College of Policing

THE PROFESSIONAL BODY FOR POLICING

Hate Crime Operational Guidance

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Contents

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The 2005 Hate Crime Manual has been revised to reflect developments in this crucial area of policing. It now documents how hate crime investigations have changed in an effort to better meet the needs of diverse communities. A significant legacy of Stephen Lawrence can be found in developments in policing relating to critical incident management, family liaison, community engagement and independent advice, third-party reporting, and changes in the way hate crime investigations are conducted, each of which are discussed in the various sections of this document.

Hate crimes are far more prevalent than official statistics suggest. Proportionately, they are more likely to be directed against the person than non-hate crimes, and they tend to be experienced repeatedly. Victims often expect their victimisation to continue, or are otherwise fearful of attacks in the future. Hate crimes can have a greater emotional impact on the victim than comparable non-hate crimes, and can cause increased levels of fear and anxiety that can also permeate through wider communities.

This is precisely why all victims should not be treated the same. Rather, they should receive a service from the police that is appropriate to their needs. The police service must:

> …deliver a service which recognises the different experiences, perceptions and needs of a diverse society.
>
> **The Stephen Lawrence Inquiry, February 1999**

There is also a real possibility that hate crimes will be, or will become, critical incidents. This is a crucial consideration, given the ministerial priority for all police services to increase trust and confidence in policing among minority communities. Regardless of how trivial an incident may appear initially, the actions or inactions of the police in response to that incident can have a significant impact on the way that the organisation is viewed by the community it serves.

As noted in the previous manual, how well the police service protects members of society and provides an effective and appropriate service to an increasingly diverse community is a mark of sophistication in the thinking and action of a contemporary police service. Furthermore, in a modern democratic and diverse society, protecting all the composite groups of that society in accordance with their needs is vital if the service is to continue to police by consent.

The police occupy an important position in protecting victims of hate crime, and have a valuable role to play in doing so. Above all, victims and communities need to have trust and confidence that the police will respond appropriately and effectively to their needs.

This document contains many examples of innovative police work being developed and delivered across the country, and provides practical advice and instruction on how service delivery to hate crime victims might be further improved. The policing of hate crime has improved in many respects since the Stephen Lawrence Inquiry, and that is testament to the dedication of many police officers of all ranks across the country, but there can be no room for complacency. There is still much to do.

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1 Defining hate crime

The police service must provide an appropriate level of service to victims of hate crime. All officers and staff must have a clear understanding of what constitutes a hate incident and a hate crime. They must understand motivation and which strands of hate crime are monitored and which are not.

There are five monitored strands of hate crime:

- disability
- race
- religion
- sexual orientation
- transgender.

These are defined and explained in **3 Strands of monitored hate crime**.

Although these strands are monitored areas, there are victims who are targeted as a result of other hate-related hostilities. For further information see **1.3 Non-monitored hate crime**.

1.1 Collecting data

The police are responsible for collecting data on hate crimes and many hate incidents. Accurate data for hate crime is difficult to maintain as any hate crime fits into another crime category as well. This 'secondary' recording has led to inconsistency and contributed to the under-recording of hate crime, making the challenge of reducing under-reporting from victims more difficult. All criminal justice system (CJS) agencies share the common definition of monitored hate crime. A widespread understanding of this definition and compliance with crime recording rules helps to provide an accurate picture of the extent of hate crime and to deliver an intelligence-led response.

1.2 Agreed definitions

1.2.1 Monitored hate crime

There is no criminological consensus on the definition or even the validity of the concept of hate crime, but it is important that this policy has a framework. This section defines the areas for monitored hate crime.

The definitions are inclusive and apply to majority and minority groups. See **2 Legislation**. They reflect the core belief that hate crime policy should support a basic human right to be free from crime fuelled by hostility because of an individual's personal characteristics.

Title	Definition	Included subjects
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 victimised.	This is a broad and inclusive definition. A victim does not have to be a member of the group. In fact, anyone could be a victim of a hate crime.
Hate incident	Any non-crime incident 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**, or Any non-crime incident which is perceived, by the victim or any other person, to be motivated by a **hostility** or **prejudice based on a person's religion** or **perceived religion** or Any non-crime incident which is perceived, by the victim or any other person, to be motivated by a **hostility** or **prejudice based on a person's sexual orientation** or **perceived sexual orientation** or Any non-crime incident which is perceived, by the victim or any other person, to be motivated by a **hostility** or **prejudice based on a person's disability** or **perceived disability** or Any non-crime incident which is perceived, by the victim or any other person, to be motivated by a **hostility** or **prejudice against a person who is transgender** or **perceived to be transgender**.	Any racial group or ethnic background or national origin, including countries within the UK, and Gypsy and Traveller groups. Any religious group, including those who have no faith. Any person's sexual orientation. Any disability including physical disability, learning disability and mental health. People who are transsexual, transgender, transvestite and those who hold a gender recognition certificate under the Gender Recognition Act 2004.

Hate crimes	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** or	Any racial group or ethnic background or national origin, including countries within the UK, and Gypsy and Traveller groups.
	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 religion** or **perceived religion** or	Any religious group, including those who have no faith.
	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 sexual orientation** or **perceived sexual orientation** or	Any person's sexual orientation.
	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 disability** or **perceived disability** or	Any disability, including physical disability, learning disability and mental health.
	Any criminal offence which is perceived, by the victim or any other person, to be motivated by a **hostility** or **prejudice against a person who is transgender** or **perceived to be transgender**.	People who are transsexual, transgender, transvestite and those who hold a gender recognition certificate under the Gender Recognition Act 2004.
Hate crime prosecution	A hate crime prosecution is any hate crime which has been charged 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.	

1.2.2 Hostility

Understanding hostility is important to understanding the extent of hate crime. The term hate implies a high degree of animosity, whereas the definition and the legislation it reflects require that the crime must be demonstrated or motivated (wholly or partially) by hostility or prejudice. Given that the term hate crime is used nationally and internationally, it is retained as a collective term but it is essential that the police service understands what is meant by it.

The Crown Prosecution Service (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.

1.2.3 Perception-based recording of hate crime

For recording purposes, the perception of the victim, or any other person (see **1.2.4 Other person**), is the defining factor in determining whether an incident is a hate incident, or in recognising the hostility element of a hate crime. The victim does not have to justify or provide evidence of their belief, and police officers or staff should not directly challenge this perception. Evidence of the hostility is not required for an incident or crime to be recorded as a hate crime or hate incident.

Crimes and incidents must be correctly recorded if the police are to meet the objective of reducing under-reporting and improve understanding of the nature of hate crime. The alleged actions of the perpetrator must amount to a crime under normal crime recording rules. If this is the case, the perception of the victim, or any other person, will decide whether the crime is recorded as a hate crime. If the facts do not identify any recordable crime but the victim perceived it to be a hate crime, the circumstances should be recorded as a non-crime hate incident and not a hate crime.

It is necessary to provide sufficient evidence for the prosecution to prove hostility to the court for a conviction to receive enhanced sentencing, however, this is not required for recording purposes.

Examples of perception-based recording

Example A

Jon reports circumstances which amount to an offence under section 4 of the Public Order Act 1986. He was sworn at and threatened that he would be punched in the face by an attacker who moved toward him in an aggressive manner. Nothing was said about his sexual orientation but he perceives that he was targeted as he is openly gay and there was no other reason why he was chosen. He reports this to the police who should correctly record this as a hate crime based on sexual orientation.

Example B

The circumstances in Example B are the same as in Example A, but this time the incident happens at a party in a private residence. The public order offence is not applicable as the incident took place in a dwelling. Despite Jon's belief that this is a hate crime, it should be recorded as a hate incident.

The reasons for this should be explained to Jon. His perception relates to the motive and not the interpretation of the law. When choosing this method of recording, it is important to make the right decision and advice should be sought from a crime registrar if necessary.

Example C

Mary visits her friend at a local site occupied by Irish Travellers. As she is leaving, a youth throws a stone at her car causing damage to the bodywork. Mary is not a Traveller herself and did not know the offender. She reports the crime of criminal damage. On hearing of the incident, a Traveller resident approaches the police to say that he perceived the crime to be motivated by hostility towards the Traveller residents as there is local protest to their presence and residents have suffered other attacks which have not been reported. In this case the crime should be recorded as a race hate crime.

Example D

Janice is a physically disabled teacher and is supervising a class of teenagers. She is required to exercise discipline to control misbehaviour and sends a pupil from the class. The pupil says to the Janice, 'Why don't you leave me alone, cripple?' Janice perceives this to be motivated by prejudice relating to her disability. However, as there is insufficient evidence to substantiate a criminal offence this should be recorded as a hate incident. It would be more appropriate for the incident to be recorded by the school authorities, who also have a legal duty to respond. See **6 Responses to hate incidents**.

Example E

Following on from Example D, the father of the teenager, who is a member of a right-wing extremist group which believes that disabled people are a drain on society and should be eradicated, waits outside the school the following day and sets upon Janice as she is leaving. He causes injuries amounting to actual bodily harm. During the incident he uses abusive language, 'You cripple, you're not fit to breathe air'. This should be recorded and investigated as a disability hate crime.

1.2.4 Other person

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

It would not be appropriate to record a crime or incident as a hate crime or hate incident if it was based on the perception of a person or group who had no knowledge of the victim, crime or the area, and who may be responding to media or internet stories or who are reporting for a political or similar motive.

The other person could, however, be one of a number of people, including:

- police officers or staff
- witnesses
- family members
- civil society organisations who know details of the victim, the crime or hate crimes in the locality, such as a third-party reporting charity

- a carer or other professional who supports the victim

- someone who has knowledge of hate crime in the area – this could include many professionals and experts such as 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 group targeted with the hostility, eg, a Traveller who witnessed racist damage in a local park.

A victim of a hate crime or incident does not have to be a member of a minority group or someone who is generally considered to be vulnerable. For example, a heterosexual man who is verbally abused leaving a gay bar may well perceive that the abuse is motivated by hostility based on sexual orientation, although he himself is not gay. Anyone can be the victim of a hate incident or crime, including people working inside the police service.

1.2.5 Malicious complaints

Some people, particularly celebrities and political figures, have been subjected to malicious complaints from hostile individuals, often with a grudge against the person, their politics or their lifestyle. This, on occasions, can even be part of a stalking process. Sometimes these complainants will allege that the activity was based on hostility towards them because of their protected characteristics.

Police officers should not exacerbate the harm caused to a genuine victim when dealing with such incidents. It is also important not to falsely accuse an innocent person and harm their reputation, particularly where the allegation is made against a public figure.

In order not to harm an innocent party, the matter should be dealt with as swiftly and sensitively as is possible. In such circumstances investigating officers should seek support from senior colleagues and the CPS hate crime coordinator.

1.3 Non-monitored hate crime

 The five strands of monitored hate crime are the minimum categories that police officers and staff are expected to record. There are, however, many other groups in society who have been targeted with hostility and crime. During consultation to agree the monitored strands, a further 21 different groups were identified for consideration. It is essential that the focus on the monitored strands is not used to deny the existence of other hate crimes. Additional strands that were considered, but not included, range from sexual abuse to football violence.

Agencies and partnerships are free to extend their own policy response to include the hostilities that they believe are prevalent in their area or that are causing the greatest concern to the community. Telling a victim that a crime is not a hate crime could be deeply offensive to them. This is particularly the case when the circumstances fit the first part of the common definition: 'Any crime or incident where the perpetrator's hostility or prejudice against an identifiable group of people is a factor in determining who is victimised'.

1.3.1 Case study – the murder of Sophie Lancaster

A high-profile example of a hate crime which falls outside the monitored areas was the murder of Sophie Lancaster who was attacked in August 2007. She and her boyfriend Robert Maltby were attacked without provocation by a group of teenage boys. Both suffered serious head injuries during a violent and sustained attack. Sophie's injuries were so severe that she died 13 days after the attack.

The motivation cited for this attack was one of hate or hostility, but not related to one of the monitored strands. This hate was motivated by the fact that Sophie and Robert looked and dressed differently from their attackers. They were described as Goths, and were part of an 'alternative' subculture. As such, they wore distinctive clothing and make-up associated with their lifestyle. To their attackers they were known as 'Moshers' and, therefore, a target.

In sentencing the perpetrators, the judge said that he was convinced that the murder was a hate crime. The law did not provide for a dedicated enhanced sentencing provision, but the court was able to take into account the hostility when calculating the seriousness of the offence for sentencing purposes.

Examination of Sophie's murder produces many similarities to other high-profile hate crimes in terms of the devastation to families, and in the adverse impact on the victims' peers, and others in the community who fear the prevailing hostility will lead to repeated violence.

In response to the murder and campaigning by Sylvia Lancaster, Sophie's mother, some local partnerships have included crimes motivated by hostility to alternative cultures in their local hate crime policy. The most notable example was Greater Manchester Police in 2013. Their new policy generated significant public debate and was well received by the communities affected. Recognising such hostility existed was not only valuable for building confidence in the police, it also enabled the local partnerships to benefit from the work of the Sophie Lancaster Foundation, which has produced resources for young people to divert them from bigotry and promote positive relationships.

This practice shows a partnership which is responding to local concerns and prevalent hostilities, and includes a response that meets the needs of the community and helps to prevent all forms of hostility in the future.

1.3.2 Caste 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 discrimination in relation to employment and relationships but can, on occasions, lead to hostility and crime. It is possible to envisage where this could be considered to be a race or religious hate crime, but also where it does not fit any of the monitored strands.

If a crime is reported and the victim, or any other person, perceives it to be a race or religious hate crime, it should be recorded as such. If an offender is identified, the full facts should be referred to the CPS to allow them to make charging decisions and to ascertain whether enhanced sentencing may apply.

Key considerations for the police response to a crime motivated by hostility based on caste are likely to include community engagement, problem solving and victim support.

1.3.3 Trends in non-monitored hate crime

If a partnership detects a trend, or a community reports concerns about a non-monitored hate crime, this should be considered and appropriate action taken such as:

- including it in local policy and applying the same type of response as to other hate crimes
- 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).

1.3.4 Case study – attacks on street sex workers

Merseyside Police and partners recognised that there was a significant problem of violent attacks on street sex workers and that there were similarities with other types of hate crime. Some partners 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 to demonstrate their commitment to addressing these issues. Merseyside's SIGMA (hate crime investigation unit) played a key role in working with other agencies to provide a more victim-focused response.

A major element of the force's approach is partnership work with the Armistead Sex Work Support Project (run by Liverpool Community Health). The project has an Ugly Mugs scheme, which is integrated into police intelligence systems. It also has a specialist independent sexual violence adviser for sex workers. Since 2006, the result of these interventions has included:

- a 400% increase (between 2005 and 2009) in the number of sex workers reporting to the Ugly Mugs scheme and giving consent to share full details with the police
- 98% of sex workers reporting sexual offences accessing a sexual assault referral centre (SARC) for a full forensic medical examination
- 25 offenders have been prosecuted
- an increased conviction rate of 75% for rape and/or sexual violence cases going to court where the victim is a sex worker
- 32 known victims to have received justice.

Research carried out by Durham University reports a change in attitude among police officers in Merseyside. Officers demonstrate greater respect towards sex workers, have an increased understanding of the crimes committed against them, take such reports more seriously and deal with them sensitively in a victim-centred manner.

1.4 Repeat victimisation

The ACPO definition of repeat victimisation is:

> where a victim of a reported hate crime was also the victim of another reported hate crime in the previous 12 months.

Matters can escalate where repeat victimisation occurs and it is not properly recorded or acknowledged by the police. Critical incident have arisen where the police failed to recognise the repeated nature of crimes and incidents.

All forces must have procedures to identify repeat victimisation so that an adequate response can be put in place to address the escalating risk. In some cases, the repeated nature of the hate crimes could be based on the location rather than the victim, for example, incidents of numerous assaults against multiple victims which are focused on a specific venue such as a community centre, a fast food outlet, a day centre for people with learning disabilities or a licensed venue frequented by the lesbian, gay, bisexual, transgender (LGBT) community.

1.5 Secondary victimisation

This is a term used to describe situations where a victim suffers further harm because of insensitive or abusive treatment from those who should be supporting them, for example, feeling they have experienced indifference or rejection from the police when reporting a crime or incident. In these cases far from helping victims to overcome the harm caused by a crime, the poor service can add to the distress caused by the original crime.

Secondary victimisation is based on victim perception, rather than what actually happens. It is immaterial whether it is reasonable or not for the victim to feel that way.

The police are responsible for managing the interaction to ensure that the victim has no residual feelings of secondary victimisation which can result in a loss of confidence in the police service and a reluctance to report incidents in the future. For further information see **8.7 Support for victims and witnesses**.

1.6 Critical incidents

The ACPO 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.

For further information see APP on Critical incident management.

2 Legislation

Legislation has provided three specific options to assist in combating hate crime. These are:

- racially or religiously aggravated offences

- specific offences that will always be classified as a hate crime

- enhanced sentencing legislation for any offence.

Note: where a piece of legislation in this section is not applicable to Northern Ireland this is stated. In addition, see **2.3.5 The Criminal Justice (No. 2) (Northern Ireland) Order 2004** for legislation which applies in Northern Ireland only.

2.1 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.

The 1998 Act creates the following racially or religiously aggravated offences:

- assaults (section 29)

- criminal damage (section 30)

- public order offences (section 31)

- harassment (section 32).

For any other offence where there is evidence that it was motivated by hate, or for any other strand of hate crime, the CPS can request enhanced sentencing. For further information see **2.3.4 Enhanced sentencing for other crimes motivated by hostility**.

2.1.1 Definitions for racially or religiously aggravated offences

Section 28 of the 1998 Act defines the terms racially aggravated and religiously aggravated.

An offence is racially aggravated if:

- at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial group, or

- the offence is motivated (wholly or partly) by hostility towards members of a racial group based on their membership of that group.

An offence is religiously aggravated if:

- at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a religious group, or

- the offence is motivated (wholly or partly) by hostility towards members of a religious group based on their membership of that group.

A racial group means any group of people defined by reference to their race, colour, nationality (including citizenship), ethnic or national origins (see _R v Rogers_ [2007] 2 AC 62 for further explanation of the term racial group). See also **1.2.1 Monitored hate crime**.

A religious group means any group of people defined by reference to religious belief or lack of religious belief.

2.1.2 Use of the term hostility

For the purpose of both racially and religiously aggravated offences, the term hostility is not defined in the legislation. However, Guidance on Disability Hate Crime states that:

> 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.

2.2 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. They include incitement offences which are covered in **13 Inciting hatred**.

Specific hate crime offences should always be recorded as hate crimes and may be considered by the CPS when making charging decisions.

2.2.1 Incitement to racial hatred

Section 18 of the Public Order Act 1986 makes it an offence for a person to use threatening, abusive or insulting words or behaviour, or to display any written material which is threatening, abusive or insulting, intending to stir up racial hatred, or where having regard to all the circumstances racial hatred is likely to be stirred up.

2.2.2 Incitement to hatred on the grounds of religion

Section 29B of the Public Order Act 1986 makes it an offence for a person to use threatening words or behaviour, or display any written material which is threatening, with the intention to stir up religious hatred.

2.2.3 Incitement to hatred based on sexual orientation

Section 29B of the Public Order Act 1986 makes it an offence for a person to use threatening words or behaviour, or display any written material which is threatening, with the intention to stir up hatred on the grounds of sexual orientation.

Incitement offences contained in the Public Order Act 1986 also include offences of distribution, broadcasting, performance, public display and possession of inflammatory material. For further information and guidance on how to the use incitement legislation, see **13 Inciting hatred**.

2.2.4 Racialist chanting

Section 3 of the Football (Offences) Act 1991 makes it an offence to engage or take part in chanting of an indecent or racialist nature at a designated football match.

Chanting means the repeated uttering of any words or sounds, whether alone or in concert with one or more others.

Of a racialist nature means consisting of, or including, matter which is threatening, abusive or insulting to a person by reason of their colour, race, nationality (including citizenship), ethnic or national origins.

2.3 Sentencing for hate crime

Sections 145 and 146 of the Criminal Justice Act 2003 instruct the courts to enhance a sentence against an offender, and to declare in court that they are doing so.

2.3.1 Section 145 Criminal Justice Act 2003

This section requires the courts to consider racial or religious hostility as an aggravating factor when deciding on the sentence for any offence which has not been identified as a racially or religiously aggravated offence under the 1998 Act.

Section 145 – increase in sentences for racial or religious aggravation

(1) This section applies where a court is considering the seriousness of an offence other than one under sections 29 to 32 of the Crime and Disorder Act 1998 (c. 37) (racially or religiously aggravated assaults, criminal damage, public order offences and harassment etc).

(2) If the offence was racially or religiously aggravated, the court –

    (a) must treat that fact as an aggravating factor, and

    (b) must state in open court that the offence was so aggravated.

(3) Section 28 of the Crime and Disorder Act 1998 (meaning of racially or religiously aggravated) applies for the purposes of this section in the same way as it applies for the purposes of sections 29 to 32 of that Act.

2.3.2 Section 146 Criminal Justice Act 2003

Section 146 addresses increased sentences for aggravation related to sexual orientation, disability or transgender identity.

(1) This section applies where the court is considering the seriousness of an offence committed in any of the circumstances mentioned in subsection (2).

(2) Those circumstances are –

    (a) that, at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on –

        (i) the sexual orientation (or presumed sexual orientation) of the victim, or

        (ii) a disability (or presumed disability) of the victim, or

        (iii) the victim being (or presumed to be) transgender.

    (b) that the offence is motivated (wholly or partly) –

        (i) by hostility towards persons who are of a particular sexual orientation, or

        (ii) by hostility towards persons who have a disability or a particular disability, or

        (iii) by hostility towards persons who are transgender.

(3) The court –

    (a) must treat the fact that the offence was committed in any of those circumstances as an aggravating factor, and

    (b) must state in open court that the offence was committed in such circumstances.

(4) It is immaterial for the purposes of paragraph (a) or (b) of subsection (2) whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in that paragraph.

(5) In this section disability means any physical or mental impairment.

(6) In this section references to being transgender include references to being transsexual, or undergoing, proposing to undergo or having undergone a process or part of a process of gender reassignment.

2.3.3 Definitions for sections 145 and 146

For the definition of hostility, see **2.1.2 Use of the term hostility**.

2.3.4 Enhanced sentencing for other crimes motivated by hostility

For cases where the hostility is directed towards a characteristic not covered by section 145 or 146, eg, age, gender or lifestyle choice, the courts may consider the targeted nature of the crime when calculating the seriousness of the offence under section 143 of the Criminal Justice Act 2003. The Sentencing Guidelines Council specifically includes the following among the 'factors indicating higher culpability' when calculating the seriousness of an offence:

- offence motivated by hostility towards a minority group, or a member or members of it

- deliberate targeting of vulnerable victim(s).

For further information see <u>Sentencing guidelines</u>.

2.3.5 The Criminal Justice (No.2) (Northern Ireland) Order 2004

This Order does not create any new offences based on a hate-related motivation. It instructs the courts to increase a sentence against an offender, and to declare in court that they are doing so, when it is found that an offender demonstrated, or was motivated by, hostility based on religion, race, sexual orientation or disability.

Article 3 extends the provisions of Article 8 of the Public Order (Northern Ireland) Order 1987, which defines fear and hatred, to include sexual orientation or disability.

Under Article 8 of the Public Order (NI) Order 1987, fear and hatred is defined as follows:

- fear means the fear of a group of people defined by references to religious belief, sexual orientation, disability, colour, race, nationality (including citizenship) or ethnic or national origins

- hatred means the hatred against a group of people defined by references to religious belief, sexual orientation, disability, colour, race, nationality (including citizenship) or ethnic or national origins.

2.4 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, especially where the victim does not support a prosecution but wants the crime to stop. There should be no discretion about recording reported hate crimes, but there are occasions where alternative remedies or sanctions to prevent reoffending, or to work with partners and communities to change offender behaviour through re-education may be proportionate.

Where a crime has been committed and it is recorded as a hate crime, charging decisions should always be made in accordance with The Director's Guidance on Charging, even if circumstances would indicate that the case is suitable for non-court proceedings. These provisions are intended to reduce the risk of escalation of seriousness that has been retrospectively identified in high-profile crimes.

Alternative or additional remedies or sanctions may include:

- Local authority remedies, eg, repossession of local authority properties under the Housing Act 1985, 1988 and 1996. This may be appropriate where the tenant of local authority housing is causing a nuisance or annoyance to a person residing, visiting or otherwise engaged in lawful activity in the locality of the property.

- Remedies under the Crime and Disorder Act 1998, for example, anti-social behaviour orders, parenting orders or child safety orders. These may help to prevent reoffending or re-educate children, their parents or guardians, so that children do not become involved in antisocial behaviour.

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.

3 Strands of monitored hate crime

3.1 Disability hate crime

Disability includes physical disability, learning disability and mental ill health.

Where crimes are motivated by hostility to a person because of their disability, the need to enforce the disabled person's rights is one of the most pressing challenges. Disabled people have endured hostility, abuse and victimisation for many years.

The extent of disability hate crime is a symptom of, and adds fuel to, the widespread social stigma that currently exists towards disabled people. By working with the CPS to ensure enhanced sentencing options are used where relevant, the police service has a key role to play in tackling the problem of disability hate crime and sending a clear message that hostility towards disabled people is unacceptable.

- The Office for Disability Issues estimates a prevalence of 11.6 million people with disabilities in Great Britain in 2011/12, and they are represented in all sections of society, communities and cultures.

- In 2004 the Institute for Health Research estimated that there were 985,000 people with learning disabilities in England. This accounted for around 2% of the population and is likely to be similar in Wales and Northern Ireland.

- In 2006 the National Autistic Society estimated that there were over 500,000 people in the UK with Autism Spectrum Syndrome.

- In 2001 the **Office for National Statistics (2001) Psychiatric Morbidity Report** found that one in four people experience a mental ill health problem during their lifetime.

The British Crime Survey (2010/11) suggested that 57% of people with a long-standing illness or disability are confident that the Criminal Justice System (CJS) is fair, and 38% are confident that it is effective. This compares unfavourably with 63% of those with no long-standing illness who reported feeling confident that the CJS is fair, and 44% being confident that the CJS is effective.

In 2011 the Equality and Human Rights Commission (EHRC) reported on their inquiry into the harassment of disabled people. Hidden in plain sight examined 10 high-profile murders and incidents of serious abuse and took evidence from agencies, experts and disabled people. They found that there were many common problems with the response of authorities, leading them to conclude that: '...this amounts to systemic institutional failure to protect disabled people and their families from harassment.'

In 2010, speaking at the University of Sussex, the Director of Public Prosecutions said:

> The right of victims to an effective investigation and appropriate prosecution is now well established under the Human Rights Act 1988 and the support available by way of special measures underscores the growing realisation that victims and witnesses have 'rights' and 'interests' that have to be protected in the criminal justice process not just, as was often understood to be the case in the past, a 'duty' to attend to give evidence.
>
> But despite these developments, I think we are still in the foothills when it comes to disability hate crime and supporting victims and witnesses with disabilities. Our position is, I hope, clear. Safety and security, and the right to live free from fear and harassment, are fundamental human rights. Disability hate crime strikes at all disabled people by undermining their sense of safety and security in the community. For this reason disability hate crime should be regarded as particularly serious. Such crimes are based on ignorance, prejudice, discrimination and hate and they have no place in an open and democratic society.

National Policing shares these concerns. However, it is clear that while many of the more serious and tragic crimes have been skilfully investigated, the hostility which fuelled them is all too often not recognised by the police and other criminal justice professionals.

It is also apparent that most tragedies are preceded by escalating criminality, suffered by the victim and perpetrated by the offender. This is the most compelling reason why the police must take a more positive and proactive response to receiving, recording and responding to low-level criminal acts, particularly where there is a repeat victim or perpetrator. Only by building the confidence of disabled people in policing services and providing accessible methods of communication can the police hope to find out about these crimes and offer the service that is their moral and legal responsibility.

Although the British Crime Survey demonstrates that the police still have much to do to improve services, there have been notable improvements in the way the police respond to racist hate crime, and similar improvements need to be made in relation to disability hate crime.

3.1.1 The nature of disability hate crime

This section highlights the particular issues affecting disabled people and is intended to assist the police to improve the service it provides to them.

The mental health charity Mind published research in 2007 entitled <u>Another Assault</u>. Although the survey size and the response rate were relatively low, many disabled people's organisations said it was a true reflection of the experiences of disabled people. The survey indicated that in the previous two years of those who responded:

- 71% of people with mental ill health had been victimised in circumstances that they perceived to be related to their mental ill health (this rose to 90% for those in local authority housing)

- 27% had been sexually assaulted

- 22% had been physically assaulted

- 30% of respondents did not tell anyone what had happened

- 60% of those who reported a crime felt that authorities did not take the incident seriously

- only 9% of people were completely satisfied with the outcome of their cases.

In 2009 the EHRC investigated the extent of hostility towards disabled people. The report, EHRC (2009) Promoting the safety and security of disabled people concluded that disabled people are at greater risk of experiencing violence or hostility than the wider population. This includes disability hate crime.

Hidden in plain sight concluded that 19% of disabled adults in England and Wales had been victims of crime in the previous 12 months. They also found that disabled children, young people and women, particularly those with learning disabilities and mental ill health, are particularly at risk.

The 2011-2013 analysis of the Crime Survey of England and Wales showed that there were 62,000 disability hate crimes in England and Wales but only 1,841 were recorded by the police.

Since disability hate crime began to be nationally monitored in 2008, police managers have noted some distinct features in the types of hate crimes experienced by disabled people. Disabled people are believed to be more likely to know the perpetrator and to be subjected to continual and escalating abuse from the same offender or group of offenders. There are many cases where disabled people are randomly targeted for abuse or attack in the street or on public transport, but many others where they are subjected to systematic ill-treatment which often builds in intensity.

At the end of a prosecution, defendants are allocated a principal offence category by the CPS to indicate the type and seriousness of the charges brought. Offences against the person and public order offences were the most common, representing 54.1% of all disability hate crime prosecutions (41.6% and 12.5% respectively). There was a more significant range of other offence categories represented within disability hate crime prosecutions than for any other strand of hate crime, perhaps reflecting the exploitative nature of much disability hate crime.

One of the key challenges highlighted in Hidden in plain sight was the need to link activity between safeguarding procedures and hate crime investigations. These two areas are not exclusive – each should be a consideration of the other. Knowing how or when to intervene to ensure that victims are not in harmful situations, is a difficult area for all professionals. Guidance on appropriate interventions and the implications of the Mental Capacity Act 2005 is available in Guidance on Responding to People with Mental Ill Health or Learning Disabilities.

3.1.2 Common factors in disability hate crime cases

Case monitoring by policy leads in the police and the CPS has indicated that some of the factors that might be associated with disability hate crime are:

- there have often been previous incidents

- repeated targeting, either of the individual victim or of their family/friends, or of other disabled people

- while there are many random attacks on disabled people from strangers, perpetrators are often 'friends', carers, acquaintances, or neighbours

- incidents escalate in severity and frequency

- absence of derogatory words (commonly heard as part of racist and other hate crimes) can make gathering evidence of hostility more difficult

- multiple perpetrators are involved in incidents condoning and encouraging the main offender(s) – often filming this on their mobile phones and sending pictures to friends and social networking sites

- false accusations of the victim being a paedophile or similar taunts

- sustained attacks and/or excessive violence

- barriers to, and negative experience of, reporting to criminal justice agencies which lead disabled people to feel that they are not being taken seriously

- cruelty, humiliation, dehumanisation or degrading treatment, often related to the nature of the disability, for example, blindfolding someone who is profoundly deaf or destroying mobility aids

- disabled people have a tendency to report incidents to a third party rather than to the police.

3.1.3 Common incorrect assumptions in disability hate crime cases

It is often incorrectly assumed that a crime cannot be a disability hate crime because the:

- offender is the victim's carer, friend or family member

- victim does not have an impairment that is easily identifiable

- offender is also disabled

- matter has been treated as a safeguarding issue

- victim gave consent or returned to the abusers following earlier incidents

- offender has targeted other people and they were not disabled

- victim was just in the wrong place at the wrong time

- offender was motivated by drink and/or anger.

The emphasis in the above circumstances is on another aspect of the offence, for example, this was all about theft, fraud, mindless violence, when in fact the crime was motivated in part by hostility.

None of these factors rules out a disability hate crime. Incorrect assumptions can lead to investigations overlooking or misinterpreting the information or evidence that is available to them or failing to look for that evidence, which could mean the difference between a successful or unsuccessful outcome.

3.1.4 What is a disability?

Section 146 of the Criminal Justice Act 2003 defines disability as meaning 'any physical or mental impairment'. See **2.3.3 Definitions for sections 145 and 146**. The EHRC notes that:

> A physical impairment is a condition affecting the body, perhaps through sight or hearing loss, a mobility difficulty or a health condition. A mental impairment is a condition affecting 'mental functioning', for example a learning disability or mental health condition such as manic depression.

The CJS defines a disability hate crime as:

> 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 disability or perceived disability.

The CPS and courts will decide if there is sufficient evidence to seek enhanced sentencing after conviction, but it is important that the police obtain and provide all available evidence to allow a decision to be made, whether that comes from thorough evidence gathering or skilful interviewing.

There is little legal precedent to assist in making decisions about which conditions are considered as disability for enhanced sentencing under section 146, but for recording the disability hate element of a crime the views of the victim are paramount. Some conditions are subject to debate about whether they should be considered as a disability. However, if the victim perceives their condition to be so then it should be recorded as such. In addition, sometimes the victim may not self-identify as disabled. For example, many people with mental ill health or sensory impairment do not regard themselves as disabled and may be unwilling to disclose their mental illness because of the anticipated stigma associated with this. Mental ill health is, however, clearly included in the definition and it is possible for a crime to be recorded as a hate crime even when victims do not consider themselves to be disabled. If in doubt, officers should have the confidence to ask whether a person is disabled and if they perceive that this was the reason they were targeted.

There is also limited precedent on what would be considered to be hostility in cases of disability hate crime. Although the CPS will need to assess the quality of any evidence before asking the court to consider sentence enhancements, this is not the case when recording a hate crime. Positive recording allows the police to focus on the issues at appropriate decision points, and the views of the victim or 'any other person' should be respected, even if they appear to be incorrect.

Whenever a suspect is identified, the circumstances of the case should be passed to the CPS for them to decide whether to ask the court to consider an application for enhanced sentencing.

3.1.5 Language

Using the correct language and terms that are appropriate to disability is important in building trust and confidence between those with disabilities and the police.

It is essential that policies and practices are developed in partnership with disabled people. For many disabled people, the principle referred to in Fulfilling potential, 'nothing about us, without

us' is fundamental, and the government has made a clear commitment to this. The police have also made a commitment to this, recognising that it applies to the language and terms they use as much as to any other element of police work. By actively engaging disabled people, the police can start to build confidence and avoid those occasions where confidence is undermined by inappropriate language or by people feeling decisions are being made in relation to their welfare without their involvement.

The following terms should be broadly acceptable, but this is not an exhaustive list.

Generic terminology

There is agreement that 'disabled people' is acceptable as a collective term. It is understood that some agencies have previously favoured 'people with disabilities', feeling that this puts the person before the disability. Consultation for this guidance shows that where a term must be used, then disabled person or disabled people is preferable. As with any group, it is essential to respond on the basis of individual need as disabled people are individuals and have different needs. Furthermore, some people may not regard themselves as disabled, although they would come under the disability hate crime definition.

With the exception of the term disabled person, people should not be defined by their impairment. Phrases such as 'the victim is a cerebral palsy sufferer' are likely to cause offence as they imply that the impairment is the defining factor of a person's identity.

Learning disability

There is no consensus about the appropriateness of the term learning disability and some groups prefer to use the term learning difficulty. The terms are not exclusive and there are some who differentiate between both terms but recognise that there are areas of overlap. Learning disability is used in most government documents and was the preferred vocabulary during the consultation for this document. More detailed references to the terms can be found in Guidance on Responding to People with Mental Ill Health or Learning Disabilities.

In referring to those who have a learning disability, the preferred term is people with learning disabilities rather than learning disabled person.

Mental ill health

There is a range of terms used to describe the broad spectrum of mental health impairments, but the term mental ill health is commonly used as a generic term. Mental ill health takes many forms, but some of the most commonly diagnosed conditions include: anxiety, depression, obsessive-compulsive disorder, phobias, schizophrenia, bipolar disorder (manic depression), and panic attacks. More details of the terms can be found in Guidance on Responding to People with Mental Ill Health or Learning Disabilities.

Deaf People

Many Deaf People do not identify themselves as being disabled but are more comfortable with the term Deaf People (hence capitalised).

Vulnerability

The term vulnerable has many meanings in different policing situations. It also has some legal definitions, for example, section 16 of the Youth Justice and Criminal Evidence Act 1999 sets out when a witness may be eligible for assistance on the grounds of age or capacity.

Disabled people often feel that when the term vulnerable is used to describe them, it signifies that they are seen as the problem rather than being the object of a perpetrator's prejudice. Policy and actions should show that police officers and staff understand this difference, but any situational vulnerability that exists also has to be addressed.

Sometimes the nature of a person's disability makes it easier for the offender to commit a particular offence. This is sometimes referred to as the victim being vulnerable or an easy target and no further thought is given to the issue of hostility. This approach is wrong – a person's vulnerability is not by reason of their disability alone. It is the particular situation in which they may find themselves and which is then exploited that makes them susceptible to be targeted for some types of criminal offences.

For example, being a wheelchair user does not make a person more susceptible to internet fraud. It may, however, make them an easier option for someone looking to steal a handbag in the street. In other words the vulnerable situation within which a disabled person may find themselves does not cause the victimisation, but it can provide the opportunity for an offender to demonstrate their hostility based on disability.

The offender who targets the disabled person to exploit this situation may be motivated wholly or partially by hostility and so is all the more culpable for it, and the courts can sentence accordingly.

Obviously, not all crimes against disabled people are based on hostility towards their disability. In some cases the existence of a disability may be completely unrelated to the commission of the offence, for example, when the offender is unaware of the victim's disability.

In other cases the existence of disability may appear to be merely coincidental, when in reality disability hostility is a contributing factor, for example, a wheelchair user's cleaner steals from her handbag. In cases such as this and any where a person is targeted to be the victim of an offence because of their disability, the force should consider the issue of hostility and, where appropriate, seek advice from the CPS.

An inappropriate focus on vulnerability risks furthering a potentially negative image of disabled people as inherently weak, easy targets and dependent, and requiring society's protection. It also means that appropriate enhanced sentencing options available under section 146 of the Criminal Justice Act 2003 may not be considered. Instead, the focus ought to be on enforcing the victim's right to justice and scrutinising the offender's behaviour, prejudices and hostility so that the case is properly investigated and prosecuted. For further information see Guidance on Prosecuting Cases of Disability Hate Crime.

Hostility and vulnerability

The two factors of hostility and vulnerability are not mutually exclusive and, where both exist, this should be drawn to the attention of the court.

Targeting a particular person to be the victim of an offence because they are black or gay or disabled is often a clear indication of hostility (eg, unfriendliness, ill will) based on race, sexual orientation or disability. Seeing the particular disabled person as an easy target for a particular criminal offence does not alter this. The victim is still being targeted specifically because of their disability.

Victims of crime often happen to be the easiest target available to the offender at the time. Offenders assess the risk to themselves of being caught or injured and select the person who poses the least risk.

The key factor in whether a targeted crime should be recorded as a hate crime is the perception of the victim or other person, and if that perception exists it should be treated as a hate crime. Whether a prosecution can proceed to consider enhanced sentencing is a matter for later consideration by the CPS. Investigations must, therefore, explore fully the context of an offence committed against a disabled person, so that its true nature can be put to the reviewing lawyer for consideration.

Harassment

This has some specific meanings within particular legislation, such as the Protection from Harassment Act 1997, but it is also used as a generic term to cover a broad spectrum of criminal and sub-criminal activity. Additionally, harassment has a specific reference in equalities legislation. Section 149 of the Equality Act 2010 sets out the 'General Public Sector Equality duty' which outlines the requirements on organisations like the police, and states:

> A public authority must, in the exercise of its functions, have due regard to the need to:
>
> - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act
>
> - foster good relations between persons who share a relevant protected characteristic and persons who do not share it
>
> - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

Social and medical models of disability

There are the two recognised models of service to disabled people. Disabled people prefer the social model and this is the model adopted by government departments.

The medical model is criticised as it focuses on the impairment and involves officials deciding what is needed by a disabled person. The social model focuses on the barriers faced by disabled people and concentrates on working with the person to respect their rights and the need to communicate with them to offer a service that removes the factors preventing them from sharing the same freedom as others.

The social model of disability distinguishes between impairment and disability. It recognises impairment as certain individual appearances or certain functional limitations of the mind, body or senses. Disability is argued to be the disadvantage or restriction of activity caused by a society which takes little or no account of people who have impairments, and thus excludes them from mainstream activity.

The implication is that the removal of attitudinal, physical and institutional barriers will improve the lives of disabled people, giving them the same opportunities as others on an equitable basis.

Mate crime

This is a term used by some people to describe the persistent problem of disabled victims who are harmed in abusive relationships by offenders who either set out to, or take the opportunity offered by the relationship to abuse the victim. Abuse can be financial or violent and often has an escalating nature. Although a category of mate crime is not recorded nationally, police officers need to understand the term if a victim uses it, and that such a report is likely to be a disability hate crime or incident.

Other terminology

Phrases such as, 'He had a mental age of 5' should be avoided. They cause offence to disabled people and are seen as a barrier to fair service delivery.

3.1.6 Access to services

For disabled people to access police services, and to comply with legal obligations under the Equality Act 2010, it is important to ensure that fundamental issues such as access to police premises are addressed. For further information on reasonable adjustments, see the Equality and Human Rights Commission.

The police service has a responsibility to provide an accessible service to victims, witnesses and defendants. This can be met by:

- ensuring that station reception areas are accessible and providing suitable facilities such as ramp access and automatic doors
- using registered intermediaries to support witnesses to give evidence
- having access to British Sign Language and other interpreters, videophones, type talk and text messaging services
- providing self-reporting crime packs through community organisations
- providing such self-reporting resources in ways which meet the need of the intended audience, such as those provided by the True Vision scheme
- providing for assisted reporting at third-party sites, particularly disabled people's voluntary and community organisations
- publicising reporting methods to disabled people and their organisations.

The best way to make services accessible is to understand the needs of local disabled people and to seek their views.

3.1.7 Investigative techniques

Obtaining evidence may present challenges to conventional investigative practices because of the nature of the victim's disability. Innovative approaches may be needed to secure evidence and support a successful prosecution. However, the police and CPS prosecutors should never make assumptions about the competence, capacity or credibility of a disabled person, or any support needs they may have. It is good practice to ask the person about any support they require to give their best evidence.

Early identification of the measures required to allow victims and witnesses to give the best possible evidence is essential to successful investigations.

In addition to making traditional enquiries for witnesses and obtaining forensic evidence, it is important to research whether there have been previous incidents involving the same victim or suspects, as there is a likelihood of victims suffering escalating abuse, and previous incidents may have gone unreported. This could include liaising with partner agencies which may have dealt with other incidents without informing the police.

Using registered intermediaries may assist the victim give their best evidence. A registered intermediary is a trained and accredited expert whose role is to assist victims to give their best evidence in initial interviews through to any court proceedings. For further advice contact the National Crime Agency Specialist Operations Centre.

Investigators should ensure that, where appropriate, the victim is properly supported by a family member, friend or professionally trained individual when a detailed interview is being conducted and a statement is being taken. Such a victim-centred approach not only contributes to the welfare of the victim but also safeguards the integrity of the investigation.

Steps should be taken to minimise distress or anxiety arising from a mental health condition, the experience of recalling the crime or being in an interview setting. This includes making sure that rooms have natural light, allowing people to take regular comfort breaks, encouraging people to get up and walk around if they wish, explaining why there are CCTV cameras in an interview room, or switching them off, and dressing informally.

Video interviewing, where appropriate, particularly for those who have a learning disability or mental ill health, is the primary method of achieving best evidence.

Where video interviewing is not practicable because of a lack of accommodation, facilities or trained interviewers, alternative methods of capturing evidence must be pursued and the decision-making process documented.

Using a qualified interpreter to assist with communication must be considered, for example, a British Sign Language interpreter or Deaf-Blind Language interpreter.

To assist with the investigative process, officers should draw on the expertise of disabled people's organisations and organisations within strategic and local partnerships with particular knowledge of specific disabilities.

Staff within the force may also be able to assist. For example, the Metropolitan Police Service (MPS) has developed its Cultural and Communities Resource Unit which provides a database of life skills possessed by individual staff members. This includes lifestyle, specialist community knowledge, languages and hobbies.

The CPS has appointed hate crime lead prosecutors who have received specific training and guidance on the best ways of supporting victims to provide the strongest evidence. They can also discuss the range of special measures available to assist victims and witnesses in giving their evidence.

Guidance on the application of special measures can be found in Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures. Early identification of the need for special measures and ensuring that this information is passed on to the CPS will help to ensure that witnesses are able to give the best possible evidence. For further information see **8.5.3 Evidence to support enhanced sentencing**.

Case study

Operation Eager was the Greater Manchester Police investigation into the brutal murder of a 42-year-old man who had Asperger syndrome and epilepsy. He was living independently in the community in housing association accommodation. His disorder required the support of the learning disabilities team who regularly attended his home. There was a history of complaints made by the victim about antisocial behaviour from other residents. He himself had suffered varying degrees of harassment from different people. His murder was declared a critical incident by the force.

Enquiries revealed that another tenant was responsible for the murder. The senior investigating officer (SIO) identified that the murder could be perceived as a hate crime. Three days after the murder, the SIO held an extended briefing and made a decision to invite members of the Local Authority Adult Services Team (LAAST) to the briefing and include them in the process. This was to ensure that strong partnership links were formed from the outset. A confidentiality agreement was drawn up and signed by LAAST. The investigation then benefited from direct links to agencies which could obtain information about the victim quickly and efficiently. It also assisted the BCU commander at gold meetings with the independent advisory group where input from Adult Services added to the group's confidence in the police action.

Adult Services commented at the final debrief, 'Adult Services attendance at the major incident briefings had been useful and connected Adult Services to the investigation'.

The SIO also invited the divisional neighbourhood chief inspector and a detective sergeant from the force diversity unit to the extended briefings so that everyone was fully aware of what a hate crime is and the effect the actions of the investigation team had on the local community. The team were then able to effectively review the evidence they obtained with the full knowledge that this may be a hate crime.

No evidence ever materialised that identified this investigation as being motivated by hostility. Other agencies, however, continually questioned this, and the SIO attended all the gold meetings and updated members on this area specifically.

At the final meeting the chair of the Disabled Advisory Council commented that he appreciated the honesty and openness during this investigation and it had been very well received. He felt the meetings held had been excellent and issues raised had been listened to and addressed.

The force review unit identified the partnership working by the SIO as good practice, and the way the investigation was conducted has been included in a number of continuous professional development events for SIO and senior leadership teams.

3.1.8 Victim support

Victims are individuals with individual needs. The best person to advise on these needs is the victim, and it is good practice to include them when agreeing victim and witness support plans. There may be other professionals who can assist in the provision of support services, but this should not be presumed without the involvement of the victim.

Communication

The need to maintain communication with the victim remains paramount throughout the investigative process. Difficulty in maintaining communication by conventional means is not an excuse for failure to do so. Alternative methods are available and should be employed. These include:

- involving disability organisations to ensure that police communications are available in a suitable format, such as easy read and large print
- Braille and audiotape
- specialists such as a registered intermediary or a British Sign Language (BSL) interpreter.

3.1.9 Partnerships

The criminal justice process

Most people see the criminal justice system as a single end-to-end process from police response to a conviction in court. Failure during the latter stages of the process, which may be outside the immediate control of the police service, can damage confidence. Early identification of potential barriers in the criminal justice process is important, and should include issues such as the logistics for attendance at court. The police service must play its part in overcoming these barriers.

Partnerships and independent advice

It is unrealistic to expect every operational officer to have detailed knowledge of the range of impairments and disabilities. The police service must, therefore, seize the opportunity to establish and nurture professional relationships with those organisations and individuals who have comprehensive knowledge and expertise concerning specific aspects of disability.

Setting up disability independent advisory groups at force level, or having disability representation on independent advisory groups at BCU or borough level should be considered. Local disabled people's user-led organisations or voluntary sector groups offer expertise and links should be established with them.

3.1.10 Training issues

Lack of awareness of the specific challenges faced by disabled people produces the greatest barriers to delivering an effective and quality service to disabled victims of hate crime.

Awareness training at all operational and policy levels gives officers the confidence necessary to communicate with disabled people and will deter them from using inappropriate language and terminology. A trained investigator will be better equipped to identify issues likely to undermine the confidence of victims and witnesses.

Regular supervision and monitoring of victim satisfaction will enable managers to identify training requirements.

The College of Policing has developed national learning packages that focus on service delivery. They are available through the National Centre for Applied Learning Technologies (NCALT).

3.1.11 Additional resources

Further advice and guidance can be obtained from:

- The Equality and Human Rights Commission
- Hidden in Plain Sight: Inquiry into Disability Related Harassment
- Guidance on Responding to People with Mental Ill Health or Learning Disabilities
- Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures
- The True Vision website, which has a range of contacts for groups who can assist criminal justice agencies and access to a broad range of tailored resources
- Office for Disability Issues, Language guide
- Police and mental health – how to get it right locally, published by Mind.

3.2 Race hate crime

Race hate crime can have devastating consequences for the victim and their families, but it also affects communities in terms of cohesion, tension and fear of crime. Responding to racist hate crime and taking action to prevent it will have a significant impact on the confidence that communities affected have in the police service. Failing to respond adequately to hate crime will damage relationships and make all policing services less effective.

A race hate crime is defined as:

> …any criminal offence which is perceived, by the victim or any other person, to be motivated (wholly or partially) by a hostility or prejudice based on a person's race or perceived race.

Race means any group defined by race, colour, nationality or ethnic or national origin, including countries within the UK, and Gypsy or Irish Travellers. It automatically includes a person who is targeted because they are an asylum seeker or refugee as this is intrinsically linked to their ethnicity and origins. Policy and legislation takes a 'human rights' approach and covers majority as well as minority groups.

3.2.1 Gypsy, Traveller and Roma communities

Gypsies of English, Welsh or Scottish origin, Irish Travellers and Roma have a long-standing travelling heritage in many parts of the UK and Europe. For much of their history, they have been subject to hate and marginalisation. Gypsies and Irish Travellers have full status as ethnic minority groups and, as such, are entitled to the full protection of equality legislation.

Gypsy people are also known as Romany Gypsies and are related by origin to the Roma. The name Gypsy came from the mistaken belief that they came from little Egypt or the Middle East, but it has been traced through language that the Gypsy people actually originated in India, the Romany language being derived from Sanskrit.

Roma arrived relatively recently in the UK because of unrest and racial discrimination across Eastern Europe. These communities were forced by authorities to alter their 'travelling lifestyle' over many generations. As a result, they tend to share housing as an extended family group and are often subject to racial harassment. Their isolation in many modern countries has led to significant violence, including coordinated attacks by other residents. As with any other community tensions, this can escalate to targeted crime and unrest unless it is understood and dealt with at an early stage. Hostility towards the Gypsy, Traveller and Roma communities is long-standing and widespread. Many were killed in Europe during the Holocaust of the 20th Century.

Conventions and definitions

Decisions in the cases of the *Commission for Racial Equality (CRE) v Dutton* [1989] QB 783 and *O'Leary v Allied Domecq* (unreported) (Case No CL 950275–79) July 2000 Central London County Court have established Romany Gypsies and Irish Travellers (commonly referred to as Gypsies or Travellers) as specific ethnic groups. As such, they are entitled to the full protection of the provisions of the Equality Act 2010. Similar rulings have given the same statue to Scottish Travellers. Their status should be acknowledged by capitalising the words Gypsy and Travellers in all documents.

Irish Travellers can find the term Gypsy offensive. The appropriate terminology is, therefore, Travellers or Irish Travellers. Officers should remember that Gypsies and Travellers may be either visible or non-visible ethnic minorities.

Officers need to be aware that Gypsies and Travellers are not always either site-resident or permanently travelling. The lack of appropriate site provision has led to many people who would otherwise pursue a travelling lifestyle to move into settled housing. Nonetheless, the community retain their cultural values and their ethnic status as such does not alter. This may continue for several generations after taking up settled housing and it may be the intention of many to return to a travelling lifestyle. Residential status does not diminish the potential of a Gypsy or Traveller becoming a victim of hate crime based on ethnicity.

Legislation

There is no specific legislation to protect Gypsies or Travellers, but their status as an ethnic group means that they share the same protections under legislation, such as the Equality Act 2010.

Gypsies and Travellers are particularly subject to notices excluding them from many premises. In the past the police may have treated these notices as a matter for the Equality and Human Rights Commission (EHRC). In today's society, subject to individual circumstances, the owners of premises displaying such notices could be committing criminal offences or licensing breaches. Use of such notices should, therefore, be thoroughly investigated and action considered by the police or licensing authority, in addition to any referral to the EHRC.

Barriers to reporting hate crime

Gypsies and Travellers can experience difficulties in reporting hate crime, contributing to significant levels of under-reporting. This can be attributed, in part, to a historically poor level of positive, cooperative engagement with the police. Inadequate or insensitive police responses when such a crime is reported may also be a factor.

Effective investigation of reported hate crimes, and ongoing and proactive community engagement will help to generate confidence in the police service among Gypsy and Traveller communities. This should then encourage improved levels of reporting.

More comprehensive knowledge of the actual level of hate crime will enable the police to develop an appropriate investigative and preventive response.

The following measures will help to improve levels of reporting:

- A range of engagement and education activities ensuring that Gypsies and Travellers groups are aware of what constitutes hate crime and how it can be reported.

- The police should not automatically assume lower levels of literacy among Gypsy and Traveller communities, although language and literacy issues may and often do arise.

- The police should consider a range of communication mediums to explain rights and methods of reporting, including leaflets, posters, video and audio.

- Partnership working with representative organisations and the Traveller Education Service is also essential to ensure an increased awareness of issues affecting Gypsies and Travellers.

Access to facilities for reporting crime should be made as easy as possible. This includes:

- setting up third-party or assisted reporting schemes which use neutral venues or organisations that are familiar to the community

- having dedicated True Vision materials and an online reporting facility

- a willingness to record allegations of hate crime or hate incidents that may have occurred in another force area and to transfer them to the appropriate force for further investigation. This is particularly important to families and individuals who travel.

Tasking and coordination

All reports of hate crime made by Gypsies and Travellers should be flagged on command and control and intelligence systems so that trends can be identified easily and the performance of police service delivery assessed.

Additional information

- [Friends, Families and Travellers](#)
- [The National Federation of Gypsy Liaison Groups](#)
- [The Traveller Movement](#)
- [The Equality and Human Rights Commission](#).

3.2.2 Asylum, refugee and migrant communities

Policing asylum seeker, refugee and migrant communities presents particular challenges, especially in terms of the reporting, recording and investigation of hate crime targeted against them. Crimes which target someone because of hostility towards their immigration status constitutes a recordable race hate crime.

People travel from many parts of the world, particularly within Europe, for travel and employment. In addition, many people flee conflict in areas such as the Balkans, Africa and the Middle East, to seek asylum in the UK and other states which have an international commitment to offer asylum to those in genuine need.

Diverse communities bring many benefits to society but they present new challenges to police forces, requiring them to develop tailor-made approaches according to the individual policing needs of their communities.

The presence of new communities is not always universally supported. People object for a range of reasons, including political, point of principle and bigotry. There are many examples where extreme political groups, posts on social media and even the mainstream media and politicians have made statements which are likely to increase the hostility that exists towards new sections of the community. While most people express their opposition through legal and democratic means, others go on to commit hate crimes motivated by their hostility.

It is essential that the police are aware of the tensions that exist in society and that they work to prevent hostility escalating to crime. The police service has a duty to provide services in a way that meets the needs of victims and brings to justice those who perpetrate hate crime.

The hate behind verbal assaults and attacks on the person and property of asylum seekers and refugees can differ subtly from other hate crime. In addition to hostility directed towards a person because they are foreign or culturally different, there are often unfounded perceptions that preferential treatment is offered to them in terms of benefits, healthcare, housing and employment.

Asylum seekers, refugees and migrants may lack the basis for a unified community of their own as they are usually drawn from a number of different cultures, faiths and ethnic origins. This diversity leaves asylum seekers and refugees lacking the support normally derived from an established

community. Indeed, their diversity means that they frequently face hostility, especially where people from neighbouring countries who are involved in the same conflict live close by.

Individuals who have fled countries because of discrimination or persecution may also experience further discrimination and hostility from communities in the UK. For example, people who have fled countries because they are gay can often encounter the same hostile attitudes from their community in the UK.

Categories of 'new migrant' communities

Note: the terms below are descriptive and not formal legal definitions. This list is not exhaustive. There are regular changes to potential immigration status and this is a complex area. Further information should, therefore, be sought from UK Visas and Immigration.

Asylum seekers – people who have applied for asylum in this country and are supported while their application is assessed.

Failed asylum seekers – people who have failed to convince the government that their need for refugee status is genuine. Some failed asylum seekers are given state support in certain circumstances, such as where they originate from a country that is deemed to be unsafe for them to be deported to, but they have agreed to return voluntarily once it is deemed to be safe.

Refugees – people who have successfully applied for protection from the state and who, for a limited period of time, have most of the rights of indigenous citizens.

Migrant workers – people who have a legal right to enter, live and work in the UK such as those who originate from European Union states.

In addition to the above groups, there are a number of people in the UK who do not have a legal residency status either because they have entered illegally or have overstayed their period of entitlement. Regardless of a person's legal status, and even if they have no legal entitlement to reside, everyone has the protection of universal human rights and no one has the right to commit crime against an individual whatever their status. The duty of the police is to protect people, paying no regard to their immigration status and recognising that a new migrant may be more susceptible to hate crime but is far less likely to report the matter to the police.

Policing migrant and asylum communities

These communities have the right to live a life free from crime, harassment and intimidation, and are entitled to the same level of service from the police as any other UK resident.

Successful policing outcomes depend on engaging with communities and individuals, and building their trust and confidence. Failure to do so can lead to conflict when trying to investigate hate crimes and provide support to victims. Those with no experience of UK police officers may be influenced by their experience of a potentially oppressive regime (which may include policing) in their country of origin. These factors can leave a lasting and potentially negative impression of policing. It is important that any community engagement activity acknowledges and addresses these issues and works to overcome them.

Placing asylum seekers in unprepared communities can have detrimental consequences on community cohesion. The majority of those seeking asylum are law-abiding citizens who are looking for a better life for themselves and their families, in a safe environment free from persecution. Many individuals simply wish to use their skills to generate income, and this can have a beneficial effect on the local economy which often exceeds the initial support provided by the community to resettle individuals. The police, therefore, have a responsibility to protect them from hate crime and help them to live in an environment free from fear.

A full range of options is needed to meet the needs of asylum seekers and migrants, and the police must manage these complex issues in partnership with other key agencies.

Policing Guide – Asylum Seekers and Refugees identifies good practice in relation to policing hate crime against asylum seekers and migrants. It recommends that:

> Forces develop their own recording mechanisms and systems to enable the capture and identification of hate crimes and incidents against asylum seekers and refugees. This should include the capacity to record and identify inter-ethnic crimes, eg, crimes between Kosovans and Serbians.

The guide also provides information to support the policing of asylum seeker and refugee communities.

In order to inform victims of their rights the police may wish to:

- develop and make available information and welcome packs in all relevant languages, or establish police surgeries within 'one stop' multi-agency arrangements
- develop an effective communication strategy which should counter media inaccuracies, dispel myths, promote success stories where, for example, crime has reduced in an area that has a high proportion of asylum seekers and ensure clear communication exists between partnerships.

Good practice example

Recognising that many of the hate crime victims in their force area were migrant workers, Devon and Cornwall Police allocated two 'migrant worker' PCSOs to work under a partnership structure. The purpose was to build relationships and reassure this section of the community.

Asylum support

This service aims to provide an effective support system to asylum seekers. It provides:

- emergency accommodation
- dispersal accommodation
- financial support provided in cash
- coordinated input from the voluntary sector and stakeholders
- translations of information for asylum seekers.

Some case workers have received training in the management of hate crime. This means they can engage with asylum seekers with confidence and can assist the police in building relationships with these communities.

Further information

True Vision has a library of resources, including hate crime reporting forms translated into many of the languages that new migrant communities speak, which may assist in local service delivery.

3.2.3 Antisemitism

This is taken to be a combination of race hate crimes where the hostility is targeted towards Jewish people or communities and religious hate crime targeted towards Judaism.

Jewish people are accepted in UK courts to be an ethnic group. Victims may, therefore, perceive crimes targeting Jewish people to be either a religious hate crime or a racist crime, even when the victim is secular or does not have links with Israel. Antisemitic hate crime takes place where a recordable crime is committed and the victim perceives it is motivated (wholly or partially) by antisemitic hostility. Jewish people may report such crimes as racially or religiously motivated, even when the victim is secular or does not have links with Israel. This perception should be recognised.

As with all hate crimes, an offender only attracts enhanced sentencing in court if evidence is provided which satisfies the court of the offender's hostility. However, this evidence is not necessary for recording purposes. See **1 Defining hate crime**.

Historical background

Antisemitism is a historic and deeply rooted prejudice which continues to affect communities.

The murder of three Jewish children and their teacher in 2012 at a Jewish school in Toulouse, France, and the conviction in the same year of a married couple in Manchester for plotting to blow up local Jewish locations are reminders that the problem still exists.

The impact of the European Holocaust still significantly affects Jewish and other communities in the UK. The numbers of survivors are diminishing but there are still many UK citizens who lost relatives and are deeply affected by that attempt to eradicate their entire ethnic group.

The ongoing political conflict between Israel and Palestine has led to a new antisemitism, sometimes also referred to as anti-Zionism. This is expressed in a system of beliefs, convictions and political activities focused around the conflict in the Middle East. This form of hostility often blames Jews and/or Israelis for all of the tension in the region.

Legitimate criticism of Israeli government policy is acceptable in a modern, free society, but political views do not justify criminality. A crime motivated wholly or partially by such hostility should be recognised as a hate crime.

Community engagement

The police need to understand the cultures and lifestyles within the community and how to address any challenges these may present to the police.

Some Jews live their life by strict religious codes. The clothing and practices of religious observance make them easily visible in a community and, therefore, more susceptible to being targeted. This also affects how they can access services. The best way to understand the community and to deliver accessible services is to meet local people to discuss their needs and concerns.

Guidance and advice on policing a Jewish community is available from a range of national police partners, most notably from The Community Security Trust (CST) which is a dedicated community-funded charity that exists to protect Jewish people and property.

The CST works closely with the police nationally and locally, in areas with there is a sizeable Jewish community. They operate a third-party reporting structure and have trained volunteers who can offer physical protection to Jewish locations and people.

Good practice example

Greater Manchester Police (GMP) has worked hard to build cooperative relationships with the sizable Jewish community in north Manchester. It has formed a strong operational link with the local CST office and set up a formal data-sharing agreement to help determine the true extent of local hate crime.

GMP discovered that many Jewish victims suffered crimes on their Sabbath or on festival days. This prevented them from reporting the crimes because many religious Jewish people will not use vehicles or communication devices on such days. In response to this and in consultation with community leaders, GMP regularly places a mobile police station in the local area. The service has been well received by the community and has contributed to a significant increase in the reporting and recording of antisemitic hate crime.

Definition of antisemitism

The European Monitoring Centre on Racism and Xenophobia (EUMC), now the European Union Agency for Fundamental Rights (FRA), created a working definition of antisemitic to help professionals understand its nature. (This does not replace the definition of hate crime, see **3.2 Race hate crime**.) The EUMC working definition helps to explain some of the characteristics that may be present in antisemitic hate crime. These include circumstances that amount to hate crimes and those that are likely to be non-crime hate incidents.

The EUMC definition is:

> Anti-Semitism [*sic*] is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of anti-Semitism [*sic*] are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

Such manifestations could also target the State of Israel, conceived as a Jewish collectivist. Antisemitic hostility frequently charges Jews with conspiring to harm humanity, and is often used to blame Jewish people for 'why things go wrong'. It is expressed in speech, writing, visual forms and action, and employs negative stereotypes and character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could include, but are not limited to:

- calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion

- making mendacious, dehumanising, demonising, or stereotypical allegations about Jews as individuals or the power of Jews as a collective, including especially, but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions

- accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews

- denying the fact, scope, mechanisms (eg, gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust)

- accusing Jews as a race, or Israel as a State, of inventing or exaggerating the Holocaust

- accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.

Examples of the ways in which antisemitism manifests itself with regard to the State of Israel could include:

- denying the Jewish people their right to self-determination, eg, by claiming that the existence of a State of Israel is a racist endeavour

- applying double standards by requiring behaviour not expected or demanded of any other democratic nation

- using the symbols and images associated with classic antisemitism (eg, claims of Jews killing Jesus or blood libel) to characterise Israel or Israelis

- drawing comparisons of contemporary Israeli policy to that of the Nazis

- holding Jews collectively responsible for actions of the State of Israel.

However, criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic.

Antisemitic acts are criminal when they are defined by law (for example, denial of the Holocaust or distribution of anti-semitic materials in some countries).

Note: Holocaust denial is not a specific offence in the UK, although it could be evidence of other offences.

Criminal acts are antisemitic when the targets of attacks, whether they are people or property, eg, buildings, schools, places of worship and cemeteries, are selected because they are, or are perceived to be, Jewish or linked to Jews.

Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.

Further information on antisemitism can be found at:

- True Vision

- The Community Security Trust.

3.2.4 Anti-Sikh hate crime

This is taken to be a combination of race hate crimes, where the hostility targets Sikh people or communities and religious hate crimes that target Sikhism.

After the civil court case of *Mandla v Dowell-Lee* [1983] 2 AC 548, the House of Lords set out the factors needed to determine what constitutes an ethnic group, taking into account a number of characteristics. Sikh people are accepted to be an ethnic group. Anti-Sikh hate crime takes place where a recordable crime is committed and the victim perceives it is motivated (wholly or partially) by anti-Sikh hostility. Victims may, therefore, perceive crimes targeting them to be either a religious hate crime or a racist crime, even when the victim is secular or non-practising. This perception should be acknowledged.

As with all hate crimes, an offender only attracts enhanced sentencing in court if evidence is provided which satisfies the court of the offender's hostility. However, this evidence is not necessary for recording purposes. See **1.2.3 Perception-based recording of hate crime**.

Historical background

Many Sikhs have suffered hate crime in retribution for acts committed by other faiths. This occurred after the London bombings of 2005, where the offenders' ignorance meant that they conflated many religious groups into outsiders. Managers should consider how to protect Sikhs when national or world events may cause a backlash against innocent victims.

Community engagement

The police need to understand the cultures and lifestyles within the community and how to address the challenges that these may present.

Some Sikhs live their life by strict religious codes. The clothing and practices of religious observance make them easily visible in a community and, therefore, more susceptible to being targeted. This also affects how they can access services. The best way to understand the community and to deliver accessible services is to meet local people to discuss their needs and concerns.

3.3 Religious hate crime

Religious or faith-based hostility has existed for centuries. In the UK the freedom to hold religious beliefs is enshrined in Article 9 of the European Convention on Human Rights – the right to freedom of thought, conscience and religion.

The right to freedom of religious belief and practice does not justify carrying out the criminal acts and intra-religious or sectarian crimes which are included in this guidance.

Religious hate crime can have devastating consequences for the victim and their family, but it also has a wider impact on communities in terms of cohesion, tension and fear of crime. The police service will increase the confidence of affected communities by working to prevent and respond to religious hate crime. The consequences of failing to adequately respond will make all policing services in communities more difficult to deliver.

A religious hate crime is taken to mean:

> 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 religion or perceived religion.

For the purposes of this guidance this definition includes any religious group, including those who have no faith. See also **1.2.1 Monitored hate crime**.

Religion is taken in a broad context and includes traditional and non-traditional beliefs. Hate crime policy has no hierarchy. A crime motivated by hostility to an atheist is a religious hate crime as are sectarian crimes within different sections of the same religion.

There are those who would claim that there are a limited number of real religions and any beliefs outside mainstream religions are cults. It is not the responsibility of the police service to decide on the validity of any belief. UK law protects an individual's right to hold and practise their beliefs, and does not defend any theology or ideology.

3.3.1 Anti-Muslim hate crime

The emergence of the English Defence League and similar groups has highlighted the animosity towards Islam and Muslims that exists in the UK. The mass killings carried out by right-wing extremist Anders Breivik in 2011 in Norway were evidence of how such bigotry can escalate into violence if left unchecked. Breivik had many extremist views but foremost in his bigotry was his objection to Islam and Muslims.

Nature of anti-Muslim hate crime

Anti-Muslim hate crime tends to be based on myths and misconceptions about what Muslims do or believe. Those who would commit violence or crime motivated by their hostility tend to be more influenced by these misconceptions. Attacks on Muslims, such as those following the terrorist attacks in London in 2005, ignore the fact that the majority of victims have no influence over, or support for, the actions that have occurred.

Research suggests that Muslim women are often targeted for hate crime and are particularly susceptible when they dress in clothing such as a niqab or burka. There is also a belief that crimes are more prevalent around mosques, particularly when large numbers gather to pray.

Police forces in England, Wales and Northern Ireland recorded 636 anti-Muslim hate crimes in 2011, from a total of 1,829 recorded religious hate crimes. This figure is indicative rather than actual as the target faith was not identified in 613 of the recorded crimes.

It is important to note that this figure does not provide an accurate reflection of the number of crimes that occurred. There are various reasons why this figure underestimates the true extent of such crime. These include under-reporting in general and the following, more specific, reasons:

- many victims will be targeted because of their Muslim clothing or their presence near to a mosque, however, the offender uses racist rather than anti-religious language which leads the victim to perceive the crime to be racist in nature

- some victims of anti-Muslim hate crime may not have English as their first language, and may not find it easy to access police services or have the confidence to tell an official what has happened to them

- many people do not report intra-religious or sectarian crime to the police as they may fear reprisals

- some victims of anti-Muslim hostility are not actually Muslims but are prejudged to be so by a perpetrator whose ignorance is a contributing factor to their hostility.

In contrast to other groups, Muslims are not recognised as an ethnic group under UK legislation. When making this decision, the UK courts considered a number of factors including a long tradition of shared origins, culture, language and history (see *Mandla v Dowell-Lee* [1983] 2 AC 548). These are not present in the UK Muslim community, which originates from many parts of the world and have little in common other than their theological beliefs and practices.

Responding to anti-Muslim hate crime

The police need to understand the nature of the problems faced by communities and to build relationships with them which give victims the confidence to report crimes. It is also important that hate crime trends are recognised and shared locally. Measuring anti-Muslim hate crime in isolation, without considering other motivations such as race, will give only a limited picture of the risks to local communities and their needs.

Case study

TELL MAMA was established to provide a national referral mechanism for anti-Muslim hate crime. It has website and telephone facilities and provides a service to all sections of the Muslim community, including responding to sectarian and other hate crime suffered by Muslims.

TELL MAMA works with other religious groups to share experiences. It provides a focus to Muslim victims and can provide an effective partnership to areas that experience anti-Muslim hostility.

3.3.2 Other types of religious hate crime

All religious congregations can suffer from targeted abuse both from followers of other religions and those opposed to theology or the practices of individuals who are linked to their belief. Given the diverse nature of the UK population, crimes can be directly linked to incidents in other parts of the world.

The police should build relationships with local communities so that they hear of, and respond to, concerns from individuals who fear that their safety is at risk through targeted abuse.

3.3.3 Sectarian crime

Particular care needs to be exercised when dealing with sectarian crime, which can be seen as political crime in some circumstances but may be recorded as a religious hate crime in others. If a crime is motivated by hostility to a different faction of the same religion, this is a religious hate crime.

The Police Service of Northern Ireland has a separate policy for recording and dealing with sectarian crime. Experts from the force are able to offer advice to any force responding to sectararian crime, particularly intra-Christian.

3.4 Sexual orientation

 Those who are lesbian, gay or bisexual may experience a level of violence and hostility. People now choose to be open about their sexual orientation, and while society, in general, has become more accepting and knowledgeable about this, the increased visual presence has provided hate crime offenders with more opportunities to commit violent and other hate crimes.

Sexual orientation hate crime is defined as:

> Any criminal offence which is perceived, by the victim or any other person, to be motivated (wholly or partially) by a hostility or prejudice based on a person's sexual orientation or perceived sexual orientation.

Sexual orientation refers to the person who is lesbian, gay, bisexual or heterosexual. It does not include sexual practice and, therefore, connections to sexual offences or sexual activity are not relevant. See also **1.2.1 Monitored hate crime**.

As with other areas of legislation and policy related to a crime, the person targeted does not have to be of the sexual orientation at which the hostility is directed. This means that a person targeted because they are friends with gay men, or a woman mistaken for being a lesbian, could be subject to a sexual orientation hate crime. A gay man who assaults a victim and makes offensive comments about him being heterosexual is committing a sexual orientation hate crime.

3.4.1 The nature of lesbian, gay and bisexual hate crime

Lesbian, gay and bisexual (LGB) hate crime is often referred to as homophobia. It can vary in its nature from violent, unprovoked murders through to subtle intimidation which, although apparently minor, can have highly damaging effects on victims.

Some offenders have targeted LGB victims for blackmail, threatening to 'out' them or spread rumours that they have HIV or Aids. Relatives of LGB individuals suffer sexual orientation hate crime too, even though it may not be motivated by their own sexual orientation.

There have been many occasions where LGB groups have been offended by 'hate music'. This type of material was considered by Parliament when it created the offence of incitement to hatred on the grounds of sexual orientation. See also **14 Internet hate crime**.

Case study

Ian Baynham was killed in Trafalgar Square, London in 2009. He was attacked and severely beaten by a group of young people, one of whom made repeated references to his sexual orientation. He later died as a result of his injuries. The crime had a profound impact on his friends and family but also undermined the perceived safety of gay people throughout the country.

Two of the offenders were found guilty of manslaughter. At the Old Bailey, the judge increased the sentence of one of the offenders from six to seven years, using the powers of section 146 of the Criminal Justice Act.

Hate Crime, Cyber Security and the Experience of Crime Among Children: Findings from the 2010/11 British Crime Survey suggests that there are around 50,000 sexual orientation hate crimes each year in England and Wales, yet in 2011 only 4,500 crimes were recorded, including Northern Ireland. This figure demonstrates the extent of under-reporting and is the reason why the government included closing this gap as a commitment in The Coalition: Our programme for government.

In 2008 the government commissioned Stonewall to carry out a survey of LGB people to ascertain the impact hate crime had on them. The Gay British Crime Survey contains some valuable information for police forces. It found that:

- 20% of lesbian and gay people had experienced a homophobic hate crime or incident in the previous three years and one in eight had been a victim in the previous year.

- 75% of those experiencing hate crimes or incidents did not report them to the police. Only 6% reported them to third parties.

- 70% did not report hate crimes or incidents to anyone

  - 43% of victims of hate crimes and incidents did not report them because they did not think it was serious enough to report, 34% because they did not think the police would or could do anything about it and 27% did not think it would be taken seriously

  - 10% of victims did not report crimes and incidents because they feared homophobia and 7% did not want to out themselves.

- 17% of those who had experienced homophobic hate incidents in the previous three years experienced a physical assault.

- 8% of all black and minority ethnic lesbian and gay people had experienced a physical assault as a homophobic hate incident, compared with 4% of all lesbian and gay people.

- 12.5% of lesbian and gay people experiencing homophobic hate incidents have experienced unwanted sexual contact as part of the incident.

3.4.2 Sensitive policing responses

One of the challenges of dealing with sexual orientation hate crime is the issue of confidentiality. This is particularly important where the victim chooses not to make their sexual orientation public. They may be reluctant to report to the police if they fear insensitive or dismissive responses from officials.

They may have partners, colleagues or families who are not aware of their sexual orientation, so being outed or exposed through the criminal justice process could have a significant impact on their lives. By working with local LGB groups the police can assist individuals who are less likely to report because they have less support from family or neighbours.

Force reporting systems should have measures in place to ensure that confidentiality is considered in any communication with victims and witnesses.

3.5 Transgender hate crime

This is an umbrella term which includes any person who is transsexual, transgender or transvestite and anyone holding a gender recognition certificate. See section 7 of the Equality Act 2010 for further detail.

Transgender or 'trans' are terms which cover a broad spectrum of people in different circumstances. It includes people who are open and extrovert about their gender identity, and others who may demand their right to anonymity and to live a private life without any public attention. It also includes those who hold a gender recognition certificate under the Gender Recognition Act 2004 (GRA), where their right to confidentiality is protected by law.

A crime should be recorded as a transgender hate crime if the victim, or any other person, perceives that it was motivated (wholly or partially) by hostility to a transgender person, or where such hostility was demonstrated before, during or after an offence was committed.

The victim does not need to be transgender themselves and could, for example, be mis-identified as transgender or be a friend or relative of a transgender person. Sensitivity and confidentiality are likely to be key requirements of transgender victims, and care must be taken to respect their privacy.

Together with other criminal justice partners, National Policing believes that transgender hate crime is vastly under-reported. The key measures to improve this situation are building the trust of victims, offering a high-quality service and improving communications. The True Vision website offers support, information and material for dissemination to communities, but local engagement is likely to be most valuable.

3.5.1 Understanding transgender people

Transgender people can be at odds with the gender on their birth certificate. Some resolve this by undergoing reassignment surgery. Others live with the discomfort, and conform to the roles perceived to be expected of them by society.

Society has often incorrectly conflated transgender and sexual orientation. The issue is one of gender identity not sexual orientation. People have the right to expect police officers to respect their chosen gender identity. By doing so, police officers will gain the confidence of transgender people. If officers are unsure about a person's gender identity, they should ask the person how they would like to be treated.

The transgender community is not a single entity. A transgender person may be lesbian, gay, bisexual or heterosexual, of any race, religion or ethnicity and could be disabled.

Transgender groups consulted for this guidance provided some commonly used terms including:

- Transsexual – someone who believes that they do not belong in the gender assigned to them at birth. They may suffer discomfort and wish to change, or are in the process of changing, to their chosen gender.

- Transgender – a transsexual who lives as a member of the opposite gender without undergoing, or wishing to undergo, realignment surgery.

- Transvestite – a person who sometimes dresses in clothing worn by people of the opposite gender. This may, in the majority of cases, be an effort to explore the opposite side of their personality.

- Inter-sex – individuals born with anatomy or physiology which differs from contemporary ideals of what constitutes 'normal' male and female.

- Androgyne or poly-gender – describes people who do not believe they conform strictly to either gender and may identify themselves with characteristics from both genders.

3.5.2 Gender recognition for transsexual people

The Gender Recognition Act 2004 provides transsexual people with legal recognition for their acquired gender. In order to obtain a full gender recognition certificate and, therefore, legal recognition under section 2 (1) of the 2004 Act, an applicant, who must be 18 years of age, must satisfy the Gender Recognition Panel that they:

- have, or have had, gender dysphoria

- have lived in the acquired gender throughout the preceding two years

- intend to continue to live in the acquired gender until death, and will comply with the requirements imposed on them under section 3 of the 2004 Act.

Legal recognition means, for example, that a male-to-female transsexual person will be legally recognised as a woman in English law. They will be entitled to obtain a new birth certificate reflecting their acquired gender and will be able to legally marry someone of the opposite gender to their acquired gender. The Act also describes particular consequences in terms of parenthood, benefits and pensions, discrimination, succession, gender-specific offences and foreign gender change.

The legislation affects policing services as it includes a prohibition on the disclosure of information relating to an individual's previous gender identity. The restriction on disclosure relates to any person, including police officers and staff, unless such a disclosure is required, for example, for the prevention and investigation of crime (GRA section 22(4)(f)).

Community engagement

To engage with transgender people and to build their trust and confidence forces can:

- Build better relationships with statutory and third-sector partners. If there are trans groups locally this may be helpful, but it may also help to link with health and social care partners to use their contacts.

- Better understand the demographics of the transgender community by linking to research available through health and third-sector partners.

- Consider the use of specialist and traditional media to highlight commitment and services. Positive messages of reassurance when crimes take place or when perpetrators are brought to justice are particularly important.

Building positive relationships within the transgender community

By treating transgender people with respect, and by recognising and acknowledging their right to be an individual, the police service can build the trust and confidence of the transgender community. This is particularly important as some transgender people may fear ridicule and victimisation from police officers. As a result, they may not feel confident enough to report hate crimes or incidents or present themselves as witnesses. A particular concern may be that they fear press intrusion into their private lives after giving evidence in court.

3.5.3 Providing a quality service

A number of initiatives have been used in the LGB community which have proved to be effective. In some cases these may also be appropriate to use in the transgender community.

Liaison officers

Many police forces have introduced Lesbian, Gay, Bisexual, Transgender liaison officers with specific responsibility for building community links and providing support to victims and witnesses of transgender hate crime. For this role to be successful, forces must recognise the need for an ongoing investment in training and support. It is also essential that liaison officers are allocated the time to perform the role so that they can meet the needs of the community effectively. This liaison role helps build trust and confidence, increases accessibility to the police through an identified contact point and provides a specialist advice point for other officers.

Awareness training for staff

Although liaison officers provide a specific support function, most interaction between the police and the transgender community is with other police officers and staff. It is essential that all contact with members of the transgender community is positive and professional. Such encounters are critical to ensuring that trust and confidence is developed and maintained. Introducing awareness training on transgender issues, as part of the wider diversity training, may help to increase confidence when dealing with crimes and incidents involving the transgender community. It may also be appropriate to draw on the active involvement of members of the transgender community to deliver such training.

Identifying transgender hate crimes and incidents on command and control systems

Flagging transgender hate crimes or incidents separately from homophobic crimes or incidents on command and control systems has been beneficial in some forces. It has helped to identify specific policing issues affecting the transgender community, and to build up accurate crime and intelligence reports. This allows detailed research and analysis to be carried out and fed into tasking and coordination processes.

This approach enhances the ability to identify and respond to issues of repeat victimisation. Where this policy is implemented, it is important that staff are given clear guidelines so that flags are correctly applied.

Reviewing standard operating procedures on hate crime

In addition to having effective technical systems to ensure that transgender hate crimes and incidents are identified, it is essential that staff at all levels appreciate how their role contributes to providing a policing service that meets the needs and builds the confidence of the transgender community. Independent advice on relevant force policies and procedures may help to improve their effectiveness. Such a review offers an opportunity to integrate good practice into:

- crime reporting
- processing reports
- victim and witness family liaison
- critical incident identification and management
- roles and responsibilities of independent advisers, transgender community liaison officers and staff support networks
- monitoring and compliance.

Confidentiality

This is an extremely important issue for many transgender people. Depending on an individual's particular situation, the release of information regarding their gender status could have a damaging, and in some cases catastrophic, impact on the individual, their partner, family, neighbours, and employers.

The individual may, as a result, suffer verbal and physical threats, violence or damage to their property as a result of such disclosures. They may also suffer the breakdown of personal and significant relationships.

Note: where an individual has full recognition under the Gender Recognition Act 2004, the act of disclosure may itself be a criminal offence. Full details of the prohibition on disclosure of information can be found in section 22 of the Gender Recognition Act 2004. These same principles should be applied to all victims and any disclosure should be discussed with the victim in advance.

Special measures

The courts may offer a range of special measures to help to obtain evidence from victims and witnesses. Special measures are authorised by courts and can range from giving evidence behind screens to full media reporting restrictions. Where a case is to be considered by the CPS, investigating officers should discuss the court process with the victim and alert the reviewing lawyer (on the form MG3) of the individual considerations or requirements of the victim or witness.

Media reporting restrictions are likely to be a common consideration for victims, particularly a person who has a gender recognition certificate. Advice on the possible application for reporting restrictions can be sought from the hate crime lead at the CPS.

Good practice example

Following a critical incident review in 2011, the Metropolitan Police LGBT Advisory Group produced an 'Advice for SIOs on Transgender Issues', which is available as a reference document for use where transgender hate crime is committed.

3.5.4 Further support

Further information and advice may be obtained from local or national representatives of the National Trans Police Association or from a range of organisations listed on the resource section of the True Vision website.

4 Under-reporting of hate crimes

Many hate crimes go unreported to the police and many others are reported but not recorded as hate crime. The Crime Survey of England and Wales suggests that there are around 278,000 hate crimes each year in England and Wales, some 111,000 of which come to the attention of the police. Yet annual hate crime data shows that the police recorded only 43,927 such offences in 2012-13. The police, therefore, have two challenges: to improve recognition of those crimes that are reported and to close the gap of under-reporting. This is a key strand of the National Policing Hate Crime Strategy.

Many people, particularly those in isolated communities, are reluctant to report to the police directly, but some are 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. This recommendation was accepted at the time and has had consistent support from successive governments and criminal justice agencies. It remains as a significant part of the broad police response.

Every effort should be made to increase reporting and recording of hate crimes. Increased reporting will help to identify serial offenders, bring more offenders to justice and improve community confidence in the police.

4.1 Third-party and assisted reporting

4.1.1 Background

Third-party reporting sites aim to increase hate crime reporting and the flow of intelligence from a community by providing members of the public with alternative methods of contacting the police and reporting a crime.

In 1999 white supremacist David Copeland set off a series of nail bombs in London attacking the Asian, Black and LGB communities, killing three people and injuring many more. In response to the attack on the Admiral Duncan pub in Soho, a mobile police station was placed in the area and staffed by LGB police officers. This encouraged victims and witnesses to come forward, but it also gave victims of other crimes the confidence to report without fear of the adverse reaction from officers.

If the police are proactive and deliver services tailored to meet the needs of victims, they can be encouraged to come forward.

4.1.2 Review of third-party reporting

Despite the commitment, and success, of some third-party reporting schemes, there are many examples of schemes that have failed to increase reporting. The National Policing Hate Crime Group has carried out a review of existing schemes and found that many failed to deliver tangible

results. Others suffered from short-term delivery which could undermine the value of all such schemes. Local partnerships need to provide services that are tailored to the particular needs of those most affected by hate crime.

The National Policing Hate Crime Group agreed to the following principles in response to the review of hate crime schemes:

- third-party and assisted reporting remains relevant while hate crime is still under-reported
- successful schemes will increase confidence in CJS agencies
- the National Policing Hate Crime Group takes on the ownership of True Vision and coordination of True Vision material
- the group takes on a role of developing tools for local use and disseminating good practice
- guidance should encourage third-party reporting schemes to target sections of the community where the under-reporting of hate crime is most significant
- intelligence systems and community groups can inform the use of the following 5-stage model. This should assist the decision making by those managing third-party reporting schemes.

Recommended annual process for third-party reporting schemes
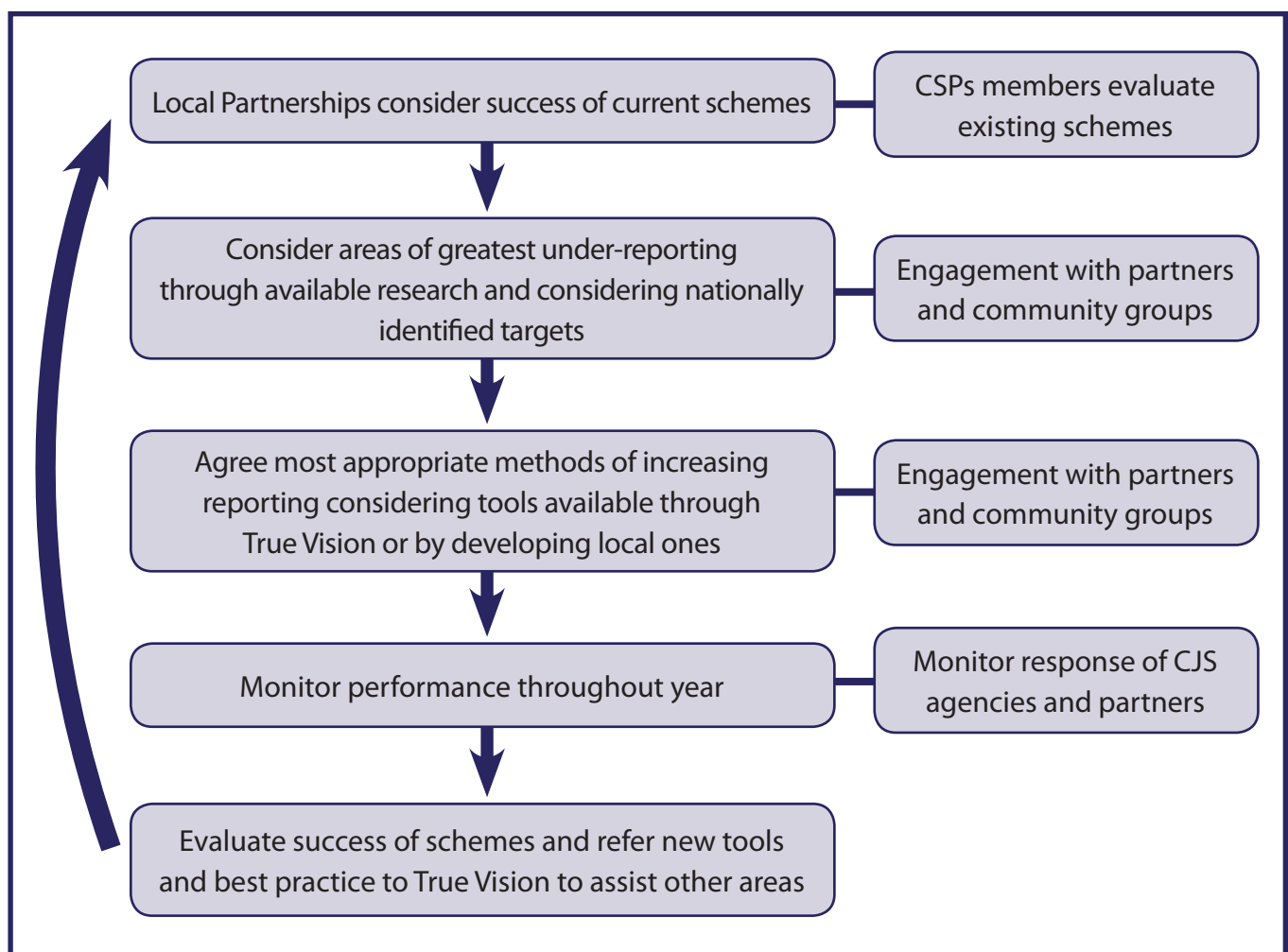
Stage 1 – Consideration of existing schemes

The first stage is to ascertain the success and value of existing third-party reporting schemes. This cannot be achieved solely by counting the number of reports that are received through third-party reporting centres, because the best schemes will always encourage direct reporting to the police. Another less measurable value is how confidence builds in a community through seeing that the police and partners take seriously those crimes which the community may fear but have not necessarily suffered.

Are the communication structures and publicity materials appropriate to the audience? They should be available in locations that are accessible to the target group and in a format that they can understand.

Stage 2 – Deciding on areas to target

National Policing believes that the most valuable schemes are the ones that are targeted towards individuals or groups who face the highest risk of being victimised, and/or who are least likely to report crimes to the police.

The national cross-government Hate Crime Programme has considered the issue of under-reporting and has identified four groups which are more likely to suffer hate crime but less likely to seek support when they do. This may provide a good starting point but partnerships may need to consider others as additional or alternative target areas because of demographics or local prevalent hostilities. The four identified groups are:

- asylum, refugee and new migrant communities
- disabled victims, particularly those with learning disability or mental ill health
- Gypsy, Traveller and Roma communities
- transgender victims.

Force analysts are likely to have experience of this type of assessment, as it has similarities to the Threat Assessment process from the National Intelligence Model. Most forces and partnerships will have little difficulty in analysing those hate crimes that the police have recorded, but it is of course more difficult to assess the nature of under-reported crime. Information may be available from:

- local community representatives from various sections of the community, including religious leaders
- key stakeholders from within the CSPs and health-related partnerships
- key individuals such as education outreach and traveller liaison officers
- civil society groups such as local support groups or refugee groups
- local surveys and community audits
- national surveys such as the

    - British Crime Survey (now Crime Survey of England and Wales)

    - Citizenship surveys

- open-source information such as the media and social media.

Analysis of the above information allows partners to agree a list of groups or individuals who will be targeted for services and materials to address under-reporting. How many groups to include is a decision that must be made locally, taking into account resources and the extent of hate crime. It could be possible to add some short-term or seasonal objectives, such as the protection of migrant workers who may be in an area for part of the year only.

Stage 3 – Agree appropriate ways to encourage reporting

Once the partners have agreed a target list for the forthcoming period, they should decide on available resources, who should take the lead and the most appropriate and effective way of promoting third-party or assisted reporting. Those with knowledge of the community and its challenges should decide on what is most effective. True Vision may have resources that can assist, such as easy read materials or translated reporting forms.

There may be occasions where the appropriate response may not follow the traditional approaches to third-party reporting. For example, an area identifies at stage 2 that the local Traveller community is being targeted for racist abuse, and the local partnership identifies this as one of the priority areas. Partners gather together a group of people who have knowledge of the community and they meet community representatives to discuss how best to address this situation.

It is assessed that local Traveller communities have a good relationship with local authority appointed liaison officers and education outreach, but they do not have the confidence to address reports directly to the police. In this instance, the most cost-effective and productive response could be to offer training to the liaison officers and education outreach staff so that they can advise the communities and provide them with culturally sensitive resources to assist.

With the communities' agreement, the liaison officers and education outreach could provide a third-party reporting structure by assisting victims to report to a nominated local officer, or by assisting victims to use the online reporting facility in True Vision.

Stage 4 – Monitoring performance

When agreeing on the target areas in stage 3, partners should agree on the method and timescales for monitoring performance. At the nominated point, the success of schemes can be measured and, where appropriate, action taken to address any shortfalls identified. In addition to measuring the number of reports that are submitted to the police, it is also important to assess the impact on community confidence and the number of reports that are made through direct reporting to the police.

Stage 5 – Sharing good practice

Where schemes are successful, other areas could benefit from that experience. In addition to sharing practice within the locality, good practice examples and the evidence that demonstrates the benefits should be forwarded to the managers of the True Vision Scheme nationally, so that lessons can be learnt and good practice shared.

Support

The National Poilicing Hate Crime Group and the True Vision management team are available to offer advice and support to forces setting up third-party reporting schemes.

True Vision is committed to developing resources to assist local areas and prevent them duplicating effort and resources by developing materials that have already been created elsewhere. Where resources are needed locally and not available in the True Vision resource library, there may be resources available to assist in creating them.

4.1.3 Data sharing with third-party reporting facilities

If partnerships agree to a more formal third-party reporting approach, or the police are approached by a group who wish to provide third-party facilities, they must be able to comply with police high standards of service and confidentiality, particularly if they are receiving public money to support their service.

There have been occasions where groups which purport to support victims of hate crime from within a given group have failed to condemn, or have even condoned, hostility towards others. This is not acceptable to public authorities and, as a minimum, any partner organisation should be able to condemn all types of hate crime, regardless of the characteristics of the victim.

An information-sharing and data security protocol must be established between the third-party site and the police, so that those using the site are confident about what will happen to the information they provide and its security. There need to be clear policies on the information that can be shared and under what circumstances. It is also essential that agency responses take into account information from third-party reporting centre reports. This can only be done if reports are shared with the police. There should be an expectation that any partners or services provide the police with information on all reported crime, even if it is anonymised.

Specimen data-sharing agreements and other support material can be found at the True Vision website facility.

4.1.4 External services

24-hour telephone advice

Some forces and partnerships have chosen to use external services to supplement their own facilities, including the provision of a 24-hour telephone advice service.

One such example is the charity Stop Hate UK. It operates the 'Stop Hate Line', which is a 24-hour hate crime reporting service. Since its launch in 2006, it has supported more than 3,000 callers and is now available to one in eight of the UK population.

It provides immediate support and information for victims and third-party callers, approximately 50% of whom have already reported elsewhere to the police or other agencies and are either not satisfied with the response, do not know what is going on, or need another type of support.

Stop Hate UK 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.

4.1.5 Training

The training needs of staff should be considered when establishing any third-party reporting structure. Partnerships may agree to provide such training and regular contact as part of the agreement to establish a scheme.

Information and guidance has been prepared centrally to assist groups who wish to establish third-party reporting structures.

5 Responses to hate crimes

Hate crime is largely based on ignorance and motivated by prejudice and hostility rather than by personal gain. All police personnel must be aware of the unique needs and vulnerability that result from being a victim of hate crime.

5.1 First contact

Victims of hate crime must be treated with sensitivity and according to their diverse needs. The victim's first contact with the police, for example, reporting their experience to a call taker or a member of front-desk staff, will influence their lasting impression of the police service.

Police staff should be aware of issues such as language, religion and cultural or lifestyle backgrounds which will need to be addressed, and should do their utmost to meet the diverse needs of each victim.

It is essential that all police staff are aware of the potential for hate crime to escalate into a critical incident. Failure to provide an appropriate and professional response to such reports could cause irreparable damage to future community confidence in the police service. See **1.6 Critical incidents** and APP on <u>Critical incident management</u>.

5.1.1 Initial actions

When taking a report of a suspected incidence of hate crime either by telephone or in person, the complainant should be calmed, reassured and dealt with in a courteous manner that underpins the basic principles of support and sensitivity. Such sensitivity should extend to providing the complainant with privacy at a police station.

All police officers and staff receiving notification of a potential hate crime should in all cases:

- gather full information sensitively and reassuringly, recording an accurate first account
- assess the response required based on any identified risks to the victim, including any injuries and presence of the suspect at the scene
- instigate suitable interventions to remove or minimise any risks identified, eg, arranging for officers to attend the scene immediately or providing initial advice to the victim
- sensitively conduct immediate research into the background of the victim, the suspect and location on all available information databases (eg, intelligence and crime reporting systems) and pass information on to officers attending the scene. This information may include
  - previous history that may identify repeat victimisation
  - any description or possible location of the suspect(s)

- possible location of any witnesses

- any adverse impact the crime has had on the victim

- officer safety.

In all cases the police officer or staff member must:

- Explain to the victim how the police will respond and what will happen next. An officer should attend any reported hate crime to provide reassurance and immediate support to the victim. Most forces record hate crime as a priority response (unless it is immediate) and this is good practice and is encouraged. Where circumstances mean that a response within an hour is not appropriate (eg, the victim is travelling and has reported by phone) a supervisor should endorse the incident log to verify this.

- Where possible, good practice suggests that a hate crime report should not be taken over the phone, unless the victim clearly states that they wish to report it that way. In such circumstances, the person taking the call should complete the initial report unless the caller specifically requests to speak to a specialist investigator.

- A supervising officer of at least the rank of sergeant must be informed of a reported hate crime and should attend the scene, where possible.

- Any hate crime that has the potential to become a critical incident should be notified to an appropriately trained senior officer. For further information see APP on Critical incident management to be consistent.

Command and control systems should, ideally, have the ability to monitor, retrieve and review information on all recorded hate crimes to identify trends and victims who are targeted repeatedly.

5.1.2 Specialist support

Assistance from internal and external partners may be required to provide a service which meets the victim's needs. Some police officers and staff in force may have the skills, knowledge or experience to assist, for example, the MPS Cultural and Communities Resource Unit (CCRU) uses the skills and diverse backgrounds of its police officers and staff.

Good practice example – the Metropolitan Police Service Cultural & Communities Resource Unit (CCRU)

The CCRU helps to support the MPS to resolve incidents more quickly and to the satisfaction of the communities it serves. It comprises a confidential internal database of the life skills of MPS officers and staff. These skills can be used to assist operationally with critical incidents and major crimes. Officers and staff provide details of their life skills, lifestyle and knowledge of a community, language or hobby on a voluntary basis. The database enables incident commanders or senior investigating officers to access appropriate staff when they need them, although a clear strategy needs to be established in their policy log before using the CCRU.

Internal experts are not a substitute for community engagement. They may be able to report community viewpoints or facilitate contact with the broader community, but they are still likely to be seen, externally, as part of the organisation. Their sole use could leave a community feeling excluded from consultation.

CCRU staff may be able to:

- Assist the family liaison officer (FLO) for a short period, in particular with respect to religious and cultural beliefs.

- Act as a single point of contact to arrange appointments for witnesses who do not speak English as a first language. This allows witnesses who would not otherwise come forward because of the language barrier to attend an interview, where an official interpreter is present.

- Call back members of the public who respond to appeals which are publicised using foreign language posters.

- Interact with members of the local community more effectively than the investigating team. For example, if investigators need to visit a temple or mosque, CCRU staff can advise on cultural differences that have to be respected and this may encourage the community to assist the enquiry.

- View interviews with victims, witnesses or suspects while they are being video-recorded, and comment on subtle changes in body language or mannerisms which officers unfamiliar with the culture may not notice.

- Assist in officer safety issues, or in obtaining information overheard by witnesses/ suspects speaking in their native language.

5.1.3 Victims of sexual orientation/transgender hate crime

Where a complainant has been the victim of sexual orientation or transgender hate crime, they should not be questioned about their sexual orientation or gender identity unless it is a key part of the evidence. If they choose to disclose this information this should be recorded in the report and it must be treated in the strictest confidence.

Police personnel involved in the investigation must not disclose information regarding the victim's or witness's sexual orientation or gender identity to their family or friends without their express permission. The victim or witness may not have told friends or family about their sexual orientation or gender identity and such a disclosure, even made inadvertently, could seriously undermine victim and community confidence in the police.

When contacting a victim's friends or family to notify them of a crime or incident, it is good practice to simply state that the individual was a victim of a crime, rather than a hate crime. Details which may indirectly 'out' someone, such as the incident taking place in a gay venue should be avoided.

5.2 Data recording

ACPO has published hate crime data following agreement on the common definition of hate crime across the criminal justice system in 2008. Since April 2011 all forces have been reporting hate crime as part of the formal annual data requirement.

In 2012/13 the police in England, Wales and Northern Ireland recorded 43,927 hate crimes, but the British Crime Survey suggested there were 278,000 such crimes actually committed in England and Wales alone. The survey also indicates that 40% of such crimes 'came to the attention of the police'. Even though the Crime Survey of England and Wales is retrospective and some victims may have formed their opinion that a crime was motivated by hostility after it was reported to the police, this does not explain the large number of hate crimes that were reported to the police but were not identified and recorded as such.

A key objective is to increase the reporting and recording of hate crime. Staff must be able to recognise and respond positively to signs or perceptions of hostility, and where they exist record the crime as a hate crime. Police managers need to have systems to monitor this recognition process and to ensure that staff have the knowledge and motivation to report such crimes accurately.

When carrying out audits of incident management and crime recording, managers should assess whether a crime has been recognised and that steps are being taken to address any identified shortfalls. This will highlight good practice and make comparisons of performance easier.

5.2.1 The national standard for incident recording

The key aim of the national standard for incident recording (NSIR) is to ensure that the police record all incidents, whether crime or non-crime, in a consistent and accurate manner. This then 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 over the collection of hate crime data. The NSIR includes the national incident category list (NICL) and counting rules for the NSIR. The NSIR provides guidance for incidents where hate has been identified as a qualifying element.

For further information see The National Standard for Incident Recording (NSIR): Counting Rules – Incorporating the National Incident Category List (NICL).

5.2.2 Crimes

The majority of hate crimes are both recordable and notifiable. This means that any incident that amounts to an allegation of hate crime should be treated as a crime-related incident in accordance with guidance in the NCRS, ie, it results in a recorded crime. Where this does not happen, good and appropriately detailed reasons must be provided. See the NCRS and the Home Office counting rules for further information.

In addition to guidance provided by the Home Office, each police force is expected to have appointed a force crime registrar, who provides expert local guidance on interpretation of the rules.

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 2007 counting rules included the following specific crimes where racially or religiously aggravated commonly occurs:

- 8D racially or religiously aggravated other wounding
- 8E racially or religiously aggravated harassment
- 58E racially or religiously aggravated criminal damage to a dwelling
- 58F racially or religiously aggravated to a building other than a dwelling
- 58G racially or religiously aggravated criminal damage to a vehicle
- 58H racially or religiously aggravated other criminal damage
- 105B racially or religiously aggravated common assault.

The Home Office has issued all police forces with a Crime Data Review Manual, which sets out self-inspection techniques for checking the quality of the recording of crime data. These checks are to ensure that forces comply with the NCRS.

5.3 Leadership and individual performance

Professionalism in all interactions is integral to achieving the strategic goals, as outlined in the National Policing Hate Crime Strategy. Managers need to be able to assess each level of the police response to determine the overall quality of service and make necessary improvements.

Chief officers can measure their organisation's response to hate crime by answering the following questions:

- is hate crime given sufficient priority?
- what is the quality of response to hate crime reports?
- are victims and affected communities satisfied with their local police response?
- do performance measurement criteria support the key objectives of the National Policing Hate Crime Strategy?
- how strong are partnerships with key stakeholders and community groups?
- do such partnerships have adequate data and intelligence sharing capabilities?
- does the organisation know the extent of under-reporting of hate crime and are responses tailored to the needs of the most targeted victims?
- are auditing processes in place to ensure that hate crimes are accurately recorded and responded to appropriately?

Relevant performance indicators should be used to hold local commanders to account for hate crime performance. This should not be a narrow focus on levels of measurable success but, importantly, should include the level of satisfaction of victims, even where an investigation has failed to result in a successful prosecution. Hate crimes are personally invasive and when the police respond to such crimes, the way in which the investigation is conducted can be as important to victims and the wider community as securing a conviction.

Chief officers can achieve their performance goals only if response, investigative, and specialist staff perform their roles with the required sensitivity and professionalism. These are aspects of their duties that demand the specific and sustained attention, direction and support of managers and supervisors.

See **11 Measuring performance** for details of tools which can help managers to assess the quality of service provided. Others can be found on the True Vision website.

6 Responses to hate incidents

Not every reported incident amounts to a crime. Where no recordable crime has been committed, the hate incident should be managed in a professional, consistent and proportionate manner. The police have limited powers in these circumstances, but should recognise that hate incidents can cause extreme distress to victims and communities and can be the precursor to more serious crimes.

6.1 Introduction

One of the fundamental findings of the Stephen Lawrence Inquiry was the need to respond to racist incidents as well as to crimes. Incidents can escalate to more serious actions if unchecked and the damage caused to victims is often as serious as if it were a crime.

A non-crime hate incident is defined as:

> any non-crime incident which is perceived by the victim, or any other
> person, to be motivated (wholly or partially) by a hostility or prejudice.

If the hostility or prejudice is directed at one of the five monitored strands (race, religion, sexual orientation, disability and transgender) it should be recorded as a hate incident. See **1.2 Agreed definitions**.

Background

There are some actions that are criminal if committed in public but not if they occur in a dwelling. An example of this would be public order offences, some of which are criminal offences if they take place in public places. It is understandable that a victim is likely to suffer the same harm by the incident, regardless of the location.

Although the police have limited enforcement powers to deal with non-crime incidents, they do have a responsibility to prevent crime. The police service is subject to the public sector general equality duty under section 149 of the Equality Act 2010. See **7 Partnership working**.

While the police service supported the findings concerning hate incidents set out in the recommendations of the Stephen Lawrence Inquiry, its response has often been inconsistent. It has also attracted criticism for under or overreaction to incidents. It is important that the police service acts in a proportionate way when such incidents are reported.

Most forces have a system for recording non-crime hate incidents and should be able to analyse non-crime incidents so that preventive activity can take place, and any tensions that exist in communities can be measured.

6.2 Ownership

The police do not always have the primary responsibility for responding to non-crime hate incidents. In some cases this will fall to other statutory agencies. Although they may not have formal processes to respond to hate incidents, all statutory agencies have the same legal duties under the Equality Act 2010 (see **7 Partnership working**) and it may be appropriate for the police to refer reported incidents to another agency.

Examples are provided of appropriate responses to non-crime hate incidents.

Example 1

A victim, who is a wheelchair user, reports to the police that a man approached her in the street and threatened her (in circumstances that amounted to a crime under section 4 of the Public Order Act 1986). In doing so the man made derogatory comments about her disability. This incident would be a recordable crime and, given the demonstrated hostility, it should be recorded as a disability hate crime. The police have the primary responsibility for responding.

Example 2

The victim reports the same circumstances as in Example 1, but this time the incident takes place at a party in her home. Given that the potential offence is not enforceable in a dwelling, this should be recorded as a non-crime disability hate incident. The police have the primary responsibility to record and respond. An officer assesses the incident and the risks of escalation and decides that a proportionate response would be to record the incident, offer support to the victim by referring her to victim support services, and include the incident in the intelligence processes to measure community tension.

Example 3

The victim reports that she was called derogatory names, referring to her disability without it breaching the law. This time the incident takes place during a lesson in her school and the perpetrator is another pupil. As there is no criminal offence in this circumstance, the incident would amount to a non-crime hate incident. The appropriate police response would be to refer it to the school management team, with the victim's agreement, and to offer them any advice they may need about available victim support. The school should assess the risk and decide on a proportionate response. The police would have a record of the incident, but there would be no need for them to formally record it as a non-crime hate incident.

6.3 Recording non-crime hate incidents

Where any person, including police personnel, reports a hate incident which would not be the primary responsibility of another agency, it must be recorded regardless of whether or not they are the victim, and irrespective of whether there is any evidence to identify the hate element.

The mechanism for local recording of non-crime hate incidents varies. Many forces record them on their crime recording system for ease of collection but assign them a code to separate them out from recordable crimes. Whichever system is used to record hate incidents, managers should have confidence that responses are appropriate and that crimes are not being recorded incorrectly as non-crime incidents.

Records must be factually accurate and easy to understand. At an early stage any risks to the victim, their family or the community as a whole must be assessed and identified.

The number of non-crime hate incidents is not collated or published nationally, but forces should be able to analyse this locally and be in a position to share the data with partners and communities.

Police officers may identify a hate incident, even when the victim or others do not. Where this occurs, the incident should be recorded in the appropriate manner. Victims may be reluctant to reveal that they think they are being targeted because of their ethnicity, religion or other protected characteristic (especially in the case of someone from the LGBT community) or they may not be aware that they are a victim of a hate incident, even though this is clear to others.

Example

A heterosexual man walking through an area near a gay club is verbally abused in a way which is offensive but does not constitute a public order offence. He reports the incident but does not believe it to be homophobic, or want it recorded as such, because he is not gay. The officer taking the report is aware that several men have been attacked in that area over the last few weeks and the perpetrator appears to be hostile to gay men. The officer correctly reports this as a sexual orientation hate incident, recording the reasons in the report.

6.4 Opposition to police policy

The recording of, and response to, non-crime hate incidents does not have universal support in society. Some people use this as evidence to accuse the police of becoming 'the thought police', trying to control what citizens think or believe, rather than what they do. While the police reject this view, it is important that officers do not overreact to non-crime incidents. To do so would leave the police service vulnerable to civil legal action or criticism in the media and this could undermine community confidence in policing.

The circumstances of any incident dictate the correct response, but it must be 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 which is incompatible with a right conferred by the European Convention on Human Rights. Some of these rights are absolute and can never be interfered with by the state, eg, the freedom from torture, inhuman or degrading treatment or punishment. Some, such as the right to liberty, are classed as limited rights and can be restricted in specific and finite circumstances. Others, such as the right to respect for private and family life, the right to manifest one's religion or beliefs, freedom of expression, and freedom of assembly and association are qualified and require a balance to be struck between the rights of the individual and those of the wider community.

Qualified rights are usually set out in two parts, the first part sets out the right or freedom, and the second part sets out the circumstances under which the right can be restricted.

Generally, 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 relevant Article

- proportionate.

7 Partnership working

This is an essential part of the police response to tackling hate crime. Partnerships rarely succeed without strong police contribution, as the expertise of staff and exposure to victims are key components of an effective partnership response.

Statutory partnerships are at the core of joint working. This is particularly so in respect of hate crime. These organisations all share the same legal duties under section 149 of the Equality Act 2010, which states that:

A public authority must, in the exercise of its functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act

- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

7.1 Benefits

The benefits of statutory partnership activity to tackle hate crime are clear. They:

- facilitate information and intelligence sharing, helping to quantify the hate crime geographically or within a specific section of a local population

- prompt agencies with community safety responsibilities to develop and deliver a coordinated safety package for actual and potential victims of hate crime

- prevent duplication of service delivery by different agencies

- produce a consolidated approach to accessing additional resources.

While active participation by statutory partnerships contributes substantially to service delivery, the extension of partnership activity into communities to encourage collaborative working beyond statutory limits has even greater potential. The key to success is imagination and innovation to secure a spread of partners. Involving groups and individuals that other agencies cannot reach will help to achieve:

- sustainable relationships between the police and minority communities to work together to address local hate crime problems, enhance trust and develop confidence in the ability and commitment of the police to deal with hate crime

- ongoing dialogue to increase community confidence and generate a flow of community intelligence

- openness and transparency, which provides the police with a better understanding of the impact that hate crime has on the community and at the same time helps the community to better understand the constraints and legal requirements that can hamper police action and prevent successful prosecutions

- joint ownership of problems and solutions, which provides an opportunity for partners to share in the success of hate crime initiatives, promoting further collaborative effort.

Continual appraisal of the impact of hate crime on day-to-day quality of life will help to identify where adjustments to policing policy, priorities and operational practice are required.

Effective partnership working ensures that individual and collective needs generated by hate crime are not only captured but that, more importantly, positive action is taken. Its most tangible benefit is to produce an environment where individuals feel free to live, work and move around freely. Such an environment is less tolerant of hate crime and those who commit it.

Joint training and the provision of secondment opportunities can enhance understanding of all stakeholders and improve the effectiveness of the police response to hate crime. This type of approach may offset a lack of experience within some statutory partnerships such as CSPs, particularly in rural districts where partnership arrangements may not be well established and lack the flexibility that addressing hate crime demands.

The police service is ideally placed to assume a leadership role to expand and extend partnership networks and develop joint working protocols to enhance local service provision. This is particularly relevant to communities which may feel isolated and on the margins of society. Ultimately, the police need to invest effort to support partners to improve the service provided to victims.

7.2 True Vision

The True Vision website has a range of downloadable tools (based on good practice developed across policing) that can assist in developing partnerships. The products include guidance on how non-statutory groups can establish effective responses.

7.3 Leadership

Chief officers must deliver a clear message that partnership working, particularly with individuals and groups who have real influence within communities, is key to the overall strategy of tackling hate crime.

Different approaches are required to meet geographical and demographic circumstances. The abilities of partners and the influence they have vary, but local policy should allow sufficient flexibility for good practice to be developed. The aim is that good practice emerging from such flexibility can ultimately benefit the force as a whole and, therefore, victims of hate crime and their communities.

Leadership at chief officer level must be reflected at area command, hate crime specialist, sector and individual beat officer levels. All can offer leadership in securing the expertise and enthusiastic commitment of partners. Experience has shown that, without police leadership, many partnership schemes lose focus, energy, direction and valuable opportunities whereby existing partners become disenchanted and prospective partners are discouraged.

7.4 Problem solving in partnerships

Enforcement alone cannot resolve hate crime. Indeed, in many cases, it may not be possible because of a host of evidential difficulties. A difficulty in securing a conviction does not mean that the problem has gone away. The police still have to tackle it using new and imaginative methods. Partnership approaches to the reduction of hate crime lend themselves to problem solving methods.

Scan analysis response assessment

The scan analysis response assessment (SARA) approach has been used for some time for problem solving in the police service. Applying this helps to ensure that hate crime problems are effectively identified and tackled without wasting time and resources. Its use should be explained to partner agencies to help them use this method to work with the police to tackle local problems.

One practical example of the SARA approach is the third-party reporting model outlined in **4.1.2 Review of third-party reporting**.

For further information see the SARA model and problem-orientated policing.

8 Minimum standards for response, investigation and supervision of offences

A hate crime investigation has two aims. These are to:

- recognise the crime and undertake a quality investigation that supports an outcome which satisfies the victim and the community

- reduce repeat victimisation.

8.1 Introduction

APP on Investigation sets out a model for investigation. There are, however, a number of factors which need to be highlighted as being of particular relevance in an investigation of hate crime.

Hate crimes by their very nature have significant potential to develop into critical incidents. There have been occasions where police forces have failed to recognise the risks associated with low-level hate crime and hate incidents until after it has escalated to a fatal or other serious crime. For further information see **1.6 Critical incidents** and APP on Critical incident management.

While an investigation is ongoing there may be an opportunity to put in place additional resources and actions that help to reassure the victim and wider community. This could include rehousing victims or witnesses, revoking tenancy agreements of alleged offenders or using anti-social behaviour orders. Investigators should also recognise the benefits of a proactive media strategy, particularly at a local level, and the use of appropriate crime prevention measures.

To ensure that all personnel involved in hate crime investigation maintain the highest standards and are adequately skilled, supervisors must take an active interest in overseeing the investigative process. They must provide support and assistance and take steps to bridge any gaps in the investigation.

8.2 Call handling

The call handler is usually the first point of contact a victim has with the police. The tone set here can have a profound effect on public confidence and the likelihood of further reporting. It is also the first and often the most important opportunity to obtain vital information about the nature of the offence and the vulnerability of the victim. In addition, the victim can be given support and advice on the protection of the crime scene and forensic opportunities.

8.3 Risk assessments

At all stages, from initial notification to the conclusion of an investigation, police officers and staff must be aware that there may be attendant risks to the safety and wellbeing of victims and witnesses. An important risk factor is the potential for further victimisation. Many victims are targeted because they are less likely to have the confidence to defend themselves, either physically or because they lack the confidence or ability to stand up to the offender.

Some of the most susceptible victims find it difficult to communicate the impact that a crime has had on them, particularly if they have a learning disability, are not fluent in English or have a distrust of the police or criminal justice process. In these instances it is essential that the call-handling process provides them with the opportunity to explain the harm that has been caused and the risks they face. Skilful call handlers are able to identify those who have been adversely affected by crime and can obtain the information needed to assess risks and assist the investigating officer.

Immediate steps should be taken to identify and record risks. Action should be taken to manage risks by using appropriate interventions. The perceptions of victims and witnesses of their own risk are necessary considerations. Risk assessment and management is a dynamic process subject to constant change. The level of risk should be reviewed regularly, along with any interventions put in place, to ensure that they remain appropriate to the situation, provide reassurance and reduce the likelihood of further victimisation. To ensure openness and accountability, a record of this risk assessment should be kept and regularly reviewed for quality assurance purposes and identifying trends.

Whichever method of risk assessment police forces use, every opportunity should be taken to obtain information during the course of the police response and criminal justice process. The following questions may help to elicit some of the information needed for effective risk assessment.

- Why do you think you have been targeted on this occasion? (without sounding like the victim is being blamed)
- Have you or your family been targeted before?
- Do you know of similar crimes in the area?
- Do you fear that the offender will repeat the behaviour?
- Do you know the offender?
- What impact has the behaviour had on you and your family?

Good practice example

West Mercia Police, in conjunction with the National Policing Antisocial Behaviour Portfolio, have produced a scripted response for call handlers and a specific risk assessment process.

See also **8.7 Support for victims and witnesses**, and **8.9 Witness care**.

8.4 Initial response

It is the responsibility of chief officers to ensure that every force has a coherent policy which sets out the minimum standards for the initial response to an allegation of hate crime.

8.4.1 Priority response

The initial response to hate crime should be treated as a priority incident. An officer should attend the victim of an alleged hate crime within one hour of the offence being reported. It should not be resolved over the telephone.

A national audit carried out by ACPO in 2009–10 found that service tended to deteriorate when a crime report was deferred. There are occasions where attendance within the hour is not appropriate or possible, either because of incident workload or victim availability. Where there are such delays, a supervisory officer should endorse the reasons for them and set up a clear plan for how and when the incident will be responded to. The reasons for any delay should be communicated to the victim.

8.4.2 Initial actions

Officers must remember that their initial actions at the scene can have a significant impact on the later success of an investigation. In some cases this can make the difference between conviction and acquittal. It is particularly important to:

- deal with the victim sensitively
- preserve the scene if appropriate
- gather evidence (especially forensic evidence)
- locate and speak to witnesses
- deal with any suspect(s), whether present at the scene or not
- conduct an initial risk-assessment.

Note: it is the duty of the police to provide support for the victim and actively investigate the incident. **Positive action should be taken, not just a record made.**

8.4.3 Scene supervision

Many forces have policies for the notification or attendance of supervisory officers or CID officers to a hate crime report. This is a matter for forces when deciding on their deployment policies, but service and broader problem-solving activity tends to be improved where there is supervisory oversight to hate crime investigation.

On arrival at the scene or victim's location following the report of an alleged hate crime, a number of fast-track actions need to be completed. Officers need to:

- Address any immediate safety and medical needs, reassuring the victim and any witnesses.
- Consider removing them to a safe location if appropriate.

- Record any visible injuries in note format at the scene.

- If appropriate, cordon off the scene to prevent scene contamination, include any entry or exit routes the suspect(s) may have used, and establish a sterile corridor.

- Make enquiries about the suspect's whereabouts or direction of travel if they have left the scene prior to police arrival and obtain a first description to circulate to mobile patrols. Actively seek the suspect.

- Record the victim's emotional response to the incident, eg, is the victim suffering from shock?

- Identify any requirements that the victim has, eg, whether

   - they want to have a discussion in private

   - there are any confidentiality issues (eg, if they are gay but not 'out')

   - they need an interpreter.

- If so, arrange for these to be put in place where practical. Do not use children as interpreters.

- Identify forensic opportunities from the victim, suspect or location remembering that people can be scenes too.

- Ensure that any evidence gathered from the scene is processed appropriately.

- If necessary take photographs of injuries or damage at the scene, even if a specialist photographer is called to attend later.

- If appropriate, advise the victim that they may need to be photographed again at a later date (eg, when bruises are more visible). In addition, officers should

   - ask the victim for their consent to refer them to other agencies and provide them with the relevant hate crime investigation unit phone number and appropriate helpline numbers

   - if necessary, seek advice from a crime scene investigator and/or specialist hate crime investigators where available

- Ensure the relevant neighbourhood policing teams are notified and that they receive a copy of the crime report to assist in ongoing victim reassurance.

- For more serious incidents, consider deploying a family liaison officer.

- Carry out a risk assessment as the victim may be more forthcoming once they have confidence in the attending officer.

Note: keep in mind the difference between arrest conditions and charging standards. If necessary, consider using powers under section 24 of the Police and Criminal Evidence Act 1984 (PACE), the common law power of arrest and the power to intervene and/or detain by force in order to prevent any action likely to result in a breach of the peace.

For further information on the use of interpreters in the criminal justice process, see APP on Prosecution and case management, and on Working with victims and witnesses.

8.4.4 Suspect considerations

If the suspect is identifiable and can be located, and a power of arrest exists, an arrest should be effected at the earliest practical opportunity.

Positive action is preferable but the decision to arrest is always a matter for the officer, and should be based on the evidence available at the time. It should not be based on whether the victim wishes to proceed with a prosecution or not. The officer will, however, have to justify to their immediate supervisors why, if the opportunity existed, an arrest was not made at the time. The officer must record their reasons for not making an arrest in any subsequent report of the incident. The National Decision Model can assist officers to consider options and make a decision.

Where a victim is particularly at risk, a robust and positive arrest policy must be applied. This demonstrates the police service's commitment to protect the victim, witnesses, families and communities.

If the suspect is not present but can be identified, they should be actively sought. Circulation of the suspect's details on the PNC should be considered.

Following arrest, any unsolicited comments or significant statements made by the suspect must be recorded as soon as practicable in accordance with PACE 1984.

8.4.5 Gathering material

The opportunity to secure a conviction will be influenced by the quality of the material gathered during an investigation. It is, therefore, important that every opportunity to gather material is exploited.

When taking an account of the incident from the victim, the exact words or phrases must be recorded. If appropriate, obtain a copy of any 999 conversation recorded. Where possible obtain an initial account or statement from the victim(s) at the scene. This should include:

- a brief outline of what happened

- details of the incident, including whether any weapons or threats were used

- the nature of any injuries or damage caused

- the effect the incident may have had on those present, especially any children

- the identification of any known suspect or a description.

The detail should be sufficient to enable a second investigator to interview and possibly charge any identified suspect. A more detailed statement can be obtained at a later stage.

It is also important to be aware of the need to provide evidence of the offender's hostility if sentences are to be enhanced under section 145 or 146 of the Criminal Justice Act 2003. This can be obtained by skilful interviewing and from gathering evidence during scene and other searches. For example, neo-Nazi material or symbols displayed or worn by the offender may provide evidence of hostility that fuelled the hate crime. Seizing these items will allow interviewers to explore their evidential value.

Any CCTV footage overlooking the scene should be seized as soon as possible. Any other cameras in the area should also be mapped as these may help to identify the suspect entering or leaving the scene. For further information see APP on CCTV.

At an early opportunity, steps should be taken to establish and record who is at the scene, eg, victim(s), suspect(s), witnesses and children. Accurate information is crucial to the investigation so it is important to establish whether there are multiple victims or suspects.

It may also be necessary to undertake additional enquiries to identify other potential witnesses who have already left the scene. These may include regular visitors to the scene, eg, people delivering milk or mail. Neighbourhood policing teams may be able to assist.

Officers should identify any particular needs of witnesses, such as interpreter requirements, and should also assess and record any potential risks associated with the witnesses, eg, proximity of the suspect to the witness's address, whether the suspect knows the witness's address, and the possibility of the suspect intimidating the witness.

8.4.6 Recording and reporting

As soon as practicable, the officer in the case should complete a full crime report and record any intelligence and historical information in accordance with local practice. These records should include details of any previous reports concerning the same suspect, victim or location and the results of any PNC searches.

Some forces have adopted a hate crime form. Records should include any risk assessments carried out and any action taken to remove or reduce these risks. Local procedures will apply, but the incident should always be submitted to force intelligence systems.

Where an investigation has to be handed over, a comprehensive handover package should be prepared which provides all available information on the investigation so far, and should include photographs, statements, exhibits and a brief summary of events.

8.4.7 Role of the duty inspector

The duty inspector should consider attending the scene to provide advice, assistance and leadership to other officers. This sends a clear message to the victim, witnesses and the community that the matter is being taken seriously. Repeated or serious attacks can lead to retribution, fear or even civil unrest and it is essential that the broader implications are considered early. Information from local contacts, community liaison officers (see **10.2 Community cohesion**) and other intelligence sources should be taken into account when assessing community tension. Assessments should be documented and area commanders notified where increased risks are identified.

In addition the duty inspector should:

- review the log to ensure that the appropriate classification has been made and internal procedures have been adhered to
- consider whether the incident should be identified as a critical incident and, if so, attend the scene

- if a critical incident is identified, fully brief the area commander or on-call commander at the earliest opportunity
- ensure effective cordons are in place and cordon logs are properly maintained
- supervise any scene management logs
- consider opening a decision log to safeguard accountability
- ensure any ongoing incident is handed over to incoming shift supervisors
- consult scenes of crime officers and the crime scene coordinator, where appropriate
- ensure specialist hate crime investigators or equality/diversity staff are consulted, where they are available
- review any risk assessment of the victim
- ensure that a community impact assessment is completed
- consider deploying an FLO (see **8.7.6 The role of the family liaison officer**)
- brief the local press or force press officer.

Some forces have adapted the structure of operational supervisor roles and may choose to allocate them responsibilities traditionally held by inspecting ranks.

Good practice example

Staffordshire Police has adopted a seven-point plan to outline the standards expected of its staff when responding to hate crimes. The areas covered are:

- investigation plan
- victim strategy
- victim safeguarding
- witness strategy
- forensic strategy
- communications strategy
- suspect management.

The plan and the tasks that should be undertaken provide clear guidance to officers and have proved especially useful where officers deal with this type of crime on an occasional basis only. The plan is available in police stations and on the force intranet and can be accessed from investigating officers' mobile data terminals.

8.4.8 Dedicated hate crime investigation units

Not all forces are able to support dedicated hate crime investigation units because of neighbourhood policing commitments, but in some of the larger or more urban areas it may be possible to form such units.

Specialist hate crime investigators could be part of units dedicated exclusively to the investigation of hate crime or as part of a multi-disciplinary unit covering other broader public protection roles. As a dedicated resource, they can undertake more focused investigations, provide a quality service to victims and lead the partnerships with other agencies and community groups.

Dedicated hate crime units can provide a number of benefits for forces and victims. These include:

- promoting good news stories in the media which reinforce the message to the public that hate crimes will not be tolerated by the police
- assuming responsibility for investigating the majority of hate crime incidents, thereby freeing up other investigators
- providing the expertise, enhanced training and experience of dedicated hate crime investigators which help to build victim confidence
- acquiring and sharing an expertise in the investigation of hate crimes
- bespoke training for dedicated hate crime investigators
- being better placed to ensure compliance with standards or standard operating procedures for investigating hate crime
- developing good practice and expertise to solve common problems from which all staff can benefit
- holding hate crime forums, which allow a beneficial exchange of ideas and information
- enhanced capturing and analysing of hate crime-related community intelligence
- having the credibility and ability to support multi-agency partnerships in a consistent way, which increases the range of options available for problem identification and resolution
- helping to identify hate crime offenders and providing intelligence on hate crime hot spots
- providing a single point of contact, particularly when repeat victimisation has occurred, thereby ensuring investigative focus and continuity in managing the previous history and ongoing victim care
- coordinating proactive and reactive operations to target known hate crime offenders
- training other stakeholders in the statutory and civil sector, which can increase long-term benefits.

Probationary constables and PCSOs could be given short attachments to hate crime units to help them improve their understanding of hate crime and their skills for dealing with these crimes where they may be the first responder.

8.4.9 Hate crime coordination units

A less resource-intensive option than dedicated hate crime investigation units is hate crime management units. These units do not carry out investigations, but ensure that the local response is effective and consistent and that hate crime investigations are quality assured.

This approach has a number of distinctive features:

- it minimises the disadvantage of not having dedicated units

- uniform officers and investigators at local area level are the first line of response and they conduct initial and further investigations supported by advice and guidance from the coordination unit

- hate crime coordinators provide quality assurance of any investigation as an integral part of the process, thereby reducing any deviation from minimum standards

- hate crime coordinators focus on providing additional services to the victim through multi-agency partnerships

- uniform officers and investigators at local area level are afforded the opportunity to develop and enhance skills in hate crime investigation.

8.5 Hate crime investigation

Chief constables must establish a policy that clearly indicates where the ownership of hate crime investigation rests. All hate crimes must be treated as an investigative priority from the outset and be appropriately screened and allocated to ensure the best possible outcome.

Crime managers responsible for allocating hate crimes must ensure that the policy is fully understood and adhered to at all levels. This clearly establishes ownership throughout the investigation, which is required to avoid a negative impact on its outcome. A poor-quality investigation and a failure to take ownership may undermine the confidence of the victim, witnesses and the community, which could result in a critical incident. Some forces have improved the quality of investigation by allocating all hate crimes to supervisory officers, recognising that their teams will carry out most of the tasks, but ensuring that the supervisor has oversight of the quality of the investigation.

Finite police resources and increasing public expectation require that the ownership of any investigation is continually assessed. Factors that must be considered include the impact on the victim, the family or the community and the gravity of the offence. Weighting factors such as aggravation, motivation and repeat victimisation must also be taken into account.

8.5.1 Standards of investigation

One of the key criticisms of police responses to hate crime, according to the Crime Survey of England and Wales, is the failure to keep victims updated with the progress of the enquiry and to communicate updates in an appropriate manner. This is true for all crime but especially so for hate crime, given the additional fear and emotional strain that victims suffer. Communication is an essential part of any investigation, particularly a hate crime.

A number of key principles must underpin any further investigation, irrespective of whether the police service appoints a specialist investigator or the initial investigator retains the investigation. These will help to reassure the victim that the police are treating the incident seriously.

- The victim should be contacted within 24 hours of the officer being assigned the investigation unless they specifically request otherwise. Ideally, this initial contact should be in person.

- The investigating officer should continue to monitor the level of risk to the victim and any witnesses throughout the investigation and put in place appropriate interventions to reduce or remove any real or anticipated risks.

- The victim and witnesses should be kept informed.

- The victim should be informed before a suspect is released from police custody and given reasons for the release.

- It is also important that the investigating officer tells the victim if a suspect has been charged and is later released on bail. The details of any bail conditions should also be explained. If the suspect breaks those conditions by, for example, making contact with the victim, they can be re-arrested and brought back before the court. Any evidence that bail conditions have been breached will strengthen the case for a remand in custody at a later court hearing.

- The investigating officer should arrange a single point of contact (SPOC) for the victim to avoid confusion and ensure consistency. Should the SPOC be unavailable for any significant length of time (such as annual leave) then a deputy should be appointed and introduced to the victim.

- The officer must be sensitive to the wishes and needs of the victim and any witnesses and balance this with the requirements of the investigation. For example, if a victim is not available to provide a statement on a particular day owing to religious observances, alternative arrangements have to be made.

8.5.2 Victim personal statements

Victim personal statements (VPS) should be offered in all cases of personal crime. The timing of the VPS is important. It could be taken early if it is required for early court hearings that may set bail or other conditions, but this may not provide the opportunity for the victim to fully reflect the harm caused by the crime. Notably, it would miss the opportunity to include long-term impacts such as changes in lifestyle, eg, not leaving home after dark. The local CPS hate crime coordinator can advise on which approach is likely to be more valuable in any prosecution.

8.5.3 Evidence to support enhanced sentencing

An offender who is convicted of a monitored hate crime will receive a harsher sentence in court where prosecutors can prove:

- that the offender was motivated, wholly or partially, by hostility (based on race, religion, disability, sexual orientation or transgender), or

- that the offender demonstrated such a hostility immediately before, during or after the crime was committed. See **3 Strands of monitored hate crime**.

The CPS is only able to provide to the court evidence that has been obtained during the investigation either from evidence gathering, witness statements or interviewing offenders. Officers need to understand what can demonstrate such hostility as they plan their investigation and interview.

Early contact should be made with CPS hate crime coordinators who will provide access to the latest prosecutor operational guidance and assist with investigation and interview planning. This is particularly helpful where it relates to the evidence needed to apply for enhanced sentencing under section 145 or 146 of the Criminal Justice Act 2003.

8.5.4 Role of supervisors in hate crime investigations

A national audit of hate crime investigations carried out by ACPO and partners identified that dedicated supervisory oversight is beneficial. Three levels were identified:

- an individual or unit which has operational oversight of individual enquiries, whether that comes from dedicated hate crime officers or a single nominated supervisor who has oversight alongside other duties

- a member of the area command team who has overall responsibility for hate crime

- a member of the force executive who is responsible for the strategic direction, performance measurement and establishing strategic partnerships.

Results tended to be less effective where supervision was the responsibility of all line-supervisors, who may have oversight only occasionally of such enquiries and, therefore, less knowledge of force policy and effective investigation strategies.

Forces should adopt the most applicable model for supervising investigations of hate crime. Each force has different structures and some, particularly smaller rural forces, will find it difficult to dedicate full-time staff. However, it is still important that someone has oversight.

Investigation supervisors should in all cases:

- consider attending the scene to provide advice and assistance to officers – this also sends a clear message to the victim, witnesses and the community that the matter is being taken seriously

- ensure that the incident or crime is accurately recorded

- ensure that the initial investigating officer is taking positive action and is fully supporting the victim

- confirm that all forensic opportunities have been exploited

- check the integrity and continuity of exhibits

- provide advice to the initial investigating officer(s) on evidence preservation, including evidence of offender hostility (see **3 Strands of monitored hate crime**)

- identify potential critical incidents and brief the duty officer

- open a critical incident or incident management log, where appropriate, if this has not already been done (if information emerges during an investigation to indicate a critical incident, the duty inspector should be informed immediately)

- ensure that an initial risk assessment has been conducted and recorded
- ensure that a crime scene or incident log is accurate and fully completed
- examine the initial crime report entry and identify any gaps in the investigation
- ensure that investigation plans are amended to include rectification of any omissions
- ensure that intelligence is fed into the force systems
- agree the best time to offer a victim the opportunity to make a VPS.

Supervisors should also ensure:

- there is liaison with specialist hate crime investigators or the hate crime coordinator, if available
- that any training needs of the team are identified and addressed
- that all officers are aware of force or police service initiatives regarding ASBOs and acceptable behaviour contracts (ABC).

8.5.5 Debriefs

Debriefing is good practice after any incident. It provides an opportunity to receive feedback and support team members, and adds value to the investigation. The debrief should focus on:

- capturing the learning experience and highlighting good practice
- identifying any gaps in policies and procedures for referral to senior management
- identifying the welfare needs of staff who have dealt with the incident
- individual or collective training needs.

See also APP on Operations.

8.5.6 Command team oversight

In addition to having clear lines of supervision of hate crime investigation, it has also proved valuable in some areas to have a nominated officer responsible at command team level. This role fits well with broader responsibilities such as community cohesion, crime management or community engagement, and allows a single person to have oversight of performance, investigative quality and community confidence issues.

This post holder is well placed to:

- provide performance data to the force executive
- provide leadership to encourage high-quality investigations
- ensure that neighbourhood teams take opportunities to build relationships with communities affected in their area
- provide transparent information to communities affected and stakeholders
- provide direction for partnership working and efforts to increase reporting
- increase community confidence by coordinating local media responses.

8.5.7 Executive team strategic oversight

Adopting a force lead at executive team level helps to set clear strategic direction, offering leadership to staff and partners alike. This role fits well with broader responsibilities such as community cohesion, equality and community engagement, and allows a single person to set the strategic direction.

This post holder is well placed to:

- provide performance data to strategic partners and elected post holders such as police and crime commissioners and Members of Parliament

- provide strategic direction by agreeing performance targets and measuring performance

- provide transparent information to affected communities and stakeholders

- provide support to strategic partnerships

- increase community confidence by coordinating local media responses.

8.6 Criminal justice process

8.6.1 Statutory charging scheme

Under the The Director's Guidance on Charging, crown prosecutors are responsible for making all charging decisions on any offence recorded as a hate crime, whether admitted or not. To assist this process a record should be prepared on a form MG3 outlining:

- details of the incident, accurately reflecting potential offences

- that it has been recorded by the police as a hate crime

- who perceived this offence as a hate crime

- any evidence of hostility being a motivation or being demonstrated

- any additional aggravating factors

- any victim personal statements

- any notable risks identified to victims or witnesses

- any risk of retribution or civil unrest

- any special measures that should be considered to help victims or witnesses.

The completed MG3 enables the prosecutor to understand the circumstances of the case without detailed reference to statements. It also assists in making the court aware that the charge relates directly to a hate crime. This is particularly important when dealing with charges where the legislation does not specifically reflect the hate nature of the crime.

Other material that assists the prosecution includes:

- details of previous incidents against the victim
- details of previous incidents involving the defendant
- the ability and/or willingness of the victim to give evidence
- the impact of the alleged offence on the wider community
- the likelihood of recurrence
- views on the safety of the victim and their family
- information from other agencies, eg, social services or housing departments
- any other orders in existence, eg, ASBOs, civil injunctions
- whether the current incident breaches any existing order.

8.6.2 Insufficient evidence to charge

Prior to submitting a case to the CPS, every effort should be made to ensure sufficient evidence is obtained to enable a charging decision to be made.

Supervisors and evidence review officers should assess the available evidence and the quality of the case file prior to its submission to the CPS.

8.6.3 Bail proceedings

Victims of hate crime may be afraid of the possible repercussions for them once a defendant is charged. To protect victims and witnesses from threats, the risk of danger or repeat offences, the CPS may apply for a remand in custody or ask the court to attach bail conditions. The court can only remand a suspect in custody if the CPS can show that there are substantial grounds for not granting bail. It is, therefore, vital that the following information is provided to the CPS:

- details of the defendant's previous convictions
- details of any previous incidents involving the defendant
- details of any previous breaches of bail conditions
- the police view on victim and family safety
- the likelihood of recurrence
- the existence of any other orders, eg, ASBOs, civil injunctions
- the victim personal statement
- any other relevant information.

Failure to provide such evidence can lead to the suspect being remanded on bail, putting the victim and witnesses in serious danger and reducing confidence in the criminal justice system.

The investigating officer should consider attending remand hearings to ensure that the prosecutor is fully briefed and that the needs of the victim can be properly presented to the court. The investigator should inform the victim immediately of the result of the hearing, including details of any bail conditions.

8.6.4 Alternative outcomes

Many forces have developed effective resolutions to low-level crime that divert offenders away from the courts. Community resolutions and simple cautions have proved successful for many areas. However, hate crimes may involve complex underlying issues which mean that out-of-court disposals and, in particular, informal resolutions (including those using restorative justice) may be insufficient to effectively manage the longer-term criminality that only formal interventions (usually court proceedings) can better achieve.

The CPS national policy is that hate crime needs to be dealt with seriously (mostly by way of court proceedings) to ensure that victims have confidence in the CJS, and to address under-reporting and the lack of suitable rehabilitation programmes for offenders. Offenders who demonstrate motivation or hostility based on discrimination towards the victim are, therefore, more likely to be prosecuted.

Discussions on whether hate crime is suitable to be included in alternative resolutions have been started and advice should be sought from the local CPS policy lead before embarking on any scheme which would bypass the CPS referral for a charge decision.

8.6.5 At court

Attending court and giving evidence can be particularly traumatic for the victims and witnesses of hate crime. The following steps should help to reduce this:

- contacting the court to obtain a separate waiting area for the victim, their friends or family

- arranging with the witness care unit for the victims and witnesses to attend court before the day of the trial so that they can view a courtroom and have court procedures explained to them

- early identification of special measures that need to be raised with the CPS for consideration and application to the court under section 46 of the Youth and Justice Criminal Evidence Act 1999 where appropriate

- the investigating officer should liaise with the witness care unit to ensure that, where appropriate, someone will meet and stay with the victims and witnesses

- if it is not possible for someone to meet and stay with the victims and witnesses, the investigating officer should suggest that they are accompanied by a friend or family member who is not evidentially connected with the case.

Further advice and resources about court proceedings for victims and witnesses are available on the Criminal Justice Service website.

8.6.6 Retraction of support for the prosecution

Many victims of hate crime decide not to report incidents because they lack confidence in the criminal justice system. When they do report offences, their credibility should not be diminished because they previously failed to do so.

In cases where a victim or witness wishes to withdraw their support for the prosecution, a formal statement must be taken fully explaining their reasons for this. When submitting the withdrawal statement to the CPS, the officer must also attach a report with their views on:

- the reasons given by the victim
- how the victim might react to being compelled
- future risks to the safety of the victim and their family
- the impact on the wider community.

The police service's responsibility to consider a victim's needs does not end because they feel unable to proceed in giving their evidence. This may be a particularly distressing time for the victim, and the retraction should trigger a review of any protective measures needed. Victim Support referrals should be discussed with the victim at this point.

8.7 Support for victims and witnesses

Victims and witnesses must be cared for in a manner which is thorough, sensitive and appropriate for them. A failure to do so can cause them further harm.

Hate crime victims are known to suffer more serious harm than a victim of a similar, non-targeted offence. A crime that might normally have a minor impact becomes, with the hate crime element, an intimate and harmful attack that can seriously undermine the victim's quality of life. The level of support offered to victims and witnesses must be appropriate to their needs.

8.7.1 Code of Practice for Victims of Crime

The Code of Practice for Victims of Crime defines a victim of hate crime as an intimidated victim. It places an obligation on the police service to identify all vulnerable and intimidated victims and to provide them with the enhanced level of service to which they are entitled during an investigation. This should include the victim being notified of specified developments in the investigation and criminal justice process within shorter timescales than other victims, and an explanation of special measures where the victim is likely to go to court as a witness.

8.7.2 Service delivery for the victims of hate crime

Although every hate crime is different, there are a number of common aims which must be pursued in addition to an effective investigation and the detection of offences.

- Allaying the fears of the victim. It is important that police officers and staff, both individually and collectively, fully understand the impact of hate crimes.

- Explaining to victims that details of the incident are likely to be shared with other agencies, but their personal information will not be shared without their consent. Any particular concerns or circumstances of the victim should be given due consideration by the investigating officer when sharing information with other agencies. Advice from supervisors should be sought in difficult or complex cases.

- Developing a supportive, professional relationship with individual victims and their families to help them feel confident to act as prosecution witnesses.

- Remembering that a positive arrest and prosecution policy is the primary response for the successful resolution of hate crime, however, a wider range of alternative remedies is available to investigating officers, eg, ASBOs, restorative justice programmes or civil injunctions. See **8.6.1 Statutory charging scheme**.

- Informing the CPS of particular victim and witness needs. Information flows between the police and the CPS must be maintained throughout the prosecution process.

- Liaising with appropriate statutory agencies and voluntary bodies to help support victims, prevent further crimes or incidents, or help those statutory agencies and voluntary bodies take suitable action against offenders.

- Update the victim on a regular basis. In particular, they should be notified of the dates and outcomes of remand and bail applications.

8.7.3 Practical approaches to victim care

To ensure that every victim receives the standard of care they are entitled to and deserve, officers need to be mindful that:

- First impressions are lasting and important. Professionalism needs to be underpinned by understanding and respect. This will help to build and maintain a positive relationship from the beginning. Victim care should be subject to regular reviews. Alienating the victim is likely to jeopardise successful investigation, prosecution and conviction.

- The victim's needs are paramount and immediate steps must be taken to meet them. This should start with prompt attendance and, if appropriate, first aid and scene preservation.

- Victims commonly experience anger, frustration and feelings of powerlessness. However, while empathy is important, sympathy is not always required or needed. Often a victim's initial need is to have someone to listen to them and to whom they can vent or express their feelings. Frequently, this falls to the first police officer attending the scene. The initial interaction is critical to the investigative process and is probably the best opportunity for securing a first account.

- Where an officer is finding it difficult to get the confidence or cooperation of a victim or witness it may help, in appropriate cases, to consider the support of an officer who shares the same gender, ethnic group or other characteristic as the victim.

- Trust and confidence are reinforced by the seriousness and priority attributed to the investigation of a hate crime.

- Listening to the views of the victim is essential. Where possible, these should be acted on, helping them to feel empowered, and to gain their trust and confidence.

- Investigating officers could consider using lay involvement or advice to support a victim of a hate crime and to assist the investigation. They should draw on the experience of supervisors and/or specialist investigators.

- Supporting a victim appropriately can make the difference between officers obtaining a full and detailed statement from victims, or not. Such statements provide comprehensive evidence for the courts, illustrating the impact the hate crime has had on the victim. Careful yet probing questions are essential to help to establish whether this is the first incident, and if there may have been other incidents or other victims.

- The investigating officer must remember that the victim's needs may change as the investigation progresses.

- A multi-agency approach has the potential to deliver the best level of support and service to a victim of hate crime, eg, Victim Support, local statutory agencies and other community resources. The police can act as a central point of contact and coordination as part of the service to the victim. It is important to obtain consent from the victim, preferably in writing, before sharing information with other agencies during the investigation. This ensures that the victim's rights and confidentiality are not compromised.

- Victims of hate crime should be offered advice from a trained crime prevention officer. This is a simple but effective method to reduce repeat victimisation, show the victim that the police take the matter seriously and instil additional confidence in the minds of the victims and their families.

- Risk assessment should be undertaken for every reported hate crime. Risk identification and risk management are essential to providing a quality service to the victim of a hate crime.

- A risk assessment may lead the investigating officer to consider protective measures such as improved lighting, covert CCTV and/or high-visibility patrolling.

- **It is important that the victim should have a consistent point of contact with the police, regardless of the scale of the investigation.** It is equally important that the victim is comfortable and confident with this point of contact.

For further information see Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures and Code of Practice for Victims of Crime.

8.7.4 Victim information packs

Victim information packs, in an appropriate format for the individual, can be read after the officer has left. Suitable resources can be found on the True Vision website which can be adapted to correspond with local policy and contacts. Such packs enable victims to access services related to matters they may have chosen not to disclose to officers.

Generic victim publications (eg, those that cover domestic violence, racist attacks and homophobic incidents in one leaflet) should be avoided as they might cause offence.

8.7.5 Victim Supportline

This is a national service run by Victim Support, providing confidential emotional support and practical advice to victims.

Contact details:
telephone 0845 30 30 900
TextDirect access number 18001 0845 30 30 90
minicom (or text telephone): 020 7896 3776.

8.7.6 The role of the family liaison officer

The deployment of a family liaison officer (FLO) is not restricted to cases of homicide. They can also play a crucial role in critical incidents.

A FLO must balance the needs of the family with the requirement to gather evidence and to preserve the integrity of the investigation. The family liaison task should be the overriding role of the selected officer. It may be necessary to appoint a deputy FLO to provide resilience in the role. In cases where the lifestyle, friends and associates of the victim may hold the key to identifying witnesses or suspects, the family liaison role is central to the success of the investigation.

For further information on the use of FLOs, see APP on Working with victims and witnesses.

In complex investigations conducted amid heightened community tensions, the police response must be flexible and dynamic. The police may require assistance to build positive relationships with the family or community. This assistance can be sourced from various groups and individuals including:

- Victim Support and other voluntary support groups
- elected representatives
- local communities
- religious leaders
- local community forums
- individuals with informal influence and local credibility.

There is no standard formula. The optimum approach to meeting the needs of the victim and their family will be unique in each case. The family liaison strategy must be constantly reviewed to ensure that a trusting relationship is established and maintained. Reviews of the family liaison arrangements must documented and form an integral part of the investigative process.

For hate crime investigations it is important to select a FLO with the appropriate knowledge and experience, which reflects the diverse needs of the victim and their family. The FLO coordinator within each force should be consulted when considering the deployment of a FLO.

At times, the criminal justice system tends to view crimes as one-off events disconnected from the continuum of hate victimisation that the victim is experiencing. The FLO should always explain the limitations of the criminal justice process and, within this explanation, encourage realistic victim expectations.

8.7.7 Challenging cases

There may be cases when, from the outset or at an early stage in the investigation, direct dialogue between the family and police cannot be established, or it breaks down. Some families have had previous negative experiences with the police, and this may be the cause. Lack of contact with the family can make it difficult, if not impossible, to protect and support them.

Families are the source of information that can make a positive contribution to the progress of an investigation. The police service looks to families to be partners in an effective investigation. Their knowledge, views and insight are important and may be vital to success. Anything short of direct dialogue with the family has the potential to impair intelligence flow and hence weaken the investigation.

The officer in charge of the investigation must make all possible and immediate attempts to overcome any barriers or difficulties. If they cannot be overcome directly, or constructive progress made, other intermediaries may be able to assist. If this approach is unsuccessful, it is essential to seek advice from supervisors as early as possible to ensure that dialogue continues.

The police must never view the victim's family as them and us. Professionalism is based on everyone working together towards a common goal.

Where there is no direct dialogue with the family, an intermediary usually acts on their behalf. These individuals may assume the role of lay adviser or trustee of the family's interest in their relationship with the police. This is a less than ideal situation. However, if the victim or their family will only communicate through a third party, the police must accede to their wishes and use it as a starting point to building a more positive relationship.

Every effort must be made to establish good relationships with third parties. Requests, ideas and exchanges of views and information that would normally be sought directly from the family members should continue through the third party without delay. Intermediaries should be seen as providing an opportunity to establish or maintain a meaningful dialogue with the family. This too is not an ideal situation, but should be fully exploited.

8.8 Repeat victimisation

The first time an incident comes to the notice of the police is not necessarily the first time an offence has been committed against that victim. Victims may be too frightened to report earlier offences or may not realise that the abuse they are suffering is, in fact, a crime. Victims of hate crime often suffer personal trauma from such incidents, which can have a devastating impact on their own lives and on the lives of their family, friends and the wider community. It is important that investigators appreciate the devastation that hate crime can cause. An effective, victim-focused investigation, followed by the prosecution of those responsible will help to increase confidence in the criminal justice system, and in the ability of the police to tackle this kind of crime.

Police awareness and response to repeat victimisation has improved. Most police forces have developed repeat victimisation strategies and introduced policies to improve service delivery.

Using the existing relationships with CSPs and local criminal justice boards is vital to ensuring the success of such strategies.

A clear corporate policy on repeat victimisation should not constrain initiative at local level. Consistent service delivery with the requisite, corporate accountability should be balanced against a local commander's freedom to provide innovative solutions to local problems.

8.8.1 Data collection

A repeat victim is defined as:

> a person or immediate family member who suffers more than one hate incident in a twelve month period following the date the first incident occurred.
>
> **Home Office Circular 19/2000 on domestic violence**

This definition, which is also used to identify repeat victimisation in domestic abuse crimes, when applied to hate crimes, standardises the capture of data across forces. This helps to accurately monitor performance in relation to repeat victimisation against local crime-reduction strategies. Some forces have chosen to exclude the timeframe to get a more complete picture of repeat victimisation.

Using a single definition brings consistency to monitoring and helps to identify trends across areas and forces. This information, in turn, through the use of NIM strategic and tactical assessments, allows tasking and coordination of resources to target repeat offenders, thereby reducing repeat victimisation and identifying victims who are likely to suffer the greatest harm.

8.8.2 Identification of risk and the police response

There is strong correlation between repeat victimisation and harm. It is, therefore, clear that repeat victims of hate crime are likely to be some of the most vulnerable victims that police officers encounter.

Helping officers to identify the most affected victims more easily is an essential part of preventing further victimisation. Early identification of repeat victims helps forces to deploy appropriate resources to provide an effective response. Tactics to prevent further victimisation should always be employed at the earliest opportunity.

Tactical interventions will depend on the circumstances and the particular environment in which hate crime is occurring. They may include:

- issue of personal attack alarms
- issue of evidence capturing devices
- use of local CCTV
- issue of mobile telephones
- introducing or maximising neighbourhood watch schemes
- rehousing victims
- obtaining ASBOs against offenders.

The most effective tactical intervention for reducing repeat victimisation is likely to be identifying and arresting the offenders and bringing them to justice.

In addition to repeat victims, there may be other reoccurring factors in crime, such as repeated locations, eg, fast-food outlets. Early identification of trends and effective resolutions should prevent future victims from being targeted.

Risk assessment is a dynamic process which is subject to constant change. The level of risk should be monitored and have regular reviews and interventions that are appropriate to the prevailing situation, provide reassurance and reduce the likelihood of further victimisation. A record of this risk assessment should be kept to ensure openness and accountability. An appropriate risk intervention tool is the RARA model.

Remove the risk: by arresting the suspect and obtaining a remand in custody.
Avoid the risk: by rehousing the victim and/or significant witnesses or placing them in a refuge or shelter in a location unknown to suspect.
Reduce the risk: by joint intervention or victim safety planning, target hardening and use of protective legislation.
Manage the risk: by continued reference to the RARA model, continual multi-agency intervention planning, support and consent of the victim, and offender targeting within proactive assessment and tasking pro forma and multi-agency public protection panel format.

The police response should not only take account of the specific type of incident, but also the risk of repeat victimisation, and the needs of the individual victim. The response to the first reported incident may be the first opportunity for the police to respond, but may not be the first time a victim has suffered. An effective police response every time will help to prevent further harm.

Factors which influence an appropriate police response include whether:

- the victim lives alone
- they are particularly vulnerable, by virtue of age, disability, language or immigration status
- there are particular issues that leave them susceptible to intimidation.

Note: the objective is to treat the victim with respect, help them to feel safe and to provide a proportionate response based on an assessment of their individual needs.

The medium to long-term support of victims is best served by agencies other than the police. CSPs members can play an important role in bringing the key agencies together to identify and deliver the necessary services to support victims of crime. However, they need to work closely with other agencies such as housing, education and a range of non-statutory bodies, if services are to be effective.

Good practice example

Some forces and partnerships have identified a public protection partnership similar to the domestic abuse multi-agency risk assessment conference (MARAC) process, so that partners can work together to share information, assess risk and agree actions to reduce the risk associated with serious or repeated hate crime. The nature of hate crime is that such serious cases usually need a swifter, more flexible approach than other areas of crime reduction, and partnerships need to be adaptable to allow early intervention.

8.8.3 Early identification of repeat victimisation

Call management centres should, through crime recording systems, be able to identify individuals, families or premises subject to repeat victimisation. Where hate crimes are personally reported at police stations or other reporting centres, recording staff should initiate a search of integrated command and control systems to establish if the victim, family or premises have been targeted previously. This task is more difficult when the recorded victim is another family member or where the crime took place away from their home, but it is important that force procedures try to identify such patterns early. See **8.2 Call handling**.

Good practice example

Cambridgeshire Constabulary's initial response policy includes asking a victim about previous incidents as part of the crime report so that they can obtain a full picture of the current incident, its impact and the wider issues.

Ideally, existing integrated IT systems should capture and maintain information on victims, families or premises subjected to incidents of hate crime and, therefore, highlight repeat victimisation. In the absence of such a capability, forces should establish and maintain a suitable database to capture this information.

Such information, together with any previous intelligence, must be passed to the initial officer attending the scene.

8.9 Witness care

Witness evidence is a key component in the criminal justice process. The same considerations that apply to victims regarding reporting and assisting the police can apply to witnesses. Proactive efforts to foster trust among minority communities should be the foundation of witness care in hate crime cases. Dignity and respect is highly important in all such interactions, while acknowledging the seriousness of all hate motivated acts.

Young witnesses may need additional support. Specialist advice or assistance should be sought from officers who have experience of youth issues or work with young people and know what assistance is available.

If witnesses of hate crimes come from the same background or chosen lifestyle as the victim, they too are likely to have experienced some victim trauma through their membership of the same depersonalised target group. A witness is likely to be strongly affected if the crime in question was one of violence, or otherwise frightening. Understanding and sensitivity are essential to avoid subjecting the witness to secondary victimisation by the police. If the investigation is not conducted in a competent and professional manner, this can lead to additional trauma for both the victim and witnesses.

Witnesses, like victims, should have a consistent point of contact where they can receive information about the progress of the case. They should also be helped to prepare for what many regard as the ordeal of the courtroom experience.

8.9.1 Witness care units

Witness care units provide a single point of contact for victims and witnesses, minimising the stress of attending court and keeping them up to date with any news in a way that is convenient to them.

Witness care units are jointly staffed by the police and the CPS and operate in all areas of England and Wales. Where the investigating officer identifies any particular needs of a victim or witness for hate crime, it is important that the witness care units are informed of this need and any risk factors identified.

The witness care units manage the care of victims and witnesses from the charging of the defendant(s) through to the conclusion of a case, providing support to those victims and witnesses who are in most need of it. The service to victims and witnesses includes:

- a single point of contact for victims and witnesses, communicating with those identified as vulnerable, intimidated or in greatest need by their preferred means where possible

- a full needs assessment for all victims and witnesses who have been identified as vulnerable, intimidated or in greatest need and who are required to attend court in cases where defendants have pleaded not guilty, to identify specific support requirements, such as childcare, transport, language difficulties and medical issues and to highlight areas of concern, including intimidation

- dedicated witness care officers to guide and support individuals through the criminal justice process and to coordinate support and services

- continuous review of victim and witness needs throughout the case

- informing them of the case outcome or trial result, thanking them for their contribution to the case and offering post-case support from the relevant support agency.

Under The Code of Practice for Victims of Crime, witness care units have a legal obligation to:

- inform victims when they will be required to give evidence

- inform them of the dates of the court hearings

- provide the victim with a copy of the 'witness in court' leaflet or other relevant leaflet, if they are required to give evidence

- inform victims of the court results within one day of receiving the outcome from the court

- explain the meaning and effect of any sentence given and respond to any questions the victim may have.

8.9.2 Witness intimidation

This is a serious offence under section 24 of the Police and Criminal Evidence Act 1984 and section 51 of the Criminal Justice and Public Order Act 1994. It can also constitute a common law offence of perverting the course of justice.

(See also Article 26 of the Police and Criminal Evidence [Northern Ireland] Order 1989.)

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.

Victims and witnesses should be provided with information about intimidation and the action they can take should it occur. If there are reasons to believe that witness intimidation may occur in a specific case, proactive steps should be taken to protect the witness(es). These include the following measures:

- home and mobile alarms

- mobile 999 telephone

- surveyed and enhanced home security

- measures to capture evidence of intimidation

- provision of escorts

- targeting of suspects.

The witness should be clear on the action to take and whom to contact 24-hours a day. These issues should be discussed at an early meeting between the police and the CPS, in order to provide the best quality of service to witnesses.

The Youth Justice and Criminal Evidence Act 1999 introduced a number of measures intended to assist victims and witnesses to give evidence in criminal cases. Section 17 of the Act identifies witnesses who are eligible for assistance on the grounds of being in fear or distress of testifying. These measures make the process of giving evidence less traumatic. They include:

- screening witnesses from the accused

- giving evidence by means of a live video-link

- video-recording an interview to be admitted as evidence in chief

- video-linked cross-examination and re-examination.

Community safety strategies should take account of witness intimidation and forces should have in place a range of countermeasures drawing on the resources of other agencies. These include:

- use of professional witnesses in areas with particular problems
- use of anti-social behaviour orders (ASBOs)
- rehousing of witnesses
- evicting perpetrators using civil law such as breach of a tenancy agreement
- harnessing the active support of community groups or other local stakeholders
- proactive use of local media.

Note: in addition to the legal meaning of witness intimidation, the witness's feelings towards the criminal justice process must also be taken into account. The prospect of giving evidence can be intimidating in itself. It is, therefore, important that the witness is made to feel as comfortable as possible with the entire process.

Further advice can be found on the Criminal Justice Service website and in Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures.

9 Community engagement

Hate crime can have a long and devastating effect on communities. The police response to such incidents can build or undermine the confidence of not only the victim but the community as well.

There are steps that local forces can take to build positive relationships with communities, which reflect the police service's commitment to increase reporting and reducing crime.

9.1 Introduction

The police need to engage effectively with communities to reduce the under-recording of hate crime and send clear messages that hate crime will not be tolerated. Every opportunity should be taken to advise the local community about the importance of reporting minor incidents, even if they are not offences, and providing information about what people can expect from the police.

9.1.1 What is a community?

A community can be defined as:

> a group of people living in one locality; equally it can be defined as
> a group of people who have characteristics in common, for example,
> cultural, religious, ethnic, physical or social.
>
> **Collins English Dictionary, 2003**

A community can be large or small, concentrated in a tight geographical location or widespread throughout a larger geographical community.

Some communities are obvious but others are hidden by the wider population. Some are virtual or transitory, and individuals may be occasional members of a community. Others are isolated geographically, eg, in rural communities, or isolated owing to the nature of their lifestyle, culture, age or disability.

There is an onus on the police service to work proactively to identify the communities in their area, and to work with those communities to build relationships and understand their diverse needs.

See **3 Strands of monitored hate crime**.

9.2 Building relationships

Building trust and confidence takes time. It cannot be done in a piecemeal fashion or achieved on the day of an incident. Community engagement is a long-term commitment that requires time and effort but which will be beneficial in times of crisis.

One effective way of engaging with a community is to identify key individuals who may be able to provide the police with insight into the views of the community, and also open doors for them. Such individuals may hold formal positions, eg, with a charity or community organisation, or may hold no formal position but have a greater understanding of the community than the police, and be willing to give their time to assist.

Care should be taken not to elevate such key individuals to the extent that they are seen by the police as representative or community leaders – they may be giving their own views without conveying those of the people with whom they are in touch. The key benefit is in their ability to give an insight into possible differing community views, and to act as a facilitator for further police engagement with community members.

It may be ineffective to rely on a single source to represent a broad spectrum of people. Time spent building relationships with communities during everyday engagement will help to provide effective community support when crimes do occur.

9.3 Building community confidence

Building and maintaining community confidence relies on the police to deliver a consistent and reliable service, in an open and honest manner. This means that victims of crime are treated with respect and allegations of crime taken seriously. The diverse needs of the victim must be recognised and addressed.

One way of building confidence is through the use of independent advisory groups (IAGs).

9.3.1 Independent advisory groups

The value of these lay advisory groups has been confirmed by their successful contribution to community engagement for several years now. This has been complemented by the establishment of groups to help address problems affecting particular groups, eg, gay, lesbian, transgender, Gypsies and Travellers.

The purpose of such groups is to provide an independent perspective to monitor, observe or participate in police activity without having any responsibility for the outcomes. They make observations both within the force and to the communities they represent. The police service is not obliged to follow their advice. Lay involvement has the ability to enhance operational policy but does not affect the powers, responsibilities or accountabilities to the chief constables or the office of constable.

An independent adviser should:

- critically appraise the police, its policies and practices
- be able to make a dispassionate, measured and ethical assessment of their experience
- be able to bring relevant expertise, experience and integrity
- be committed to the improvement of community and police relations.

In some cases the process may be challenging, but can generate positive changes.

Some practitioners and managers may have fears regarding breaches of confidentiality on operational matters and notions of power without responsibility, but previous cases have proved such cases to be groundless. Officers in charge of sensitive operations (eg, Operation Trident which tackles gun crime in London) welcome advisory group advice and assistance. Additionally, their advice has been welcomed by MPS officers dealing with actual and potential critical incidents.

Independent advice now has a fundamental role within policing. The initial consultative role of independent advisers has evolved into a valuable example of partnership in action. Advisers are called on to provide advice across a wide range of policy issues, operational matters and critical incidents.

See also APP on Engagement and communication and Independent Advisory Groups: Advice and Guidance on the Role Function and Governance of IAGs.

Good practice example

Warwickshire Police began the response and engagement against crimes of hate (REACH) initiative in 2011 to raise awareness of hate crime among colleagues and the local community, to add renewed vigour to the way they deal with hate crime and encourage people to report hate crime.

The project involved:

- briefing all safer neighbourhood team (SNT) officers including all Specials
- tasking SNT officers to engage with the community and promote hate crime reporting within Warwickshire – assisted with promotional material such as business cards and posters
- reviewing all internal processes for recording and investigating hate crime and antisocial behaviour (ASB)
- further briefings for staff including front office, call handlers, incident resolution and crime investigation
- briefings for partner groups and the establishment of REACH within crime and disorder reduction partnership work
- developing a specialised package for use in schools – a working group of head teachers, safer schools officers and young people (young persons IAGs) is being formed to work on this
- press briefings to further promote REACH within the local and national media
- evaluation of progress.

Further details can be obtained from Warwickshire Police.

10 Intelligence

The concept of intelligence-led policing underpins all aspects of policing, from neighbourhood policing and partnership work to the investigation of serious and organised crime and terrorism. Within the framework of the National Intelligence Model (NIM), the effective and efficient collection, recording, dissemination and retention of information allows material to be identified which can be assessed for intelligence value. It also enables decisions to be made about priorities and tactical options. See APP on Intelligence management.

Managers must maximise the use of focused intelligence when dealing with hate crime. Hate crime should not be treated differently from other areas of core business, and effective analysis should be at the heart of any response. Every opportunity should be taken to exploit all available resources and opportunities to achieve the best possible outcome.

NIM provides the police service with a framework which not only delivers a structured approach to problem-solving policing but also ensures that value for money is secured in terms of the efficient and directed tasking of resources.

It is a requirement that NIM, and its accompanying minimum standards, are fully understood by all those who have responsibility for progressing strategic and tactical issues regarding hate crime.

10.1 Hate crime considerations

The nature of hate crime intelligence may not be as obvious as that concerning other areas of criminality such as burglary or robbery. The danger is that indicators can be misinterpreted. The fear of becoming a victim frequently outweighs the probability of being victimised. Listening to, and acting on, all sources of information is vital to ensuring that hate crime indicators are properly interpreted.

Sources of information may include:

- community intelligence
- community voices
- covert human intelligence sources (CHIS)
- open-source intelligence
- crime pattern analysis
- hate material
- political headlines (part of open-source)
- internet activity.

10.1.1 Community intelligence

The value of community intelligence was detailed in the report <u>Winning the Race: Embracing Diversity</u>.

HMIC subsequently defined community intelligence as:

> local information, direct or indirect, that when assessed provides intelligence on the quality of life experienced by individuals and groups, that informs both the strategic and operational perspectives in the policing of local communities.

It also said:

> community intelligence should be valued by force managers as highly as criminal intelligence in terms of its contribution to effective policing.

NIM provides the formal system for gathering, analysing and disseminating such intelligence. For further information see APP on <u>Intelligence management</u>.

10.1.2 Community voices

These can range from formalised meetings with community leaders to daily interaction between patrol officers and individuals in the community. The input from ordinary members of communities can be invaluable, particularly from those who do not claim representative status but are held in esteem locally, especially by young people. It is important that information received is clearly documented and put into the intelligence system for analysis. One apparently isolated piece of information could ultimately prove crucial to the final intelligence picture. This could be, for example, raised during a public meeting that could have been used to alleviate community tension, and was missed or not entered onto intelligence systems. The emphasis should be that all officers, irrespective of rank or role, have a responsibility to ensure timely intelligence is put into the intelligence system.

For further information on community engagement, see APP on <u>Engagement and communication</u> and APP on <u>Command and control</u>.

10.1.3 Covert human intelligence source

CHIS deployment has proved successful in combating many forms of criminality. It provides extensive opportunities to tackle hate crime, particularly with the more organised hate groups. Experience has shown that those involved in targeting vulnerable communities tend to broadcast or even exaggerate their exploits. Potential sources of information for other criminality may, therefore, have information relating to hate crime by way of association. The most ethical and efficient use of such sources can be seen in forces that have established dedicated source handling units in line with the ACPO minimum standards.

Analysis of an offender's lifestyle and associates may identify investigative opportunities which can be exploited. This includes cultivating CHIS. The comprehensive profiling of an individual is essential to allow the CHIS to be tasked to maximum effect. This process is central to understanding

the motivation of the individual and allows the authorising officer to make a measured judgement regarding risk when deciding whether to grant an authority under the Regulation of Investigatory Powers Act 2000 (RIPA).

10.1.4 Open source

Open-source information is an important strand of intelligence gathering. A single incident in one part of the country could act as a catalyst for disorder anywhere else, or an innocuous piece of information may provide meaning elsewhere. The following sources, although not an exhaustive list, should be considered when carrying out analysis as they may enhance the product:

- newspapers (national, local and specific interest publications, eg, The Voice, Asian Times, Gay Times, G3, Diva)
- the internet
- demographic material, such as census data
- periodicals
- broadcast media
- opinion polls
- academic research
- bill posters or stickers
- partnership information.

10.1.5 Crime pattern analysis

Crime pattern analysis (CPA) is an essential tool used to focus resources on local policing problems. Unlike volume crime, however, hate crime is frequently more difficult to hot spot as the cause may not be easy to determine. For example, an increase in criminal damage to vehicles may not only constitute vandalism, but it could also represent a targeted attack on users of particular religious premises.

10.1.6 Hate material

One of the most common forms of hate crime is sending the victim offensive material using the internet and social media. Analysis of such material has yielded results by identifying offenders and precursor activity. Effective management, collation and analysis of such material is recommended, especially when considering strategic and/or emerging issues.

10.1.7 Political headlines

People react to political headlines, sometimes instigating organised activity. Issues such as housing for asylum seekers or refugees have the potential to upset community cohesion. Information from open-source research helps to monitor community tension and can be used to develop community policing strategies.

10.2 Community cohesion

All communities have the potential to fragment and become isolated. Symptoms of this should be identified at the earliest opportunity, see APP on Engagement and communication.

Good practice example: policing English Defence League (EDL) demonstrations

During 2009 and 2010, the EDL carried out a series of protests and demonstrations in towns throughout England. The EDL claims not to be a racist organisation but that it protests against religious practices. However, they are perceived to be a racist organisation by most communities and attract many racist criminals to their events.

A tactic of the racist elements was to try and attack symbolic locations such as mosques and businesses owned by Asian communities in an attempt to instigate a community backlash. Realising that such behaviour can have a damaging effect on community cohesion and the fear of crime, the police made effective use of all intelligence sources outlined in **10.1.4 Open source**, developed intelligence at a national and local level and, where activity was planned, shared information between all forces.

Typical of the police response was an incident in Stoke-on-Trent in 2010. Once the EDL event was known about, a rigorous response was planned, integrating the affected community and other stakeholders into the planning.

A member of the area command team was given the role of community bronze commander. He oversaw a strategy which had the objectives of reassuring the community, preventing any community backlash and providing transparency. Police activity in this response included a series of community surgeries, providing public information, mobilising neighbourhood officers and using community ambassadors who were able to attend and report back on the nature of the police operation.

In addition to gathering community and open-source intelligence to help make decisions, the silver commander set a transparent strategy on areas of defence where the protest would not be allowed and set in place a robust evidence gathering and arrest policy.

The result of the operation was that 21 people were convicted for racist and religious hate crime and the relationship with the community involved was strengthened, as they saw the strong line of protection that the police offered.

10.2.1 Community tension indicators

Significant events or incidents, both within and outside the force or police service, which may affect or indicate community tension include:

- incidents of disorder and a noticeable increase in critical incidents
- significant anniversaries
- public events (eg, meetings, demonstrations, carnivals, concerts, fairs)

- elections (eg, right-wing party candidates)
- deaths in police custody
- other police generated events (eg, crime initiatives, raids)
- religious festivals
- extremist activity
- anti-social behaviour orders
- critical incidents.

Indicators or prompts of community tensions regarding officer safety include:

- unusual or serious assaults on police personnel
- use of offensive weapons against police
- hostility or resistance to normal police activity (eg, stops, patrol, arrests).

Incidents of inter-group rivalry may affect or indicate community tensions, such as:

- racially motivated incidents (eg, assaults, criminal damage)
- rivalry between or within gangs with different ethnic membership
- rivalry between LGBT communities and those who seek to condemn their sexual orientation
- rivalry between or within religious groups
- rivalry between different gangs, schools, colleges.

Other incidents which may indicate or cause changes in community tension include:

- hate crime (eg, racial and homophobic attacks)
- vigilante patrols
- police raids on sensitive premises (eg, cultural or religious buildings)
- threats to community safety (eg, potentially problematic additions to the sex offenders register)
- inter-community threats (eg, between religious sects)
- repeated incidents of serious antisocial behaviour
- strong media interest in community issues (eg, asylum seeker issues).

10.3 Links between hate crime and counter-terrorism policing

There is a clear overlap between hate crime and terrorist activity. Not all hate crime is linked to extremism and terrorism, but it is unlikely that a terrorist act will not be motivated by hate. The hate may be personal, ideological or the result of manipulation by others and it is important to recognise the links, particularly in respect of intelligence handling.

Many perpetrators of terrorist activity commit less serious hate crimes prior to progressing to more serious offending. Not every hate crime offender will escalate to extremist crime, and the challenge is to identify those with the potential to do so, thereby enabling counter-terrorist colleagues to reduce the risk posed.

The following factors may indicate heightened risk, although this is not an exhaustive list:

- crimes fuelled by extremist ideologies, eg, racial supremacy or religious fundamentalism
- crime series which are linked but escalating in seriousness
- crimes that seek to justify or glorify genocide or other war atrocities
- repeated crimes that target the same victim group (or demographic)
- perpetrators who demonstrate support for regimes responsible for genocide or extremist behaviour
- perpetrators who host, share or follow extremist web content
- perpetrators who distance themselves from family and/or friends.

In order to ensure that the police do not miss risk indicators, it is important that any suspicions or relevant intelligence are fed into counter-terrorism intelligence systems.

To ensure that forces recognise and respond to risk indicators, staff should be made aware of potential risk factors and links. In addition, counter-terrorism colleagues should have an oversight of reported hate crimes and associated intelligence.

Good practice example

Officers from the West Midlands Counter Terrorism Unit attended a regional hate crime training and awareness event. Facilitators set out the timeline for an offender who had escalated from being an outspoken individual to one posing a threat of extremist activity fuelled by white supremacist beliefs. The operational officers were able to see the escalating nature of offending, but also saw that early hate crimes were commonly reported behaviours. Officers attending said that the event had raised their awareness and gave them a stark message about how important early intelligence sharing can be.

10.4 Intelligence standards

Information submitted to force intelligence systems must be accurate and timely. Some forces have reviewed their business processes associated with the submission of intelligence and crime reports and have set appropriate data standards to ensure that they are submitted at the earliest opportunity.

All officers should have an understanding of the principles contained in APP on Information management. In particular, police forces should consider the use of aides-memoire for officers, and posters in report-writing rooms.

10.5 Conclusion

The effective management of information and intelligence is essential to the efficient working of NIM. Hate crime should not be viewed as a particularly difficult or overly sensitive facet of intelligence gathering, but should be seen as an opportunity to apply learning from other areas of law enforcement. The challenge is to recognise hate crime as mainstream policing and to fully exploit NIM, thus enabling the police, the community and all appropriate stakeholders to work together to prevent, reduce and detect hate crime.

11 Measuring performance

This section outlines how hate crime performance can be measured and managed.

11.1 Introduction

Forces must ensure that there is a consistent and quality assured approach to the investigation and management of hate crime. This can be achieved by producing accurate data to show the prevalence of hate crime, setting meaningful objectives and providing tools to help assess the quality of investigations.

11.2 Hate crime data collection

The agreement of the common definition of hate crime in 2007 enabled the police to provide national data for the first time in a consistent format. Since April 2008, ACPO has published data to show the number of crimes that have been recorded by the police in each individual force area. The data has been published on True Vision.

The transparency provided by the publication of hate crime data has been welcomed by victims groups and international observers.

From 2011, hate crime has also formed part of the annual data requirement for the Home Office and since then has been published as part of the national crime statistics.

11.2.1 Disaggregation of data

ACPO's national hate crime data only separates out hate crime into the five monitored strands and, to date, the inconsistency of data systems has meant that disaggregation of the data within the strands (eg, when looking at race hate crime, which ethnic groups were targeted) has not been possible on a national basis. It is important that forces are able to locally analyse hate crime to identify trends, degrees of animosity and to prepare intelligence-led deployments. They should also be able to understand other factors from the data such as offence circumstances or the age and gender of victims and offenders. Analytical products also enable managers to make more effective deployment decisions.

11.3 Performance targets

The extent of under-reporting of hate crime is exposed in the Crime Survey of England and Wales (CSEW), which shows that less than one in five of the 278,000 actual hate crimes appeared in the 2012/13 ACPO hate crime data. The survey suggests that the police became aware of 40% of those 278,000 crimes, which shows there is significant work to do in recognising and reporting crimes as well as in the challenge of encouraging victims to come forward.

This gap in reporting and recording of hate crime is a priority for all police and criminal justice partners. It is why the government included the closing of that gap in its 2010 Programme for Government. Further details of the priority that the government places on this can be seen in Challenge it, Report it, Stop it.

Many of the traditional performance targets for policing are difficult to apply to hate crime, but ACPO has suggested a number of appropriate areas to consider when measuring performance. Although some of these factors are not easily measured and some will require the cooperation of CJS partners to gather data, they are true measures of performance rather than merely an easy means of gathering it. Each area for consideration is explained below.

11.3.1 Increasing the reporting and recording of hate crime

Measuring the increase or decrease in numbers of hate crimes is a key indicator of police and partnership performance. It is necessary to measure success in this way as less than one in five hate crimes that occur are recorded by the police. Until this gap is closed, the key National Policing and government objective is to work to increase confidence, accessibility and the recognition of those crimes that do occur. A long-term aim is to reduce the incidence of hate crime, and this will be measured by the Crime Survey of England and Wales.

The measurement of progress in this area should be a comparison of recorded hate crime with the:

- corresponding quarters in previous years or whole years
- percentage rise or fall in the CSEW estimates of hate crime
- recording rates in forces with similar demographics.

Performance should be monitored across all recorded hate crime categories. Analysing the data will, over time, indicate whether rises and falls in hate crime reflect efforts to increase reporting or whether the incidence of hate crime has risen or fallen in a force area.

Targets that see success as reducing hate crime are not appropriate as they can be discouraging to staff, and are unlikely to motivate managers to promote positive recording or to increase the opportunity for victims to report through third-party reporting structures.

Race or religiously aggravated offences should not be used to measure performance as the offences account for only two of the strands of monitored hate crime and relate to four offence categories only. See **2 Legislation**.

Performance assessment example

An area that achieves an 8% rise in recorded hate crime in a period when the CSEW shows a stable total is likely to be attributable to positive policing and partnership responses. Analysts should check such data against similar forces and local surveys and by reviewing the period for events, conflicts or demographic changes that are likely to have had an effect on the data.

11.3.2 Measuring the crimes that have successful outcomes

The traditional measure of detection rates or successful outcomes may be appropriate, but it needs to be viewed in conjunction with the recorded crime rates. These criteria should be closely monitored to ensure they do not provide false positives. It is important to remember that a successful outcome for the victim may not necessarily include criminal proceedings.

The percentage of victimless crimes such as alcohol-related public order offences can have a major influence on detection rates, since most are recorded only when the offender is arrested. It is also possible that a single event such as a football match where numerous offenders are arrested for racist chanting could have a significant impact on detection rates even though no direct victims were present.

Where detection rates are used, forces need analysts to explore the data to fully understand the implications.

11.3.3 Measuring repeat victimisation

The percentage of those who become repeat victims is the best measurement of effective support for people who suffer/are affected by hate crime. The measure will be influenced by police and partnership activities, and the advice and support given to those victims who seek police support.

Figures can be compared with previous years or quarters and against those of similar forces to help understand the effectiveness of responses.

See **1.4 Repeat victimisation**.

11.3.4 Measuring victim satisfaction

The CSEW shows that victims of hate crime are less likely to be satisfied with the police response, both in terms of effectiveness and the fairness of the services offered. Forces should, therefore, understand local victim satisfaction levels.

Forces have set mechanisms to measure victim satisfaction, and by identifying those that are hate crimes means that satisfaction levels can be compared with the CSEW data, previous periods, victims of crime in general or similar forces.

Existing victim surveys can be supplemented by the targeted use of the following hate crime diagnostic tools.

11.3.5 Measuring the number of crimes that attract enhanced sentencing in court

One of the clearest indicators of successful criminal justice responses is the application of enhanced sentencing following conviction. This shows that the police, prosecutors and courts have all recognised the hate crime and that the police and prosecutors have been able to obtain and present evidence to demonstrate the offender's hostility.

The transparent use of enhanced sentencing under sections 145 and 146 of the Criminal Justice Act 2003 has been positively received by victims where it is used, and, conversely, has attracted significant criticism where it has not been applied.

The police inability to measure the application of this provision was criticised in Hidden in plain sight.

National responses are being examined, but processes could be put in place within local criminal justice boards to measure this important provision.

11.3.6 Measuring the quality of investigations

The ability to measure the quality of service and the quantity of outcomes has been an objective of the previous and current government hate crime action plans. To this end National Policing, criminal justice partners and government departments have developed the hate crime diagnostic tool, which allows qualitative and quantitative factors to be measured and comparisons to be made with victims' perceptions of quality. The tool encourages collaboration with partners and independent advisory groups. It also identifies any areas for development and provides a benchmark for future comparison.

The diagnostic tool also allows the quality of response to non-crime hate incidents to be assessed and, in particular, whether any of them should have been recorded as crimes rather than incidents.

The National Policing Hate Crime Group and the government hate crime programme can assist forces and partnerships to negotiate future performance targets.

11.4 Hate crime audits

A hate crime diagnostic tool has been developed to assist criminal justice agencies to examine how criminal justice agencies handle hate crimes. The purpose of this is to provide a qualitative evaluation of service, and identify good practice and areas of concern. The audit enables agencies to examine policies, processes and operational practice to improve the service offered to victims. It has been designed to work across all five strands of monitored hate crime.

The hate crime audit is an objective of the government's hate crime action plans and is one in a series of diagnostic tools to help CJS partners to meet their commitments to victims of crime.

The first section of the diagnostic tool sets out its purpose, how it works and the resources required to carry out the audit. It is designed to be used holistically, but it could be separated out to look at individual parts of the criminal justice process or at individual strands of hate crime where performance concerns have been identified.

11.4.1 Purpose of the diagnostic tool

The tool helps agencies and partnerships to examine policy, procedures and service in the way they respond to hate crime in respect of:

- call handling
- correct classification
- initial response
- investigation standards
- criminal justice processes
- victim care.

This will help to:

- improve the way the agencies monitor and record hate crime
- identify the drivers of victim and witness satisfaction and confidence
- identify ways to increase the reporting of hate crime
- increase the number of successful prosecutions of hate crimes
- increase the number of cases that attract an enhanced sentence in court
- increase levels of community satisfaction in the prosecution of hate crimes.

11.4.2 Methodology

The audit is designed to take place in conjunction with local policy leads within CJS agencies, including the police and the CPS. Many such policy leads have commented on the benefits they found of working together across agencies. This has provided the opportunity to improve working practices and relationships, and increase understanding of the demands of partners.

Independent scrutiny bodies can also be included in the audit. CJS may wish to consider the suitability of including CPS scrutiny panels and independent advisory groups in the process, subject to an appropriate data confidentiality agreement being in place.

It is not always possible to contact victims of hate crime, but those who have been interviewed by telephone have given a valuable insight into how they perceive the criminal justice system, having had first-hand experience of it.

The diagnostic tool and accompanying guidance can be obtained from True Vision.

12 Hate crime in sport

Hate in all its forms can infiltrate sport at all levels, and the scale and complexity of the issue remains a constant challenge requiring ongoing vigilance.

The influence and leadership from sporting celebrities can be of great benefit. Those in football have done some excellent work to break down racism, but hate in sport can also be the focus of many offences, whether on the pitch, the terraces or the internet.

12.1 Introduction

Sport involves millions of people in the UK – either as spectators or participants, irrespective of social status, background, gender, age, sexual orientation, physical ability or ethnicity.

Hate crime in sport is not trivial or any less important than hate crime elsewhere. In sport it attracts intense media interest, and has the potential to escalate individual incidents into critical incidents.

The guiding principles for the police service when tackling hate crime in sport must be to:

- deliver a robust and effective response, using the appropriate legislation
- work closely with communities affected
- proactively identify and combat incidents of hate crime by using the NIM and tasking and coordination process
- reduce and manage any risk of public disorder.

The response must be proportionate, taking into account the different demands and priorities force areas have in relation to hate crime in sport. These will depend on the location of venues, the range of sporting events and whether they are local, national or international events and the demographics of the local community, spectators and those taking part.

12.2 Robust and effective action

It is important to build relationships with key partners, both internally and externally. This includes:

- establishing and maintaining effective links between event commanders, football intelligence and/or liaison officers, technical support and public order specialists
- building partnership links with official bodies such as the Football Association, England and Wales Cricket Board and Rugby Football Union
- building partnerships with local sports clubs, both amateur and professional, and area associations
- developing close working relationships with event stewards.

Stewards should be given appropriate training, and be briefed and made aware of their responsibilities should an incident occur. They must be fully integrated into any police operation, not only from a public order perspective but also from a hate crime perspective.

Effective use of intelligence can help to identify known offenders and target resources to potential trouble spots (see **12.4 Intelligence-led policing**). Although race has traditionally had the highest profile in relation to hate crime in sport, consideration should be given to widening campaigns to address the impact on other protected groups.

Good practice example

The MPS has worked with Arsenal Football Club to respond to racism in and around the club's ground. This has included developing a training package which is delivered to stewards by a criminologist who has expertise in hate crime.

The club has also developed a text line which is advertised in programmes. The text line allows supporters to report the seat number of any fan using racist or other hate language. The club can respond to this by seating its staff near to the person to make an independent assessment prior to any action being taken to deal with problems.

Where hate crimes do occur during a sporting event, it is important to use sanctions effectively and liaise with the CPS to ensure that the most appropriate sanction to use is identified, eg, ASBOs or Banning Orders. Possible legislation that can be applied, including specific offences, can be found in **2 Legislation**.

Combating hate crime should be seen as a usual part of business and included as a standing item for event briefings where such problems exist.

12.3 Building community confidence

To achieve an increase in the reporting of hate crime in sport, victims need to have confidence that the police and authorities will take complaints seriously.

A response that meets the specific needs of victims will help to increase public confidence and improve community engagement. The police service has a duty to actively investigate any incident, preserve evidence and support the victim. It is essential that officers take positive action to do this and do not merely record incidents as a tick-box exercise.

12.4 Intelligence-led policing

Intelligence-led policing should reflect the principles set out in APP on <u>Intelligence management</u>. See also **10 Intelligence**. The following should be considered when planning the policing operation for a sporting event:

- conduct strategic and tactical assessments
- develop a control strategy to meet local demands and issues
- develop intelligence products to reinforce the control strategy such as subject profiles, problem profiles and case analysis
- identify grounds and venues where hate crime occurs
- identify areas in the vicinity of grounds and venues where hate crimes occur
- use covert and overt methods to gather intelligence and target offenders
- gather open-source intelligence
- recognise different levels of hate crime in sport, eg, local, cross border, national or international.

12.5 Football intelligence officers

Professional football continues to be the focal point of hate crime within sport, and the police have developed particular measures to tackle that problem. The appointment and development of football intelligence officers (FIOs) is one such measure that has been central to the effective policing of hate crime in football. They perform a coordination role in intelligence-led operations, working with club officials, stewards and match commanders.

The FIO's key role is to:

- brief and advise the match commander in line with the tactical assessment before, during and post event
- ensure that appropriate incident flags are placed on incident logs and all crime reports to ensure trends can be monitored
- ensure all reported hate crime is included in the post-event report
- liaise with the CPS prior to, or at first hearing of, an application for a Football Banning Order in the event of any arrest or summons
- establish from the host football club whether stewards or club officials have received any reports of hate crimes or incidents.

The results of these enquires should be recorded in the post-event report following a designated match.

12.6 Match commanders

Overall responsibility for implementing this guidance and for managing the policing response during a sporting event rests with the match commander. They must:

- ensure that officers engaged in policing football events are fully briefed and understand the Positive Action Policy, which must be part of any operational order
- ensure that incidents of hate crime at designated football matches are recorded by the officer receiving a complaint or witnessing an incident, irrespective of whether suspects are identified or not
- ensure that allegations of hate crime at football events have a focused response, either by appointing a dedicated investigation team or ensuring the enquiry is appropriately supervised and quality assured
- consider the proactive use of evidence gathering teams or other tactics to identify those responsible for any racist chanting and ensure that positive action is taken, whether that be during the match or as part of a retrospective enquiry.

For further information see:

- Kick it Out
- Show Racism the Red Card
- True Vision.

13 Inciting hatred

The Public Order Act 1986 includes specific offences of inciting hatred on the grounds of race, religion and sexual orientation.

These are relatively new offences and there is not a great deal of case law to help make decisions. All allegations of incitement to, and stirring up, hatred must be referred to the central special crime and counter-terrorism division of the CPS, and require the consent of the Attorney General to proceed to court.

Incitement offences have been the subject of considerable debate. The nature of these offences can lead to conflict between individuals and groups about the balance of freedom of expression and protection from hatred. The police have seen how the expression of a personal belief can be interpreted by others as likely to stir up hatred. Incitement can arise from one religious group's view on another's religious belief or from a religious person's view on sexual orientation or vice versa.

Whether a particular act comes within the behaviour covered by the offences is ultimately for the court to decide. The CPS has to judge in each case whether the evidence supports a reasonable prospect of a successful prosecution.

In considering the offences of inciting hatred on the basis of religion and sexual orientation, Parliament accepted evidence that legislation is necessary to prevent such activity. It took a view that the legislation contains a sufficiently high threshold, so that any interference with freedom of expression was justifiable under the terms of the European Convention on Human Rights (ECHR) and the Human Rights Act 1998.

Article 10 of the ECHR says that any interference with freedom of expression must be prescribed by law. It must also be:

- necessary in a democratic society

- in the interests of national security, territorial integrity or public safety

- for the prevention of disorder or crime

- for the protection of health or morals

- for the protection of the reputation or rights of others

- for preventing the disclosure of information received in confidence

- for maintaining the authority and impartiality of the judiciary.

The contentious nature of these offences demonstrates that it is imperative that policing decisions are made without fear or favour, and that they take into account all of the considerations of the ECHR and Human Rights Act 1998.

13.1 Incitement to racial hatred

Section 18 of the Public Order Act 1986 makes it an offence for a person to use threatening, abusive or insulting words or behaviour, or to display any written material which is threatening, abusive or insulting, intending to stir up racial hatred, or where having regard to all the circumstances racial hatred is likely to be stirred up. An offence under sections 19–22 of the Act includes distribution, broadcasting, performance, public display and possession of inflammatory material.

The Act defines racial hatred as hatred against a group of persons defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins.

An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the written material is displayed, by a person inside a dwelling and are not heard or seen except by other persons in that or another dwelling.

Full details of the Act can be found at the Office of Public Sector Information website.

13.2 Incitement to hatred on the grounds of religion

Section 29B of the Public Order Act 1986 makes it an offence for a person to use threatening words or behaviour, or display any written material which is threatening, with the intention to stir up religious hatred. Sections 29C to 29F of the Act include the offences of distribution, broadcasting, performance, public display and possession of inflammatory material.

Religious hatred means hatred against a group of persons defined by reference to religious belief or lack of religious belief.

An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the written material is displayed, by a person inside a dwelling and are not heard or seen except by other persons in that or another dwelling.

The Act includes section 29J which is designed to protect freedom of expression. This states:

> …nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practicing their religion or belief system.

Full details of the Act can be found at the Office of Public Sector Information website.

13.3 Incitement to hatred based on sexual orientation

Section 29B of the Public Order Act 1986 (as inserted by the Criminal Justice and Immigration Act 2008) makes it an offence for a person to use threatening words or behaviour, or display any written material which is threatening, with the intention to stir up hatred against a group of people defined on the grounds of their sexual orientation. Sections 29C to 29F of the Act include the offences of distribution, broadcasting, performance, public display and possession of inflammatory material.

Hatred on the grounds of sexual orientation means hatred against a group of persons defined by reference to sexual orientation (whether towards persons of the same sex, the opposite sex or both). See section 29AB of the Act.

An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the written material is displayed, by a person inside a dwelling and are not heard or seen except by other persons in that or another dwelling.

The Act includes section 29JA, which is designed to protect freedom of expression. This states:

In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred.

Full details of the Act can be found at the Office of Public Sector Information website.

13.4 Guidance on incitement to hatred offences

The three incitement to hatred offences are not identical. They were created at different times and had different transitions through Parliament, meaning that each should be considered separately. The most significant difference is that the race offence covers threatening, abusive or insulting words, behaviour or material, whereas the religious and sexual orientation offences cover only threatening words, behaviour or material.

All three offences are committed where the offender intended to stir up hatred. The race offence also includes circumstances where such hatred is likely to be stirred up.

13.5 Action in response to allegations of incitement to hatred

It is essential, if the trust and confidence in the police is to be maintained, that any action in response to these offences is taken without fear or favour. They can cause significant damage and any complaints need to be fully investigated, but the rights of the accused individual also need to be taken into account.

A religious or any other personal belief is no defence to these offences, but the free expression or debate of personal views is a protected human right, which is why the threshold for this offence is set so high. Freedom of expression is a right under Article 10 of the ECHR and Schedule 1 of the Human Rights Act 1998. Full details of the Act can be found at the Office of Public Sector Information website.

See also **6.4 Opposition to police policy**.

OFFICIAL

14 Internet hate crime

Criminal behaviour where the offender transmits material over the internet has become widespread in the UK in recent years. The police response when victims have referred such material has been erratic. There are some examples where successful evidence gathering has enabled the CPS to convict offenders. However, there have been many more occasions where victims have had poor responses from the police and have been left frustrated by their unwillingness to deal with the incident.

The nature of illegal hate material presents many operational challenges, including:

- establishing the jurisdiction of the crime, in terms of the country and force area where the offender posted the material

- the anonymous nature of most offending material

- the unwillingness of, or legal restraint on, internet industry bodies to disclose user identity

- the lack of clear policy guidance

- a lack of knowledge among many investigating officers

- the high workload of force forensic IT specialists.

Internet hate crime can cause significant distress for communities affected by it. It is can also increase community tensions and act as a motivator for those with a propensity to commit hate crime by such means. For these reasons, and because of the significant concerns raised by community groups, responding to hate crime on the internet has become a priority for the police service and is included in Challenge it, Report it, Stop it. In the plan, the cross-government hate crime programme includes developing a schedule of work relating to hate crime on the internet. See also CPS Guidelines on prosecuting cases involving communications sent via social media.

The global nature of the internet means that many crimes are found to have occurred in other force areas or even other countries.

14.1 Nature of internet hate crime

Information technology makes it easy to send or transmit material to an intended or incidental victim. Although hate mail is still sent through the postal system, the majority of it is now sent by email, social networks, instant messaging and open-source websites. The internet also allows an individual to take on a new and anonymous identity, and to bypass traditional editorial controls, to share their views with millions.

The interactive nature of social media has significantly changed the nature and impact of hate material. Previously, hate material was shared largely in closed environments such as chat rooms. Social media provides the means to post material publicly, for example, to the comments sections of newspapers and other websites. The number of individuals exposed to such material has increased hugely, placing additional demands on law enforcement agencies to respond.

Online hate messages can be sent anonymously or by using a false identity, making it difficult to identify the offender. The internet also offers extensive opportunities for perpetrators to target society generally, by providing quick and easy access to a wider audience than is accessible by ordinary mail.

The investigation and prosecution of hate crime on the internet is controversial. Some argue that hate speech should not be criminalised as it is an expression of free speech. The law in the UK is clear. It establishes that illegal activity can be committed over the internet in the same way as when using other media. However, it is important to be aware that police activity to act on criminal material will come under scrutiny from opponents to UK law.

There is no specific offence of internet hate crime. A basic rule is that most offences can be committed on the internet in the same way as they could on the street. See **2 Legislation** for further details and **13 Inciting hatred**.

14.2 Offences and investigation of internet hate crime

Police officers and staff may receive complaints regarding the content of websites, chat rooms, newsgroups, unsolicited emails and text messages sent on mobile phones.

Police key responsibilities are to:

- record a complaint as a hate incident or hate crime in line with this guidance
- ensure the safety and wellbeing of the victim from the offender or other individuals who are motivated by the offender
- bring the offenders to justice
- prevent further crime
- reduce community tension and fear of crime
- build community confidence that the police are willing and able to deal effectively with hate crime.

Officers and staff may also come across material through open-source intelligence. If an allegation is received or information discovered about potential criminal offences, the following steps should be taken:

- establish the exact nature of the complaint and the specific medium concerned
- follow local force policy for crime reporting or inputting onto corporate databases
- identify possible criminal offences after considering available legislation (see **2 Legislation**)
- secure all evidence, both hard copy and electronic copies
- where possible do not allow further use of the computer, including logging off and switching off
- consider specialist electronic scene preservation, which includes hard drives, floppy disks, CD Roms or memory sticks, electronic audit trails of messages and access to documents

- consider conventional crime scene preservation, such as the home or place of work and the contents of waste bins and shredders
- ascertain the date, time and electronic or geographic place of origin for emails
- ascertain details of the victim's computer system, for evidential and continuity purposes
- consider the definition of a hate crime in all instances to ensure that hostility is recognised.

If an allegation does not include a crime, the victim can be encouraged to contact the internet host themselves to ask that they consider removing the material. If they choose to report it to True Vision, it would be recorded centrally as a non-crime hate incident.

The following may be able to provide additional sources of advice:

- hate crime unit or coordinator
- criminal investigation department
- hi-tech crime unit
- equality or diversity unit
- special branch
- anti-terrorism unit
- the CPS.

Most police forces also have a single point of contact (SPOC) within the intelligence structure to liaise with internet service providers (ISPs) and mobile phone operators. This helps to establish the source of emails sent.

14.3 International jurisdiction

Internet hate crime offenders are not limited by national or international boundaries. Even though communications may be of short duration, many computers are located in easily identifiable places. Computers can be accessed remotely, regardless of the location of the person who is posting, sending, viewing or receiving information online. Wherever the computer or the individual is located, there will be an electronic audit trail that will have significant evidential value.

Many sites carrying messages of hate are hosted in countries outside the UK where their content may be protected by law, such as that safeguarding free speech under the First Amendment of the United States Constitution. This means that hosts are unwilling to pass on user information without a USA court order, which is not attainable for the majority of the hate crime reports the police receive.

14.4 Court jurisdiction – England and Wales

An early case that has proved instructive to the courts in England and Wales is that of *R v Shepherd and Whittle* [2010] EWCA Crim 65. Two white supremacists who circulated racist material over

several media, including the internet, were convicted of possessing, publishing and distributing racially inflammatory material. They used material which the CPS said 'crossed the line from unpleasant and obnoxious to a criminal offence'.

Reviewing lawyer Mari Reid, of the CPS counter-terrorism division said:

> People are entitled to hold racist and extreme opinions which others may find unpleasant and obnoxious. What they are not entitled to do is to publish or distribute those opinions to the public in a threatening, abusive or insulting manner either intending to stir up racial hatred or in circumstances where it is likely racial hatred will be stirred up.

The defendants in this case appealed against their convictions. They argued that they were subject only to the jurisdiction of USA courts since material was uploaded to a website hosted by a server in the USA despite it being accessible in the UK, where some of the material was also distributed in print form. One of the grounds of appeal was that the case could only be tried in the jurisdiction where the server was located. The Court of Appeal rejected this, confirming that the criminal law of England and Wales can apply to material published online even if the server is located in another country. The test the court will apply is whether a 'substantial measure' of the activities took place within the jurisdiction.

14.4.1 Threats to individuals outside the UK

Where material is reported that targets an individual or group outside the UK and does not appear to have originated from inside the UK, the police should refer the report to a suitable authority in the country with jurisdiction, to ensure that consideration is given by local law enforcement and other authorities. National Policing is working with the government and international bodies to try to establish a system of single points of contact for disseminating such material. Until this is available officers should use existing communication structures. More details can be found on the True Vision website.

14.5 Key considerations

Where a force receives a complaint of internet hate crime and it is retained because it fits one of the criteria below, the primary concern is the safety of targeted individuals, groups or events. However, forces should also consider the impact it has on communities affected, community tension and the confidence in police.

Forces should consider whether:

- the material is part of a larger picture when considered alongside existing intelligence
- there is a need to inform the individual of the threat as part of an 'Osman' warning
- there is a need to offer support to the intended target
- there is a need to discuss risk with event organisers or operational commanders responsible for policing events
- there is a need to complete a community impact assessment.

The majority of hate material is posted anonymously and may originate from an individual without the resources or intention to carry out the threats that they make so freely. However, many offenders who do have the intention and resources to carry out violent attacks, post internet hate as part of the escalation of their behaviour. It is important, therefore, that the force intelligence unit assesses the degree of risk each report presents, however implausible it may seem.

14.6 Targeting celebrities

Many reports of internet hate crime are received from someone who is offended by material posted in response to newsworthy events or where it targets a high-profile individual. True Vision reports suggest that some of the most targeted individuals in recent years have been black footballers, who have often been subjected to extreme racist and violent abuse. In such cases sporting clubs and authorities become key stakeholders. Player security is one of the key objectives of these investigations and it is essential to have dialogue with the players, clubs and associations to ensure that appropriate safety procedures are deployed.

Where cases have been successful in identifying the offender and bringing them to justice, the identification has tended to come more from traditional policing and the analysis of the intelligence systems, rather than information received from industry bodies.

14.7 Police crime recording

The Home Office 2012 Counting Rules: General Rules state that the crime should be recorded by the force where the crime is committed. The nature of the internet means that often this location is not known until after the investigation has been undertaken.

If the location of the offence (ie, where the offender was when the material was posted) is unclear, a reported crime should be recorded in the area where the complainant resides.

If at the time of reporting, the location of the offender(s) and victim cannot be determined, the crime recording location will be:

- for personal crime – where the victim is normally resident
- for a corporate body – the location of the relevant place of business.

14.7.1 Non-crime hate incidents

Even if no criminal offence is disclosed, most ISPs include terms of service or acceptable use policies which prohibit users from posting hateful or illegal material online.

True Vision gives advice to the public about how to approach hosts where offensive material is found but it is not illegal material.

14.8 Generic internet hate crime management

In order to deal with the exponential rise in reports about hate from the internet and to reduce the burden on force resources, National Policing has agreed with Home Office ministers to provide a central function for responding to generic hate crime on the internet.

The central team is also responsible for True Vision and can be contacted through the site web address. The remit of the unit is to take reports made through the True Vision website and to:

- assess whether the material amounts to a recordable crime
- record the complaint as a hate crime or non-crime hate incident centrally, preventing large numbers of unsolvable crimes from being held by forces
- keep the complainant informed about the process of investigation and any action taken
- make provisional enquiries with the ISP to find out the identity of the offender
- provide, where enquiries are able to identify the location of the offence, necessary material to the force with responsibility to enable them to carry out enquiries to trace and, where appropriate, prosecute the offender
- disseminate intelligence to relevant national and local resources as appropriate
- work with national and international stakeholders to promote problem-solving solutions, including industry self-regulation.

The ACPO internet hate crime team (IHCT) has no remit to search the internet for hate material, and responds only to formal complaints made by the public through the True Vision website.

The IHCT does not have operational staff and carries out enquiries only to the point where an offence location is known. The crime will then be transferred to the relevant force for any enforcement action to be taken.

The IHCT will not respond to any report of material which:

- targets an individual person for abuse of any nature
- is sent directly to any individual, including where it is posted on an individual's own personal website such as Facebook
- targets an identified group whose location is known (eg, Muslims who attend a specific mosque)
- targets a specific event such as a Gay Pride march
- refers to any other report which requires an operational police response.

Where a complaint of internet hate crime is made direct to an individual force, the force may ask the complainant to use the information and reporting facility on the Internet Hate Crime page of the True Vision website, but must not do so if any of the above circumstances apply. See **Figure 1**.

Figure 1 ACPO internet hate crime team operational flow chart
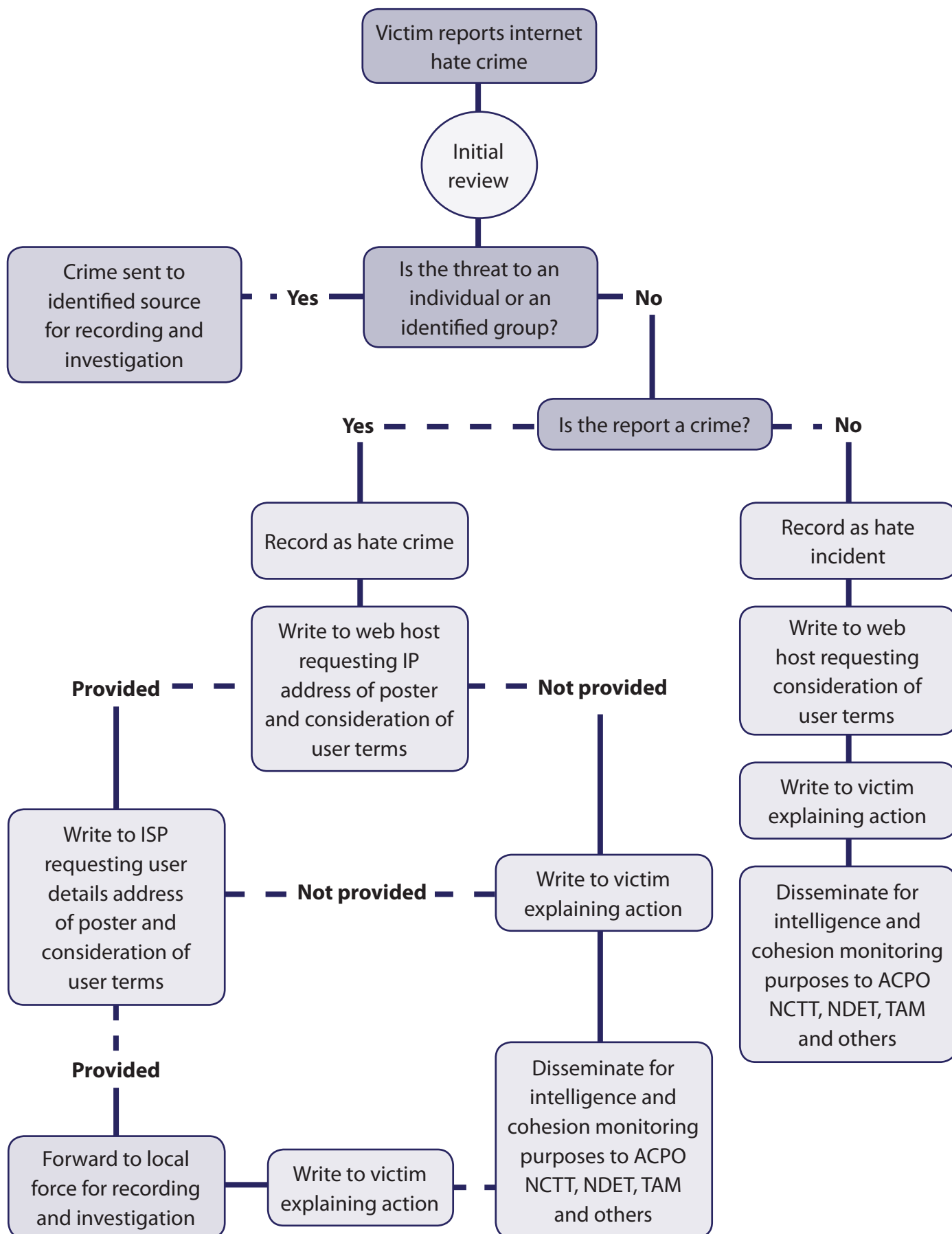
ACPO NCTT National Community Tension Team
ACPO NDET National Domestic Extremism Team
ACPO TAM Terrorism and Allied Matters

14.9 Hate mail

The distribution of mail, eg, offensive letters, leaflets, posters or other material delivered by hand or via the postal system does still occur. The devastating impact this can have on a victim should not be underestimated, and such matters should be dealt with sensitively and reassuringly. Much of this material is disposed of by the recipient and they do not report it. Where such items are brought to police attention, they should be treated as forensic exhibits. Evidence can be lost if the exhibit, which, in the case of letter, includes both the envelope and its contents, is not dealt with correctly from the outset. The following good practice will assist in reducing loss or contamination of evidence when handling hate mail exhibits.

Do:

- Wear at least two pairs of latex gloves when handling any exhibit, and hold it by the edges. Tests have shown that it is possible to leave fingerprints through a single pair of gloves and incorrect handling can destroy any evidential marks on the item. The overall rule is to handle the item as little as possible.

- Where possible, package the items at the scene to prevent contamination.

- Photocopy the exhibit if possible so that a copy can be placed with the case papers and the prosecutor can have ready access to it.

- Consult your scenes of crime officer.

- Consult the local hate crime investigation team or coordinator.

- Obtain a statement from anyone who has handled the item, thereby preserving continuity and providing an index if elimination fingerprints are necessary.

- Label the exhibit clearly and identify its storage location in any subsequent report.

Do not:

- Pass the exhibit around.

- Open a sealed envelope if it is believed to contain hate mail.

- Take a letter out of an envelope if the contents are suspected to be hate mail.

- Replace a letter into an envelope if it has already been removed. This could destroy potential forensic evidence. Package it as a separate item.

15 Internal hate crime

Hate crime and incidents can occur in police organisations as staff carry out their duties. It can originate from colleagues or the public.

The ability to protect its staff affects how the public views the police service. If it cannot protect its own employees, it cannot be expected to protect the public or gain their confidence. The nature of policing places officers and staff in situations of conflict and as a result, hate crime is a risk. Prevention and effective responses to such crimes are essential to maintaining an inclusive and effective service.

Forces face extra responsibility when officers and staff are subjected to hate crimes or incidents. Hate crime will not be tolerated and the principles of this guidance will apply equally to them as victims.

The police service also has additional responsibilities to protect staff under employment law and the Equality Act 2010. Police officers and staff may be targeted in different ways and strategies should be put in place to ensure that they are all treated appropriately according to their diverse needs. This responsibility includes occasions where they are victimised by members of the public.

15.1 Introduction

The police service is committed to being an inclusive organisation. It cannot achieve this unless forces have effective internal policies and procedures to address internal hate crimes and incidents. Such policies must be transparent and capable of confronting unacceptable behaviour. HMIC (2003) Thematic Inspection Report: Diversity Matters was unequivocal in the view that the standard of service afforded to victims of hate crimes and incidents among the general public is not always applied to victims of similar crimes and incidents within forces. This situation is unacceptable. There is a duty of care even when the victim is a colleague.

Failing to deliver an equivalent and proper standard of service to internal victims of hate crimes and incidents also has an external impact. They will share their experience with their communities, and the confidence of that community will be undermined.

It is essential that internal hate crimes and incidents are recorded and investigated in the same manner, and to the same standard as advocated elsewhere in this guidance.

15.2 Leadership and partnership building

Without the clear leadership of chief constables and their senior teams, a high-quality and consistent standard of internal investigation will not be realised.

In addition to providing adequate resources, there must be arrangements for monitoring, evaluation and performance measurement. Without these it will be difficult for forces to measure success, or to implement lessons learnt.

15.2.1 Transparent policy

Some forces have produced policy on dealing with internal abuse and hate crime. This allows a clear message to be sent from the chief officer to all staff and is likely to build confidence and encourage victims to come forward to seek support.

15.2.2 Partnerships

Partnerships are important when dealing with internal hate crime just as they are when are dealing with problems in the community, although the stakeholders may be different. Key stakeholders in dealing with these issues are the statutory staff associations and local staff support networks.

In the same way that it is essential to build relationships with external stakeholders, forces need to work to build the trust and confidence with internal groups. Successful partnerships will increase the flow of communication and reporting of incidents and provide secure third-party reporting facilities. Effective partnerships also have the ability to detect incidents at the lower level, giving an early warning of emerging problems and allowing forces to intervene to prevent an escalation to more serious issues.

Forces should also consider other external stakeholders who may be able to assist. These could include external third-party reporting centres, independent professional advocates or existing IAGs.

15.3 Encouraging reporting

Under-reporting of internal hate crime is a significant challenge. It is important that forces are able to assess not only the number of incidents that are reported, but also the extent of hostility faced by colleagues, whether from within or outside the organisation.

Some forces have been able to assess the nature of hostility suffered by colleagues by using staff perception surveys. Where such surveys record anonymous personal information and ask relevant questions about experiences of hostility, bullying and harassment, forces are able to identify not only the extent of abuse but also how much of that abuse goes unreported.

Once the force is aware of the extent of abuse, it can consider with its stakeholders the best ways to encourage reporting. Measures which could be considered include confidential telephone lines or reporting through internal or external third parties.

15.3.1 Recording internal hate crime and non-crime incidents

One of the main challenges for forces when responding to internal hate crime or incidents has been the various recording options. Recording external complaints from the public is straightforward as they are a hate crime or a non-crime hate incident.

Forces have existing guidance for recording complaints against police colleagues and staff and when they should be notified to the Independent Police Complaints Commission. However, some of these incidents are reported and recorded under other procedures such as a human resources grievance procedure.

15.4 Transparency of performance data

Whichever system is used to report and record internal hate crimes and incidents, it is essential that the force is able to assess the nature and extent of the problem. The collection of robust data, staff perception surveys and knowledge of human resources data will allow analysts to assess the levels of hostility faced by the police so that measures can be taken to address any problems that do exist.

Performance data should be transparent and discussed with relevant stakeholders, although any exchange has to protect the confidentiality of staff. This is particularly important in smaller organisations with lower representation from visible minority or affected groups.

15.5 Legal duties to protect staff from harassment

In addition to the duties outlined in **6.1 Introduction**, section 40 of the Equality Act 2010 states that employers may be liable for harassment. They may be liable where a third party (eg, a customer, contractor, supplier or the general public) harasses an employee in the course of their employment, and the employer knew that they had been harassed on at least two occasions, and he or she did not take reasonably practicable steps to prevent it.

Any third occasion involving harassment must be acted upon by the employer. However, the employer should not wait until the third occasion before acting. They can take action at any time to prevent third-party harassment.

The third-party harasser does not have to be the same person on each occasion or be employed by the same organisation.

15.5.1 Harassment as defined in legislation

Section 26(1) of the Equality Act 2010 defines harassment as any unwanted conduct that violates an employee's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. The unwanted conduct must relate to a relevant protected characteristic. Sections

26(2) and 26(3) of the Act respectively, deal with unwanted conduct of a sexual nature, and less favourable treatment because of a person's reaction to harassment.

The legal framework protecting individuals from other forms of harassment are dealt with by other legislation such as the Protection from Harassment Act 1997 and the Public Order Act 1986.

Protection from harassment for employees derives from case law.

15.6 Types of internal hate crime

There are a number of ways in which a police officer or member of police staff may be the victim of a hate crime or incident. These include:

- a crime or incident committed by a colleague
- a crime or incident committed by a member of the public
- conflicts caused by expressions of personal belief
- the refusal by a member of the public to accept an allocated officer.

15.6.1 Committed by colleagues

Behaviour by one colleague against another which targets an individual because of hostility to their personal characteristics is not acceptable.

Internal hate crimes and incidents should not be dismissed as hijinks, police culture, a bit of fun or bullying. If a crime has been committed it should be treated as such. If a non-crime hate incident has taken place, it should be recorded as such and appropriate disciplinary procedures should be followed.

Force policy should be clear that such behaviour is not acceptable and should identify the action that should be taken in each case.

Reporting a crime or complaint against a colleague is difficult and can be even more so where it is fuelled by hostility. While the victim's view should be considered in decision making, it places them under pressure as they become the arbiter of a colleague's fate. It is not, however, for the victim to decide if any action should be taken, or what that action should be.

An internal hate crime should be recorded at the time it is reported, in accordance with normal crime recording and professional standards policy. The broader considerations of victim support and investigation that are outlined in this guidance should then be applied. In addition to traditional victim's services, forces may consider external professional support to assist the victim to deal with the implications of the crime. Risk assessment is a key part of the service to victims, and this should include how to prevent further hostility from the person complained of, or other colleagues. Options such as location moves or changes to the team structure should be considered carefully as there is the potential for secondary victimisation.

Given the legal and moral duties placed on police forces, considerations, risk assessments and decision making should be recorded.

15.6.2 Committed by members of the public

Police officers or staff may be targeted by a member of the public while, for example, they are on patrol, attending an incident or dealing with a member of the public at the front desk.

These crimes or incidents should be treated in the same manner as any other allegation of a hate crime or incident, and recorded and investigated in the same way. The victim should receive the same standard of care as any other victim of crime.

15.6.3 Understanding the extent of abuse

Forces which have transparent policies, use staff surveys and build strong partnerships with staff are best placed to recognise the extent of harm suffered by colleagues. Managers should be aware of the force's responsibilities and have the resources to make decisions.

15.6.4 Management considerations

Management decisions are more likely to create safe work environments and be defensible to any civil challenge if:

- managers understand the employer's legislative duties and policy commitments
- decisions are made after consultation with the individuals affected
- decisions are made after taking advice from legal and other experts
- decisions are documented and record the
    - process of decision making
    - views of the individuals
    - consultation and advice received
    - competing legal requirements
    - assessed level of risk
    - options considered
    - reasons for making the decisions.

15.6.5 Deployment decisions

Some deployments, whether individual tasks or employment postings, are more likely to attract abuse against colleagues. Examples of increased risk may include deploying a visibly Muslim officer to work on the front line of an English Defence League protest or posting a black PCSO to work in a neighbourhood where there has been a strong support for far-right political groups.

These decisions may have competing legal duties. The easiest choice may be to protect the colleague from abuse by not deploying them to such activities. Excluding someone from a posting on the basis of a protected characteristic may, however, be against their wishes and also may breach the Equality Act 2010, specifically the duty not to discriminate on the basis of protected characteristics.

The management considerations in **15.6.4 Management considerations** will help managers come to decisions that balance duties and effectiveness.

The degree of a manager's consideration will vary depending on the immediacy of the decision. Deploying the closest officer, who is black, to a domestic dispute at the home of a convicted racist offender may require an immediate decision from deployment managers, but should follow the same considerations as in **15.6.4 Management considerations**. Although the urgency of the response will dictate the immediacy of the decision making, managers may later be asked to justify deployment decisions.

15.6.6 Partnerships

The partnerships mentioned in **15.2.2 Partnerships** will assist forces to develop and equip managers with the skills to make decisions that reflect the need for effective policing responses, while respecting the moral and legal duties to protect police officers and staff.

15.6.7 Support for colleagues

Forces should consider what support is appropriate and proportionate, based on the knowledge of the extent of the problem and assessment of risk. Responses considered could include:

- the support of staff associations and local staff support networks
- internal advocacy and counselling services
- mentoring support from experienced individuals
- access to external professionals
- training for managers to help them make effective decisions.

15.7 Expressions of personal belief

There are occasions where conflict in the workplace can emerge from the opposing or disparate views of individuals on issues such as competing religious beliefs or on sexual orientation. Recent examples include the debate over the legalisation of same sex marriages or comments on sectarian divides within religious communities.

Balancing a person's right to express their views with the right of others to be protected may require management intervention as such disputes can escalate to conflict.

Guiding Principles for the Police Service in relation to the articulation and expression of religious beliefs and their manifestations in the workplace may help managers to deal effectively with such conflict.

15.7.1 Prevention of conflict

Different views among police colleagues are inevitable, just as they are in society. Building up open and collaborative relationships between local staff support networks can prevent these views from escalating into a conflict.

15.8 Refusal by a member of the public to accept an allocated officer

There will be occasions where a victim refuses the services of a colleague because of their own bigotry about the colleague's personal characteristics. This presents a potential source of abuse to the individual concerned and a difficult situation for managers, who will need to balance the duty to serve the public with legal duties to protect colleagues from abuse.

Examples of a need to intervene

Example 1 – A man enters a police station to report the theft of a mobile phone. A black police staff member is allocated to record the theft and obtain a statement, but the man refuses to speak to this person, demanding that someone else is made available.

Example 2 – A child is assaulted by a known sex offender who is at large and considered to pose a high-risk of offending to other children. The child attends a video-interview facility with his mother who is acting as the appropriate adult to her child. A gay detective is allocated to carry out the interview, but when introduced to the mother she refuses to allow the interview to take place with this officer.

In cases such as these, it is important to understand why the services of the allocated officer have been refused. It may be that reasons for refusal are nothing to do with personal characteristics but, for example, that the officer has said or done something to upset the person on this or on some previous occasion.

If based on discriminatory views of the complainant, both of the situations described above are unacceptable. To simply comply with the demands of the individual would be morally wrong and the force could be vulnerable to a challenge under the Equality Act 2010. Both situations require sensitive management intervention to resolve them. **In both cases the views of the discriminated colleague are central to making an effective decision**.

In Example 1 the police have a duty to investigate the crime, but also to protect staff. After taking into account **15.6.4 Management considerations** and finding the man's motives were racist, a supervisor is likely to challenge the man and inform him that he has no right to demand a white colleague. They would need to explain why such a request is unacceptable and provide a clear statement explaining why the police could not accede to his demands.

If the man accepts the supervisor's view and agrees to the original officer progressing the incident, the officer's view on what should happen next is paramount. It may be that they would suffer further distress by spending time in the company of the man they know to be a racist, and choose not to do so. They may, however, want to continue the task with another colleague present to support them. In all instances **15.6.4 Management considerations** should be followed and recorded.

In Example 2 there is a duty to protect the child and investigate a serious crime. To achieve the best evidence a video interview is also required. The supervisor is likely to speak to the mother privately to find out the reasons for her objection and, where appropriate, explain why her discriminatory views are unacceptable. **15.6.4 Management considerations** will allow managers to make decisions that balance competing duties.

If there can be no agreement, it may be necessary to accede to a discriminatory demand if there is a significant risk of harm to the public or to the colleague, or to continue would seriously undermine an investigation into serious crime. Although a decision could be discriminatory to an individual, it may also be considered to be necessary and morally defensible in extreme situations if all other solutions are exhausted and the respective duties are balanced.

In this instance each option available to supervisors is unpalatable, particularly if there is no way of resolving the two competing duties, ie, to ensure equality for the officer, and to protect the child from abuse where there is no legal power to remove the mother's authority. The response to any breach of rights such as human rights needs to be defensible, proportionate and necessary. Where possible, it would be advisable to seek legal advice, advice of equality advisers or the views of senior colleagues. All decisions should consider the views of the discriminated colleague.

This situation leaves managers in a difficult situation because the Equality Act 2010 does not provide a justifiable exemption to the direct discrimination legislation, except in very specifically defined circumstances. The position is summed up in Blackstone's Guide to the Equality Act 2010 (second edition, page 36). This reads at paragraph 3.14:

> Justification of direct discrimination is not possible under the Act, unless the less favourable treatment is because of age. Treatment which falls within the definition of direct discrimination will be unlawful unless the Act makes specific provision exempting the type of treatment experienced from the scope of its prohibitions.

Given these conflicting legal restrictions the police have to be driven by strong morals and consider the core principles of policing. Police actions are more likely to be defensible if the supervisor consults affected parties and records the considerations and the grounds for their decision making. If such a decision has to be made, it is essential to support the affected colleague and consider the adverse impact on colleagues and the community. **Note:** ACPO leadership has raised this anomaly with the Government Equality Office.

In both of the above incidents, where colleagues perceive that they were motivated by hostility the matters should be recorded as non-crime hate incidents – unless the circumstances include a recordable crime, in which case they should be recorded as hate crimes.

15.9 Investigation of internal hate crimes

Forces should ensure that internal allegations of hate crimes or incidents are investigated by appropriately trained staff. In smaller forces an agreement to share resources with neighbouring forces or access to specialist hate crime investigators from a larger force may be appropriate. The overriding consideration is that investigations into allegations of internal hate crime should be treated with the same level of professional expertise as that given to external hate crime, with the extra considerations of the moral and legal duty to protect colleagues from abuse. Investigators need to be mindful of their data protection responsibilities and avoid unwanted disclosure of sensitive personal data, eg, sexual orientation, disability.

For further information see The Police Service in England and Wales Final report of a formal investigation by the Commission for Racial Equality.

Further reading

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