social or religious issues.

These may be expressed through a variety of mediums – for example, a public speech or debate (via the press, media or social media), or in private. Not everyone will agree with the speaker's point of view, but that does not undermine their legitimate right to express their view.

See also [Freedom of expression](#).

In the majority of these cases, hostility or prejudice may not be a motivating factor. In reaching a decision about whether the reported incident is motivated by hostility or prejudice, the context, the speaker, and the alleged words and behaviours must all be considered. It is not sufficient that a person is offended. Call takers, police officers and staff must use common sense and judgement when making a decision.

Factors that may increase or reduce the likelihood of demonstrating hostility or prejudice may include, but are not limited to, the following.

#### **Intentions**

Intentions of the speaker and the person(s) to whom the speech is directed (the audience). It is important to consider the age of the subject(s) and their use of language or behaviour.

Factors to consider include:

- a young person who may repeat words or phrases heard elsewhere, not understanding the impact of their words
- a neurodivergent person who may find it difficult to find the right words to express their views or understand the impact of their speech or actions
- where English is not the speaker's first language, as they may find it difficult to use the right words to express their views and/or may inadvertently misinterpret language, not meaning to cause offence

Section 11 of the Children Act 2004 requires that chief officers have regard to the need to safeguard and promote the welfare of children. This responsibility, although expressed as applying to chief officers, also applies to officers and staff carrying out functions on behalf of the force. This includes decisions about recording NCHIs, and whether to include personal data in an NCHI record.

#### **Audience**

Audience to whom the speech is directed. Was the speaker targeting the complainant or making a general comment not directed at any individual?

#### **Proximity**

Proximity of the speech and/or speaker to the time or location of sensitive events. Those speaking in the aftermath or an anniversary – or near the site of a public tragedy, protest or rally – may have more impact.

#### **Medium of distribution**

Medium of distribution or the way in which the speech is delivered. Examples may include direct communications such as in-person or face-to-face speech, or posters or flyers aimed at a targeted community, or less direct communications such as a newspaper article or social media post not aimed at a particular person or community.

#### **Risk of violent reactions**

Risk of violent reactions and whether, for example, the speaker is explicitly or implicitly encouraging acts or behaviours that may amount to a crime or anti-social behaviour.

#### **Potential harm**

Potential harm that may be caused to others as a result of the speech or speaker – for example, inciting hatred or violence in others.

A proportionate decision will be informed by consideration of:

- the potential harm to all those involved in the incident, whether caused by the incident or as a result of a police record and response
- whether the incident meets the threshold for the NSIR and, where recording personal data is being considered, that the incident ‘presents a real risk of significant harm to individuals with a particular characteristic(s) and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s)’
- legal duties placed on authorities – for example, the public sector equality duty under Section 149 of the Equality Act 2010 to:
  - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it
- the national decision model and whether interference with all individuals’ human rights is proportionate, lawful, accountable, necessary and ethical (PLANE)

## **Process for recording non-crime incidents**

The following process should be used by officers and staff when recording and responding to non-crime incidents where the complainant perceives that the incident may be motivated by hostility or prejudice.

Forces have different systems and approaches for managing reports of crimes and incidents. In some forces, incident reports will initially be created in a command-and-control system. Where a resource is deployed, or where further investigation is required, a secondary record may be created to manage that activity. This APP applies to both initial and secondary records.

The process below describes a report coming into the police and explains how call handlers, police officers and staff should record and manage the information provided by the complainant. Irrespective of how a report is made, the considerations set out in this document should be applied to all reports. This includes the decision to create an initial record about the incident, as well as any secondary record created to manage police activity.

Whatever the system and approach used in a force, the key issues to keep in mind are as follows.

- Does the incident represent a risk of harm to any people involved or the public?
- Is it necessary and proportionate to record the incident as an NCHI?
- The personal data of the subject should only be included in a record when the incident meets the additional threshold set out in the Code.

The Code states that the personal data of the subject should only be recorded where the incident: 'presents a real risk of significant harm to individuals with a particular characteristic(s) and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s)'.

Call handlers, officers and staff should use common sense and judgement, and should only record personal data of the subject that is necessary to enable the appropriate police response. If personal data of the subject is not required for these purposes, the initial call log – like the secondary incident record – should not include this data.

If all the other criteria required to record an NCHI are met, an NCHI without the personal data of the subject may be recorded instead. This may include the personal data of the complainant, the circumstances of the incident, location and behaviour.

[An e-learning module on Recording non-crime hate incidents](#) is available on College Learn (authorised users will need to log in). This includes supporting resources such as a flow chart and interactive decision tree.

#### **Step one – gather information**

An incident, which is perceived by the complainant to be motivated by hostility, is reported to the police.

The call taker should:

- gather as much information as possible about the incident, location and any involved persons (including previous incidents involving the same complainant, subject, target group or location)
- assess whether a crime has been committed, and whether the matter should be recorded as a crime (see NCRS) – in these cases the code and this section of APP do not apply

If it is not a crime, the call taker should:

- assess whether the incident meets the threshold for recording under the NSIR (meaning that it disturbs an individual's, a group's or a community's quality of life or causes them concern)
- investigate and record the basis for the complainant's perception that the incident may be motivated by hostility
- conduct a THRIVE assessment (threat, harm, risk, investigation, vulnerability, and engagement)
- consider proportionality, lawfulness, accountability, necessity and ethics (PLANE) when considering a deployment in response to a call for service

The call taker should not directly challenge the complainant's perception of hostility, as this may undermine 'victim focus and belief', as set out in the NCRS. However, they should investigate the complainant's perception to establish why their view is held.

#### **Step two – assess the incident**

When deciding whether to record the incident as an NCHI with or without personal data, the call taker, officer or staff should assess whether the complainant's perception of hostility or prejudice is reasonable, taking all the available information into account.

To do this, they should:

- consider whether the complaint is trivial, irrational or malicious (see also [Impact factors](#))
- consider whether the incident relates to school-aged children and occurred on school premises
- consider whether the subject is exercising their right to freedom of expression – for example, expressing their personally held views or beliefs in a lawful way

Freedom of expression may include, but is not limited to, lawful debate on political, religious or social issues, humour or satire. These views may be expressed in a public or private forum, online via social media, or via any other medium.

Disagreement, debate and the expression of unpopular or controversial views, opinions or humour are not, by themselves, grounds to record an NCHI. See [Freedom of expression](#).

If the complainant's perception of hostility or prejudice is reasonable, it may be proportionate to record an NCHI without personal data.

- Where the incident is trivial, irrational or malicious, do not add a hate and prejudice qualifier. Where possible, refer the complainant to more appropriate support, such as their internet service provider or Ofcom if the incident occurred online.
- Where the incident relates to school-aged children on school premises, refer the incident to the school management team. Policing should not generally be involved in dealing with non-crime incidents of any sort that occur on school premises. See [Incidents in schools](#).
- Where the incident is about freedom of expression, the call taker should consider whether there are any factors that could mean, or imply, that the speaker may not have understood the impact of their words or actions (for example, the age of the subject). See [Impact factors](#) and [Trivial, malicious or irrational](#).

Personal data of the subject may only be recorded where the incident: 'presents a real risk of significant harm to individuals with a particular characteristic(s) and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s)'.

- If the incident does not reach this additional threshold, the personal data of the subject should not be recorded. Where the personal data of the subject has already been recorded, it should be deleted.

- When making a record about a non-crime incident, call takers should always use non-crime terminology for the parties involved, such as ‘complainant’ and ‘subject’ (do not use ‘victim’ or ‘suspect’).
- Seek advice from Duty Silver if required.

### **Step three – incident referred for deployment and/or review**

Unless there is immediate risk of harm, all NCHIs should be referred for review, to consider whether a deployment is proportionate, lawful, accountable, necessary and ethical. The incident should also be reviewed to ensure that it has been recorded correctly, including any qualifier.

Where an incident is referred to a non-specialist response team for deployment, officers should seek advice before deploying. Advice may be provided by:

- community cohesion teams
- diversity and inclusion teams
- hate crime team or experts

### **Step four – review**

Reviews may be undertaken by:

- community cohesion teams
- diversity and inclusion teams
- hate crime team or experts

Officers or staff must:

- consider the complainant’s perception that the incident may be motivated by hostility or prejudice and whether this is reasonable
- consider whether the incident meets the thresholds for recording with or without personal data
- only obtain additional information from involved parties where it is necessary and proportionate to do so, and do so with sensitivity

See [Responding to non-crime hate incidents](#).

The review must consider:

- complainant perception
- the characteristics of the parties (in particular, the age of the subject)
- whether the complaint is trivial, malicious or irrational
- whether the incident involves school-aged children and relates to an incident on school premises
- whether the incident engages Article 10 ECHR – for example, speech or debate on political or social issues (see also [Freedom of expression](#), [Impact factors](#) and [Trivial, malicious or irrational](#))

When the personal data of the subject has been recorded and they are identified, the subject should be notified that a complaint has been made and should be given a right to reply. The only exception is if there is a reasonable belief that such a notification could present a safeguarding risk to the complainant. Decisions not to inform the subject should be agreed by the relevant police officer, in line with the Code, and the reason for not informing them should be recorded.

Following review, the incident record should be updated accordingly, in order to:

- confirm or remove a hate and prejudice qualifier, as appropriate
- update and close an incident that has been identified as trivial, irrational or malicious
- remove hate and prejudice qualifiers where they have been added in error, or where the facts do not justify the addition of a qualifier
- delete personal data where no lawful basis for retaining it exists

#### **Step five – retention of police information**

Officers and staff must retain, review and dispose of records, including personal data, in line with all relevant legislative and regulatory requirements. This includes, but is not limited to:

- [Police information and records management Code of Practice \(2023\)](#)
- [UK General Data Protection Regulation \(GDPR\) and the Data Protection Act \(DPA\) 2018](#)
- [The Human Rights Act 1998](#)

The maximum period for retention prior to review is six years. See also [Management of police information](#).

## **Managing existing records of non-crime hate incidents**

Where a record already exists on police recording systems, and if in any context they are discovered, particular care should be taken to review the record before considering disclosure. Examples may include general policing enquiries, an enhanced criminal record certificate or when a person makes a subject access request (SAR).

## Reviewing existing records

Where an existing NCHI record is identified during any process, the record should be reviewed to consider whether it should exist (consider [Step four – review in the process for recording non-crime incidents](#)).

If the record has been made or retained inappropriately when applying the Code and this guidance, it should be deleted and discounted for all other purposes.

If it is considered that the record should exist, where the record is being considered for disclosure – including a subject access request or enhanced criminal record certificate – the appropriate guidance for those processes should be followed. See also [Statutory disclosure and barring provisions](#).

The subject of an enhanced criminal record certificate may have the opportunity to make representations against disclosure during the disclosure process. They also have access to the Disclosure and Barring Service (DBS) dispute process and a right of appeal through the Independent Monitor for Disclosure and Barring.

For more information, see:

- [Statutory disclosure and barring provisions](#)
- [Report a problem about a criminal record check or barring decision](#)

## Subject access request

If a person thinks that an NCHI record may have been made, and that it may include their personal details or makes them otherwise identifiable, they can make an SAR.

When forces respond to such requests, they should consider where a record is found and whether the record should exist (consider [Step four – review in the process for recording non-crime incidents](#)).

If the record should not have been made, or has been retained in error, the person making the request should be notified of the data that has been found and that this has now been deleted, and informed of why this was the case.

If a record is identified and retained, the person making the request should be informed in line with the standard procedure.

- [See Get a copy of your police records.](#)

Personal data should be deleted where it does not relate to a crime and where there is no policing purpose for its retention. See [APP on Information management](#).

## Any other person

Perception-based recording refers to the perception of the victim, the person reporting, or any other person.

It would not be appropriate to record a crime or incident as a hate crime or incident if it was based on the perception of a person or group who had no knowledge of the victim, crime/incident or the area. Or where the reporting person may be responding to media or internet stories or who are reporting for political or other similar motive. See also [Overarching principles](#).

Anyone can, however be targeted by a hate crime or non-crime hate incident, including those from majority groups and police professionals.

See [Internal hate crime and incidents](#).

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

- police officers, staff or prosecutors
- witnesses
- family members
- members of civil society organisations who know the victim, complainant, the crime or incident or hate crimes or incidents in the locality, such as a third-party reporting charities
- a carer or other professional who supports the victim or complainant
- someone who has knowledge of hate crime or incidents in the area – this could include professionals and experts, for example, the manager of an education centre used by people with

learning disabilities who regularly receives reports of abuse from students

- a person from within the identifiable group targeted by the hostility

## Non-monitored hate crime

The **five monitored strands** are the minimum categories that police officers and staff must record and flag. There are, however, other groups and individuals who may be targeted due to their personal characteristics. Forces, agencies and partnerships can extend their local policy response to include hostility against other groups or personal characteristics, they believe are prevalent in their area or that are causing concern to their community.

## Case study – Sophie Lancaster

In August 2007, Sophie Lancaster and her boyfriend Robert Maltby were attacked without provocation. Both suffered a violent and sustained attack. Sophie's injuries were so severe that she died 13 days later. The attack was motivated by hate because Sophie and Robert looked and dressed differently. They were perceived to be Goths, and were part of an 'alternative' subculture. They wore distinctive clothing and make-up associated with their lifestyle. To their attackers they were known as 'moshers' and were, therefore, a target. In sentencing, the judge said that he was convinced that the murder was a hate crime. The law did not provide for a specific enhanced sentencing provision, but the court was able to take into account the hostility when calculating the seriousness of the offence for sentencing purposes.

## Caste-based crimes

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

## Identifying trends in hate crime

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

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

## Case study – attacks on street sex workers

Merseyside Police and partners recognised they had a significant problem of violent attacks against street sex workers and that there were similarities with other types of hate crime. Some believed the attacks were fuelled by gender hostility, and were able to show a significant problem of under-reporting. Merseyside Police introduced crimes against sex workers into the locally monitored strands of hate crime to demonstrate their commitment to addressing these issues. Merseyside Police led partnership activity and played a key role in providing a more victim-focused multi-agency response.

## Repeat victimisation

The first time an incident or crime comes to the notice of the police is not necessarily the first time it has happened. Victims or complainants may be too frightened to report earlier incidents or may not realise that the abuse they are suffering is a crime, or an incident the police will record and/or respond to. All investigators, including first responders, should ensure they investigate circumstances fully, including any possible history of abuse.

The [Home Office Circular 19/2000 on Domestic Abuse](#) defines repeat victimisation as ‘being the victim of the same type of crime (for example, hate crime) more than once in the last 12 months’.

This definition is useful in understanding repeat victimisation in hate crimes and incidents. The victim or complainant may be subject to repeated incidents by the same offender or third party, or repeated incidents by different offenders or third parties. Repeat incidents should be recorded

where it is appropriate, as they may demonstrate a course of conduct, for example, harassment, or an escalation in behaviour or increased community tension, and are likely to increase the threat of further attacks.

## Secondary victimisation

The [1999 Stephen Lawrence Inquiry](#) highlighted that a victim or complainant may suffer further harm because of insensitive or abusive treatment from the police service or others. This may include, for example, perceived indifference or rejection from the police when reporting a hate crime or incident. This harm may amount to secondary victimisation.

Secondary victimisation is based on perception and it is immaterial whether it is reasonable or not for the victim or complainant 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 victim or complainant was expecting. Secondary victimisation can cause an incident to escalate into a [critical incident](#). Where this has happened, a senior officer should be notified and the incident managed appropriately.

## Legislation

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

- offences of inciting hatred on the grounds of race, religion and sexual orientation
- specific racially and religiously aggravated offences under the Crime and Disorder Act 1998
- enhanced sentencing under [Section 66 of the Sentencing Act 2020](#)
- offences of indecent or racist chanting at a designated football match under [Section 3 of the Football \(Offences\) Act 1991](#)

Note: see also [The Criminal Justice \(No. 2\) \(Northern Ireland\) Order 2004](#) for legislation that applies in Northern Ireland only.

## Racially or religiously aggravated offences

[The Crime and Disorder Act 1998 \(the 1998 Act\)](#) introduced racially aggravated offences. [The Anti-terrorism, Crime and Security Act 2001](#) amended the 1998 Act to also include religiously aggravated offences. Sections 29-32 of the 1998 Act identify a number of offences, which, if

motivated by **hostility**, or where the offender demonstrates hostility, can be treated as racially or religiously aggravated. These offences can be the preferred charge where there is evidence of racial or religious aggravation when committing the offence. For any other offence where there is evidence it was motivated by hate, or for any other strand of hate crime not covered by the 1998 Act, the CPS can request enhanced sentencing.

See also [Sentencing for hate crime](#).

## Definitions

**Section 28 of the 1998 Act** sets out that an offence is racially or religiously aggravated if:

- (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates hostility towards the victim, based on the victim's membership (or presumed membership) of a racial or religious group; or
- (b) the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group
  - 'membership' includes association with members of that group
  - 'presumed' means presumed by the offender

It is immaterial whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in the 1998 Act, section 28. A racial group is any group of people defined by reference to their race, colour, nationality (including citizenship), ethnic or national origins. See [R v Rogers \[2007\] UKHL 8](#) for further explanation of the term 'racial group'. A religious group is any group of people defined by reference to religious belief or lack of religious belief. This would include sectarian hostility.

## Specific hate crime offences

A number of specific offences have been created by legislation, which, when the relevant points have been proved, will always be considered as hate crime. The 1998 Act created a number of specific offences of racially and religiously aggravated crime, based on offences of wounding, assault, criminal damage, harassment and threatening and/or abusive behaviour.

- Incitement to hatred – race; [the Public Order Act 1986, Part III](#).
- Incitement to hatred – religion or sexual orientation; [the Public Order Act 1986, section 29B](#).

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

See also [Inciting hatred](#).

## Racist chanting

[Section 3 of the Football \(Offences\) Act 1991](#) makes it an offence to engage or take part in chanting of an indecent or racist nature at a designated football match. A designated football match means an association football match or a match designated by the Secretary of State. Chanting means the repeated uttering of any words or sounds, whether alone or in concert with one or more others. Of a racist nature means consisting of, or including, matter which is threatening, abusive or insulting to a person because of their colour, race, nationality (including citizenship), ethnic or national origins.

## Sentencing for hate crime

Enhanced sentencing provisions allow the court to take aggravating factors into account when sentencing an offender, reflecting the seriousness of the offence and motivation of the offender.

[Section 66 of the Sentencing Act 2020](#) requires the courts to consider hostility as an aggravating factor when deciding on the sentence for any offence that has not been identified as a racially or religiously aggravated offence under the 1998 Act. The provision covers hostility against the [five monitored strands](#) and instructs the sentencing court to;

- (a) treat the fact that the offence is aggravated by hostility [...] as an aggravating factor, and
- (b) state in open court that the offence is so aggravated

## Witness intimidation

Witness intimidation is an offence under [section 51\(1\) and 51\(2\) of the Criminal Justice and Public Order Act 1994](#). It can also constitute a common law offence of perverting the course of justice. Witness intimidation in a hate crime case is particularly damaging. Witnesses who have been subjected to, or are at risk of, intimidation should be afforded the same level of service as the original victim.

See also [Risk management](#).

## Officer discretion

It may not always be appropriate or proportionate to impose a criminal sanction where hate is a motivating factor and a crime has been committed. However, the more serious the crime, the more likely a prosecution will be required under the public interest test. Where the victim does not support a prosecution but simply wants the criminal behaviour to stop, it is important to remember the victim's views may not be the deciding factor.

Where a victim does not support a prosecution or requests an alternative remedy, it is important that the victim's decision is properly informed and they are made aware of available support in going to court. See [Victim and witness care and support](#). To consider the full range of alternative remedies or sanctions available, officers should consult their local hate crime unit, community safety partnerships (CSPs) or CPS hate crime coordinator. See also [Alternative outcomes](#).

## Under-reporting of hate crimes

Many people, particularly those in isolated communities, may find it difficult or be reluctant to report to the police directly, but may be more willing to report to a community resource. The need to provide facilities for victims to report to a third party was one of the key findings of the [Stephen Lawrence Inquiry in 1999](#). Chief officers should consider how to encourage increased reporting of non-crime hate incidents and hate crimes in their force.

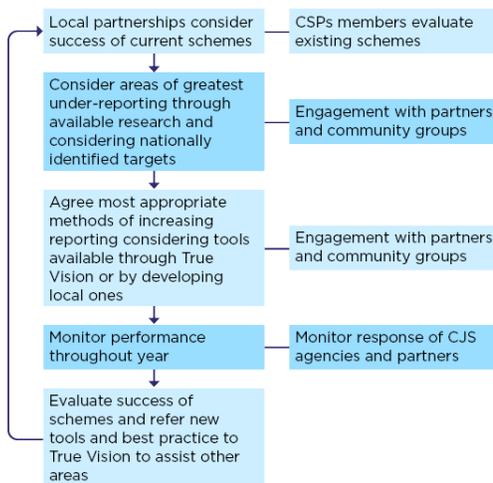
## Third-party or assisted reporting

Third-party reporting services aim to increase hate crime reporting and the flow of intelligence from a community by providing alternative methods of contacting the police and reporting a crime. If the police are proactive and deliver effective third-party reporting services tailored to meet the needs of victims, more victims may be encouraged to come forward. Targeting schemes at individuals or groups who face the highest risk of victimisation, and/or those who are least likely to report crimes to the police, may be particularly beneficial. Those with knowledge of the community and its challenges are best placed to decide what may be the most effective method to reach these groups/communities.

[True Vision](#) has a range of web-based and physical resources to help forces develop third-party reporting services, for example, 'easy-read' information or translated reporting forms. The

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

## Recommended review process for third-party reporting services/schemes



## Data sharing with third-party reporting facilities

An information sharing and data-security protocol must be established between the third-party service and the police taking into account the [Data Protection Act 2018](#), so that those using the site are confident about what will happen to the information they provide and its security. Specimen information-sharing agreements and other support material can be found at [True Vision](#). One example of a successful third-party service is the national charity [Stop Hate UK](#), which also produces resources available in 40 languages, including: Braille, large print, words into pictures/easy read, a British Sign Language DVD and audio recording, and has a number of specific materials on sexual orientation, mental health hate crime and young people.

## Data recording

All forces report hate crime data as part of the Home Office [annual data requirement](#). Police managers should have systems in place to monitor this process and to ensure that staff know how to report crimes and incidents accurately. See also Performance management.

## National standard for incident recording

The [national standard for incident recording \(NSIR\)](#) provides a framework for recording incidents, whether crime or non-crime, consistently and accurately. This allows the resulting data to be used at a local and national level and to meet the management and performance information needs of all stakeholders. It also allows the UK to meet its international commitments, which include transparency about the collection of hate crime data. The NSIR includes the National Incident Category List (NICL) and counting rules. It provides recording guidance for incidents where hate is identified as a qualifying element. Where an incident record is created in accordance with the NSIR, certain [information](#) must be recorded.

## Crimes

The majority of hate crimes are both recordable and notifiable. See the [Home Office Counting Rules](#) for further information. Hate crime is not recorded as a single category of crime. Instead, it occurs as a feature of different types of crime. The counting rules include a number of crime types where the racially or religiously aggravated forms of hate crime might commonly be recorded. However, some forms of hate crime fall outside these specific categories. The [Offence Classification Index 2019](#) includes the following specific crimes where racial or religious aggravation commonly occur:

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

## Management of police information

Under the [Police information and records management Code of Practice \(2023\)](#), the police are authorised, and should have clear guidelines, to manage information, including personal

information, for a police purpose. In making a record, particularly where the incident is a non-crime hate incident, police must also apply the Data Protection Act 2018 (DPA) and General Data Protection Regulation (GDPR). The information held must take into account the six data protection principles for law enforcement and general processing, in particular the first principle of lawfulness, fairness and transparency. Records must be held consistently, identifying the nature of the information and its purpose. Any information must be managed in line with the Code of Practice and supporting APP on information management for the retention and disposal of police records.

## Tags

Hate crime