

# Responding to non-crime hate incidents

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Not all incidents that are perceived by the complainant as being motivated by hostility or prejudice should be recorded as a non-crime hate incident (NCHI). A record should only be made where it meets the requirements set out in [\*\*Recording non-crime incidents perceived by the reporting person to be motivated by hostility.\*\*](#)

When considering the proportionate response to an NCHI, officers and staff should first consider whether the incident meets the threshold for recording the personal data of the subject of the complaint.

Under the [\*\*Code of Practice on the Recording and Retention of Personal Data\*\*](#) ('the Code'), the personal data about 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).*

## **Code of Practice on the Recording and Retention of Personal Data**

NCHIs that do not meet the recording threshold, and that do not include the personal data of the subject, will rarely require a call for service or further investigation.

However, these incidents should not be dismissed as unimportant. They can still cause distress to complainants and communities, and forces should ensure that the circumstances of the incident are recorded without the personal data of the subject, so that intelligence can be developed and monitored. NCHIs may be the precursor to more serious or escalating incidents.

An incident may form part of a series of incidents that, together, may constitute a crime (such as harassment). A retrospective review of crimes will often highlight earlier NCHIs that could have

presented opportunities to intervene to reduce threat, risk and harm.

Where there is 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), a record should be made and should include the personal data of the subject.

Although police officers have limited enforcement powers to intervene in non-crime incidents, they do have a general duty with statutory partners under the [\*\*Equality Act 2010\*\*](#). See [\*\*Partnership working\*\*](#).

Some incidents would amount to a criminal offence if committed in public, but not if they occur in a private dwelling – for example, some public order offences. A complainant is likely to suffer the same harm, regardless of the location. Where appropriate, complainants should be referred to appropriate support services. See [\*\*Victim and witness care and support\*\*](#).

Forces should ensure that information on NCHIs is analysed so that preventive activity can take place, identified community tensions can be monitored, and activity can be implemented to reduce tensions or potential harm.

## Ownership

The police do not always have primary responsibility for responding to NCHIs. Ownership will often fall to other statutory agencies. Although they may not have formal processes in place, all public authorities have the same legal duties under the Equality Act 2010.

It may be appropriate for the police to refer reported incidents to another agency for them to complete the task of assessing and mitigating risk or harm. For example, someone facing abuse on a transport service to a medical facility might expect the agency commissioning the service to have a duty to respond to, and eliminate, such hostility.

See also [\*\*Incidents in schools\*\*](#) and [\*\*Contact strategy\*\*](#).

Police officers and staff need to consider the human rights of all parties, whether directly involved – for example, the complainant or the subject of a complaint – or indirectly, such as someone affected by the circumstances of the incident or the police response.

The circumstances of an incident will dictate the response. However, it must always be proportionate to the circumstances and compatible with section 6(1) of the Human Rights Act 1998. 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 European Convention on Human Rights (ECHR).

See also Freedom of expression and Impact factors.

## Contact strategy

Where it is necessary and proportionate to respond to an incident and/or undertake further investigation, careful consideration should be given to the way in which officers and staff contact the parties of a recorded NCHI. For example, the complainant may have personal data, such as their sexuality, disclosed by inconsiderate communications. The subject may also face disproportionate harm from insensitive contact – for example, by unnecessarily alerting others to private information about the incident or the individual.

Officers and staff should also consider the purpose of the contact. They should consider whether it is proportionate to contact them at their place of work or study, or in a manner that is likely to alert a third party – for example, their friends, family or employer – to the complaint or the interest of the police, particularly where it may not be appreciated that the contact concerns a non-criminal matter.

Police should always use the least intrusive method of contact for achieving their legitimate aims – for example, a telephone call, letter or visit.

Where the matter is likely to come to the attention of another person – such as the individual's family, friend or employer – it is advisable for forces to provide the individual with information in a form that they can pass to the third party to clarify the police contact.

In all cases, it should be clearly stated that the matter is a non-crime incident, and that they are not being investigated for a criminal offence.

It should also be explained why a record has been made of the incident, including how personal data will be recorded and retained, as well as the individual's rights to that information.

See also:

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

## Statutory disclosure and barring provisions

The statutory disclosure and barring provisions in England and Wales consist of two elements (similar provisions exist in Northern Ireland and Scotland):

- Disclosure under the Police Act 1997
- Barring under the Safeguarding Vulnerable Groups Act 2006

Both elements are administered on behalf of HM Government by the Disclosure and Barring Service (DBS). See Statutory disclosure guidance.

Non-conviction information, which may include information relating to non-crime incidents, may be disclosed by a chief officer of police on an enhanced criminal record certificate if it satisfies the threshold imposed by section 113B(4) of the Police Act 1997. This states that:

*DBS must request any relevant chief officer to provide any information which:*

- (a) the chief officer reasonably believes to be relevant for the purpose described in the statement under subsection (2), and*
- (b) in the chief officer's opinion, ought to be included in the certificate'*

See also Managing existing records of non-crime hate incidents.

*In 2021, a total of 4,317 “additional information” disclosures were made on Enhanced Criminal Records Certificates by the DBS and Access Northern Ireland (ANI) combined.*

*A total of 117 disputed disclosure referrals were made in 2021 to the office of Independent Monitor.*

*This means that 2.71% of all disclosures made within the year in England, Wales and Northern Ireland have been disputed and referred to me for review.’*

**Independent Monitor, Annual report 2021**

Barring involves state intervention in the decision to appoint an individual to a role, where that role involves regulated activity with children and adults. The state barring body (the DBS in England, Wales and Northern Ireland) is responsible for determining whether individuals will be added to the relevant list of individuals who are barred from working or volunteering in a regulated activity with children and/or adults.

Under paragraph 19 of schedule 3 to the Safeguarding Vulnerable Groups Act 2006, chief officers of police are required to provide any information to DBS, that the relevant chief officer reasonably believes to be relevant to the regulated activity, which may include information about non-crime incidents.

For further information on the DBS process and an individual's rights in relation to information that may be disclosed, see [\*\*Disclosure and Barring Service\*\*](#).

## Tags

Hate crime