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ASSOCIATION OF CHIEF POLICE OFFICERS IN SCOTLAND

Hate Crime Guidance Manual

2010



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This document will be reviewed by the ACPOS Equality and Diversity Business Area before September 2012

Foreword



**Ian Latimer, QPM, MA,
Chief Constable, Northern Constabulary,
Chair, ACPOS Equality and Diversity Business Area**

As the professional voice of the Scottish Police Service, the Association of Chief Police Officers in Scotland (ACPOS) is responsible for setting the strategic vision of a high-quality police service for everyone in Scotland.

This means being committed to providing a quality of service that is fair, accessible and meets the needs of everyone in Scotland, ensuring they live in safety and are treated with dignity and respect.

Contained within the ACPOS Equality & Diversity Strategy 2009 - 2012 "Celebrating & Valuing Difference" are four main commitments one of which is Hate Crime.

Hate Crime has occurred in its many guises for as long as crime has been recorded and investigated, and for a number of years has been a specific and growing strategic priority for the Scottish Police Service.

As we know anyone may become a victim merely because the perpetrators believe that person to belong to an identifiable group, or because the person is associated with people who are members of such a group.

Up to date research would indicate that all crime can produce post-traumatic stress (PTS) in victims, but it is recognised that PTS lasts longer in victims of hate crime, as a result of their continuing, often well-founded fear of being targeted because of their disability or colour or sexual orientation or faith: things that they cannot change.

It is as a direct result of this recognition that my commitment and that of others within ACPOS has encouraged this national guidance for the Scottish police service. It has been written by members of the ACPOS Equality & Diversity Business Area following extensive consultation within the service, and with partner agencies, who have experience and responsibility for tackling Hate crime.

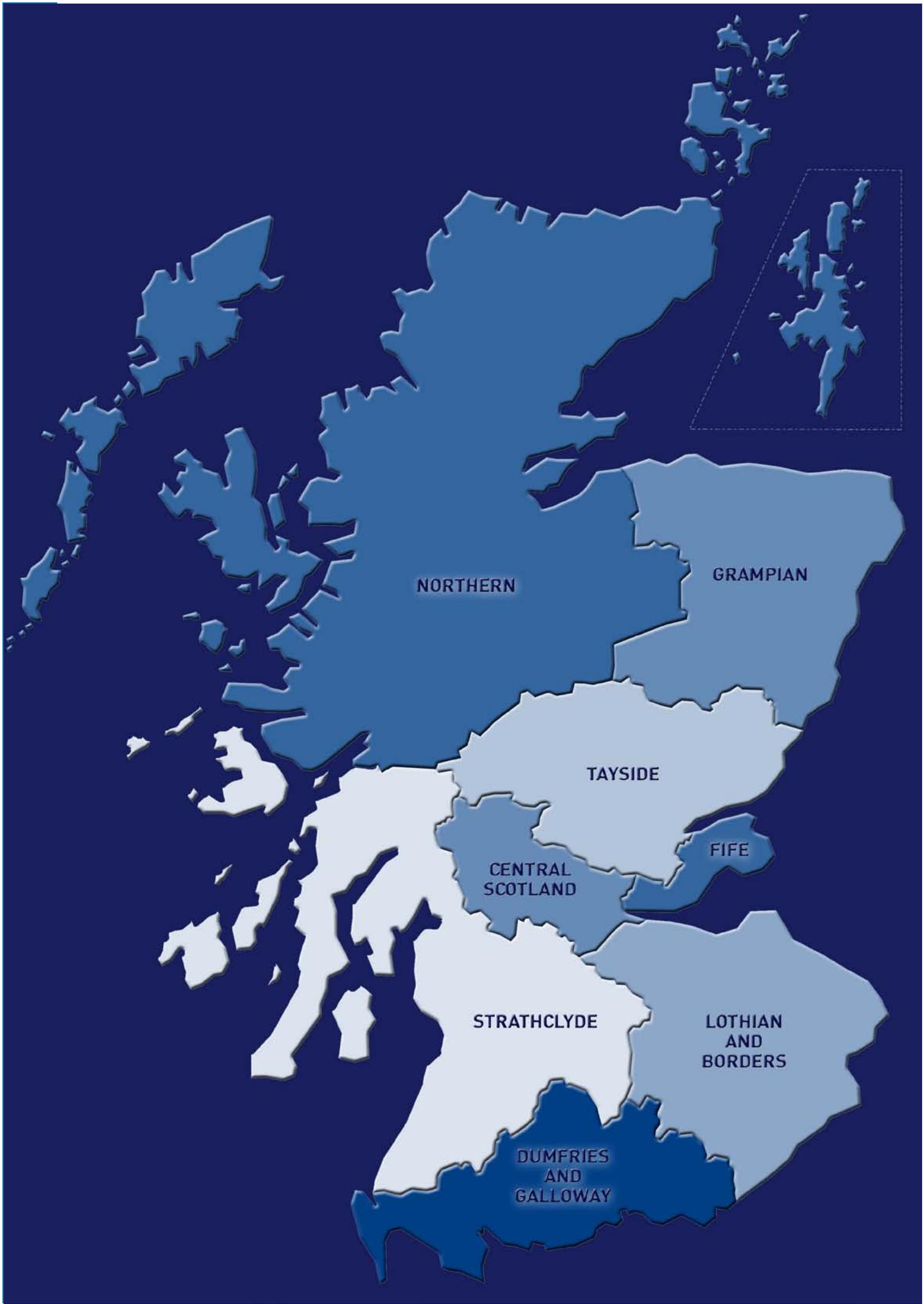
When the decision was made in 2008 by the ACPOS Religion & Belief Portfolio Group that an ACPOS Hate Crime Manual must be a priority, it was also viewed as an opportunity to share best practice and align operational procedure across all forces, not just in Scotland but from across the UK. Despite differences in legislation and demographics between Scotland and the rest of the UK, the opportunity was grasped to maximise access to best practice and sound effective policy.

We know that Hate Crime cuts across many elements of society, and is pervasive and damaging in its influence. I trust this document will assist officer's with guidance as they progress enquiries into Hate Crime incidents, I also expect the police service response to be proactive and robust when investigating such incidents aiming to tackle harassment, intimidation and abuse suffered by communities due to prejudice against individuals or social group(s).

This document draws together UK national experience and takes into account the increasing diversity within Scotland's communities and I commend it to you.



Ian Latimer QPM, MA



NORTHERN

GRAMPIAN

TAYSIDE

FIFE

CENTRAL
SCOTLAND

STRATHCLYDE

LOTHIAN
AND
BORDERS

DUMFRIES
AND
GALLOWAY

Section: I

Introduction

The Scottish Police Service is committed to ensuring that all communities across Scotland receive a quality of service that is fair, accessible and meets the needs of everyone. The vision of a high quality police service creates a framework for continuous development and cognisance of the needs of the public, led by the Association of Chief Police Officers in Scotland (ACPOS) Equality and Diversity strategic commitments of service, engagement, people and hate crime.

Hate crime can create a divide within communities and directly impact not only on victims but family members and the wider community. The Scottish Police Service recognises the implications such crime can have and this guidance manual outlines what Forces should consider as best practice. A joint approach to dealing with hate crime by actively identifying meaningful community partnerships and a multi agency support strategy is seen as an integral part of reducing hate crime.

It is with this active community involvement and study of national and local guidelines for dealing with hate crime that this guidance manual has been produced. Active consultation and involvement with individuals and communities vulnerable to hate crime is paramount.

ACPOS recognises that each of the eight Scottish Forces are unique and have individual Force specific policy, procedure and crime recording systems. This guidance manual will work alongside existing policy and compliment the procedural approach in dealing with hate crime

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Hate Crime in context

It is widely recognised and accepted that hate crime and all other forms of discrimination are an affront to the quality of our society. Research has shown that any victim of crime can suffer symptoms of depression, anger, anxiety and post traumatic stress. One study has shown that whereas victims of non-biased crime can experience a decrease in these symptoms within two years, victims of bias, or hate crime, may need as long as five years to overcome their ordeal¹.

It has also been shown that any single hate crime can potentially have multiple victims. Whilst all crime can increase the fear of being targeted in people other than the victim, fear of hate crime escalates dramatically in those who share with an immediate victim, the same group identity that has made a victim a target².

It is clear therefore, that hate crime has a deep rooted effect in our communities with the potential to ruin lives, perpetuate fear and seriously damage confidence in the police. The Scottish Police Service must treat this issue as a strategic priority.

The murder of Stephen Lawrence in 1993 resulted in the [Stephen Lawrence Inquiry Report](#) published in 1999 along with the [70 recommendations](#) it reached in conclusion. A template was then provided for change in the way hate crime is recorded and investigated throughout the United Kingdom.

At the heart of the Stephen Lawrence Inquiry Report there was a philosophical shift from the attitude of 'treating everyone the same' towards 'recognising the individual's needs' based approach, which brought with it a number of significant implications.

In essence, it introduced the more complex notion that understanding an individual's needs require assessment based on an understanding of our own multi-cultural and diverse communities, extending beyond race to cover all aspects of age, disability, gender, gender identity, race (including Gypsy/ Travellers), religion or belief and sexual orientation.

¹ Herek, G.M., Cogan, J. and Gillis, R.J., (2002) Victim Experiences in Hate Crimes based on Sexual Orientation, Journal of Social Issues, 58(2) 319-339. 5

² Herek, G.M., Cogan, J. and Gillis, R.J., (2002) Victim Experiences in Hate Crimes based on Sexual Orientation, Journal of Social Issues, 58(2) 319-339. 5

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In addition to this, the Stephen Lawrence Inquiry Report also introduced the perception of victims and witnesses in relation to the recording of racist crimes as well as introducing the concept that racist incidents were to be comprehensively recorded, even if they did not constitute a crime by definition.

Although all the principles and recommendations contained within the report have been adopted across the Scottish Police Service in the time since their inception, ACPOS recognises there are still some areas that need to be nationally defined and standardised across Scotland.

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Strategic Ownership

Overall strategic and professional ownership of tackling hate crime is ultimately the responsibility of Chief Police Officers. From the outset, ACPOS drafted a strategy outlining their commitment which can be found within the [Equality and Diversity Strategy 2009 – 2012 'Celebrating and Valuing Difference'](#). It is therefore important that each individual ACPOS Force representative maintains a clear commitment to the values within this national document.

The delivery of hate crime management and the appropriate prioritising of hate crime investigation and reduction must remain the responsibility of Divisional Commanders. Direction and support at an ACPOS level should be maintained so that performance can be applied across the investigative and recording process and any improvements or best practice examples can be universally shared, highlighted or applied.

In addressing an issue as complex as hate crime, it must be recognised that the style and sensitivity of an investigation is vital to securing the desired outcomes and results for all parties involved.

An overall ACPOS presence and responsibility therefore extends not only to determining what has to be achieved but also the way in which it is achieved.

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Definitions

In order for the Scottish Police Service to provide an effective response and linear approach to the investigation and management of hate crime, it is essential that all hate crimes and incidents are identified at an early stage. In order to achieve this, it is essential that there is universal understanding of what constitutes hate crimes and hate incidents.

This section provides guidance on definitions related to recognised strands of diversity, protected identities, hate crime and other associated legislation.

a. 'Malice or ill will'

The Scottish Government has agreed³ that hate crime should be defined as:

“A crime motivated by malice or ill will towards a social group.”

The key aspects of hate crime are as follows:

- There must be active ill will or elements of vindictive feelings towards an individual or their perceived association with a **social group**
- The crime is based on the motivation of malice or ill will towards a social group. This means the question of whether the victim of a hate crime actually belongs to a social group or not, is irrelevant. For example, if someone is the victim of a homophobic attack, whether they are gay or not is irrelevant
- An individual may be targeted because of their vulnerability. This should not be automatically interpreted as hate crime. For example, an elderly female who is assaulted and robbed may have been targeted because she is vulnerable, as opposed to being targeted due to ill will or malice towards her belonging to a specific social group
- If a crime is perceived to be a hate crime by the victim or any other person, including a police officer, it should be recorded and investigated as such

³ Working Group on Hate Crime (2004), Scottish Executive, Crown Office p2

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b. Protected characteristics

In 2009 ACPOS published the '[Diversity Booklet – A Practical Guide](#)', which provides detailed information and advice in relation to all diversity matters.

Currently statutory legislation exists (detailed at section 5a in this manual) which creates an aggravation of any criminal offence against a person or their property when motivated wholly or in part by an offender's hatred of someone because of their perceived:

- disability
- transgender identity
- race, colour, ethnic origin, nationality or national origins
- religion or faith
- sexual orientation

Due to the existence of statutory legislation that creates specific aggravation offences against these identities, these are termed as being the 'protected characteristics' of a person.

Although there is no existing legislation which creates a specific offence in relation to the characteristics of 'age' or 'gender', it is important to recognise that people may suffer discrimination, victimisation and harassment at any age or whatever gender they may be, particularly if they are perceived as being vulnerable.

If a victim were to be targeted specifically due to their age or gender, this can be treated as a common law aggravation by the court.

On some occasions there may be more than one aggravating factor present, for example, a gay, Asian man may be victimised because of both his race *and* his sexual orientation. In these cases all actual or perceived aggravations must be recorded in a manner which is auditable.

c. Definition of hate

To establish the hate element of any crime in statutory legislation, one of the following circumstances must be present:

- at the time of committing the offence or immediately before or after doing so, the offender evinces towards the victim (if any) of the offence malice and ill will relating to the protected characteristic (or presumed protected characteristic) of the victim, or

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- the offence is motivated (wholly or partly) by malice or ill will towards persons who have one or more protected characteristics in that they are identified or have perceived association with an identifiable group

d. Other crimes which have a hate element

In addition to protected characteristics, there may be occasions where other individuals or groups become victims of crime due to their identity or perceived identity. In these cases each incident will have to be considered on its own merits with consideration being given to the perception of the victim and evidence of the offender's motivation.

For example, strategies already exist for dealing with domestic assaults and these would not normally be treated as a hate crime. However, if an offender clearly demonstrates malice or ill will towards their victim based purely on their gender, then a hate element may be present. Other examples of 'identity groups' may be youths who are readily identifiable through dress or lifestyle such as 'goths' or students, or groups who are identifiable through obvious circumstance such as homeless people or street drinkers.

In any such circumstances, evidence of any perceived hate motivation highlighted by the victim or any other person should be recorded and the circumstances appropriately investigated. Such circumstances must also be highlighted in any report to the Procurator Fiscal for consideration, even if they fall outside any of the statutory hate aggravation legislation. It should be noted that common law as it stands allows courts to take motivation of prejudice into account and for heavier sentences to be given as a result. (see section 5c, 'Other hate crimes').

e. Vulnerability or hate crime?

Some victims of crime can be targeted due to an offender's perception of their vulnerability. However, vulnerability must not be confused with motivation for hate crime, as this will undermine the gravity of the offence and the effect on the person and the community.

For example, bogus caller criminals often target the elderly due to their perceived vulnerability through age. Similarly, disabled people may become the victims of persons who befriend them for the purpose of stealing possessions or defrauding them, whether the victim is actually vulnerable or not.

Although these are aggravations of crimes in themselves, the circumstances of individual cases must be closely considered to establish whether the victim has been chosen due to the offenders perception of vulnerability, or whether there was a clear presence of prejudice or hostility towards the victim based on their identity or protected characteristic.

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In determining vulnerability or hatred, the offender's motivation is the key aspect and consideration must be given to establishing the facts surrounding this through gathering available evidence from witnesses, information from family, friends or neighbours or through interview of the suspect.

Interviews with family or neighbours of victims in particular may help identify the presence of any long term, low level harassment which may have previously gone unreported to the police, yet may be significantly impacting on the victim's quality of life.

It should also be remembered that even if it appears that a victim has been chosen due to their vulnerability, if the victim perceives themselves to be a victim of a hate crime, then the crime must be treated that way.

f. Distinction between a hate crime and a hate incident

One of the key recommendations of the Stephen Lawrence Inquiry Report was that "*racist incidents* must be understood to include both crimes and non-crimes in policing terms and that *all* such incidents be reported, recorded and investigated with equal commitment."⁴

This created a distinction between the *racist crime* and the *racist incident* (being an incident perceived to be motivated by racism but where no crime has been committed).

This same philosophy which was originally conceived to cover racially motivated hate crime now extends to cover all *hate motivated crime* and *hate incidents*.

g. Hate crime

When any crime occurs (for example an assault, breach of the peace or malicious mischief) and the crime is motivated by hate, it will be recorded, investigated and dealt with as a crime with the relevant statutory 'hate crime' aggravation considered (refer to section 5b).

⁴ Macpherson, W. 1999, The Stephen Lawrence Inquiry Report, Recommendation 13.

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It should also be noted that some legislation (such as Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995) relates to specific instances of hate crime (namely racially aggravated harassment or behaviour) and can therefore be labelled exclusively, not as an additional aggravation.

An action or course of conduct is aggravated if immediately before, during or immediately after carrying out an action or course of conduct, the offender displays towards the victim, malice or ill will based on the victim's identity or presumed identity or membership of a particular group, or, if the action or course of conduct is motivated wholly or partly by malice and ill will based on that identity or presumed identity.

h. Hate incident

There will be occasions where incidents occur where no crime has been committed but the incident itself is *perceived to have been motivated* due to hate or prejudice. In such cases these incidents will be recorded as hate incidents.

All details should be recorded on an auditable report (according to individual Force's policy, procedure or recording systems), including:

- details of the *modus operandi*,
- the reason for the incident being perceived as hate related, and
- the level of investigation or action completed in respect of the incident

Therefore, a hate incident is any occurrence (where a crime has not occurred), which is perceived to be a hate incident by the victim or any other person.

Examples of this are:

- A same sex couple openly displaying affection in a shop, being approached by the shop owner and then being asked to leave because of this. The incident has been perceived by the couple to be motivated by homophobia, however no criminal offence has been committed
- Two men of Asian appearance, wearing jeans, are being refused entry to a night club on the grounds their dress is inappropriate. The men perceive their refusal as being due to their ethnic appearance. However, when the doormen are interviewed it is found that the dress code for the club is 'no denims', therefore no offence has been committed

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- A shop displays a t-shirt for sale on which text is reproduced from the Qur'an. Muslims regard reproducing text from the Qur'an as sacrilegious, as it is believed to be the word of God. However the shop selling the t-shirt was unaware of this and withdrew the t-shirts from their stock. No criminal intent was present and no criminal offence has taken place.

It should be remembered that these examples are given only as illustrations. There are many more circumstances that may give victims rise to believe they are being targeted because of their identity, including local colloquial language or expressions or perceived membership of a particular group.

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Hate Crime Legislation

The following is a summary of the key pieces of legislation available in Scotland available to tackle hate crime:

a. Statutory hate crime related legislation

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

- **Racially aggravated harassment - Section 50A(1)(a)** – which creates an offence for a person to pursue a racially motivated course of conduct. This offence is intended to address cases of racially motivated harassment, i.e. two or more related incidents and should be labelled as an offence in its own right;
- **Racially aggravated conduct - Section 50A(1)(b)** – which creates an offence for a person to act in a manner which is racially aggravated and which causes, or is intended to cause, a person alarm or distress. This offence should be used for ‘one off’ incidents where there is corroborative evidence in respect of racial harassment but where there is no evidence of ongoing harassment.

These offences should only be recorded where there is corroborative evidence of racial motivation as per [Scottish Crime Reporting Standard \(SCRS\) guidelines](#). Examples of such evidence are written words or remarks made. Where no such evidence exists and a crime is perceived to be racist by the victim/complainer, a crime under common law or statute should be recorded with the appropriate hate crime aggravation legislation added.

- **Section 234A of the Criminal Procedure (Scotland) Act 1995** provides courts with powers to impose Non-Harassment Orders on any person convicted of an offence involving harassment. This is designed to protect the victim of the offence from further harassment or fear of violence. In order to grant a Non-Harassment Order, there must have been harassing conduct on at least two occasions.

Officers should carefully consider the circumstances of any offences of hate related harassment or behaviour, and on each occasion discuss with the complainant if they wish application for an Order under this Section to be made. If they do, the relevant information should be included in the police report to the Procurator Fiscal.

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- **The Public Order Act 1986** which creates the offence where, if a person uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, if:
 - they intend to stir up racial hatred, or
 - having regard to all the circumstances, racial hatred is likely to be stirred up

b. General crimes and hate aggravation legislation

The following pieces of legislation are used as statutory offence indicators to the courts for recording and sentencing purposes. These are added to any offence (for example, assault, breach of the peace, malicious mischief, vandalism, etc.) as hate crime aggravators. They are not crimes or offences on their own and should not be labelled as stand alone offences:

The Offences (Aggravation By Prejudice) (Scotland) Act 2009 creates a statutory aggravation to protect victims of crime who are targeted as a result of hatred of their actual or presumed:

- sexual orientation
- transgender identity, or
- disability

Contained within this act are:

- **Section 1**, which places an onus on the court to take account of any element relating to disability prejudice to a crime or offence when determining an appropriate sentence.
- **Section 2**, which places an onus on the court to take account of any prejudice element relating to Sexual Orientation or Transgender identity to a crime or offence when determining an appropriate sentence.

Similar statutory aggravations already exist to protect individuals and groups targeted on racial or religious grounds namely:

- **Section 96 of the Crime and Disorder Act 1998**, places an onus on the court to take account of any racist element to a crime or offence when determining an appropriate sentence.
- **Section 74 of the Criminal Justice (Scotland) Act 2003**, which places an onus on the court to take account of any religious prejudice element to a crime or offence when determining an appropriate sentence;

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The substantive charge will be subject to the normal standard of proof in criminal cases, which is that corroborated evidence is required. The Section 96, Section 74 and Offences (Aggravation by Prejudice) Act prejudice elements do not require corroboration. The evidence of a single witness is sufficient to establish the offence as aggravated.

Circumstances in which there is a choice available between use of Section 50A and Section 96

Where there is corroboration of the racial element of the behaviour the appropriate charge would be Section 50A.

If there is only one source of evidence of the racial element then the Section 96 aggravation would be appropriate.

A person convicted of either offence will effectively acquire a conviction for having committed a racist crime.

c. Other hate crimes

In relation to hate crimes which are not covered by any existing statutory legislation, where it is considered the victim has been deliberately targeted, this fact will be indicated in the police report to the Procurator Fiscal. The Procurator Fiscal will then present this evidence to the court and, if proven, any motivation of hate or prejudice will be considered during sentence. Where appropriate, the nature of any abuse will also be labelled in the charge.

Common law as it stands allows for courts to take motivation of prejudice into account and for heavier sentences to be given as a result. Using common law, aggravations can be drafted to fit the particular circumstances of the case.

It should be noted that, at present, these common law aggravations are not recorded, so the extent to which they are used in practice cannot be monitored.

d. Bail/custody/use of undertakings

It is important to ensure that prosecutors and courts are able to consider requests and impose appropriate special conditions of bail in cases of repeat offending or where it appears victims and witnesses may be at risk.

In order to facilitate this, in cases of hate aggravated crime, accused persons should be reported from custody where the circumstances are consistent with the [Lord Advocate's Guidelines on Bail](#).

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Further, where being reporting from custody is not appropriate in terms of the existing guidelines, accused persons should be liberated subject to an undertaking to appear at court unless there is good reason not to proceed in this way.

If liberated on police undertaking, consideration should be given to the circumstances of the case and to applying special conditions to the undertaking as appropriate.

Examples of these conditions may include the following:

- not to contact or communicate with or attempt to contact or communicate with a victim or witness
- not to enter or approach a specific locus, address or area

When special police undertaking conditions are imposed, consideration should be given to informing the victims, witnesses or any other relevant persons of the existence of such conditions. Clear guidance must be given to any such persons about contacting the police if they have reason to suspect these conditions are being broken.

Where an early arrest is not possible, the police should ensure that an early report is submitted to the Procurator Fiscal in order that consideration can be given to an application for a warrant to arrest.

On receipt of the police report, it will be considered by a Procurator Fiscal Depute. The Procurator Fiscal will then decide on a prosecution strategy and in which court the matter will be heard.

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Reporting and recording of hate crimes and hate incidents

All individuals should have the confidence to report any crime or incident to the police. Individuals should be confident that any report will be understood, taken seriously and investigated in a professional and thorough manner appropriate to the circumstances of the report and in line with the wishes of the victim.

The reporting and recording of hate crime is of particular importance as it is a record of the prejudice or hatred present in the communities we serve. The collation of such information allows for a structured, intelligence led approach to policing and enhancing quality of life.

The process of gaining the trust and confidence of a hate crime victim is also of great importance, particularly in the most difficult to reach communities.

Recognising this concern, it is essential for all police employees to be 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 serious consequences for the victims and irreparable damage to future community confidence in the police service.

The recognition that hate crime is particularly distressing for the victim and can also have significant impact on the victim's family, friends and the wider community is paramount to the approach required in dealing with hate crime.

a. Initial reporting – identifying the 'hate' element

Although not unique to hate crimes, for some victims or witnesses it may have taken some courage to make contact with the police. Therefore, the quality and impact of the initial response is crucial to establishing future confidence and gaining full details of the circumstances.

Police employees should be aware that there may be considerations present in terms of language, religion, cultural or lifestyle backgrounds and should do their utmost to meet the diverse needs of each victim. Officers must make good use of internal partners, external partners and good practice to provide a service according to the victim's needs.

In establishing a 'hate' element to any crime it is essential that in addition to the actions of the accused or general circumstances surrounding the crime, the perception of the victim, witnesses or any other persons involved are taken into account, including the police.

Sources of evidence for establishing the presence of any hate or hostility motivated elements include:

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- the victim's statement
- statements of witnesses
- information from family, friends or neighbours of the victim
- interview of the accused

The [Lord Advocate has directed](#) that leading questions should not be used in ascertaining the perceptions of the victim and witnesses. Examples of appropriate questions are:

- “Why did this happen?” or,
- “What was the motive behind this incident?”

Where the hate element is not immediately apparent the person reporting should be asked the reasons for their belief or perception and this should be recorded to assist in identifying possible lines of enquiry. It should also be noted that crimes not initially recorded as hate related may be so at a later stage if the victim subsequently discloses such a perception or their original perception changes.

Police officers may well identify a hate crime or incident even where the victim or others do not. The officer's perception is very important and where this occurs, the matter should be recorded as hate related. Victims may be unwilling to reveal they are being targeted because of their perceived identity or association with an identifiable group. In some cases a person may not in fact be aware they are a victim of hate crime, even if this is obvious to another person.

To alleviate this issue, Forces should ensure that all employees receive appropriate awareness training in the identification of hate crime, and the ability to recognise when an element of hate or prejudice is evident from the circumstances of a crime or incident. By adopting this approach the service ensures all hate related reports are accurately recorded and acknowledges the perceptions of everyone concerned.

b. Lord Advocates Guidelines to Chief Constables

The Lord Advocate has issued detailed [guidelines to Chief Constables in relation to the investigation and reporting of racist crime](#), assessment of language needs, cultural sensitivities and death reports.

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Further guidelines have been issued relating to the reporting of offences aggravated by religious prejudice (Section 74 of the Criminal Justice (Scotland) Act 2003) and also by prejudice related to disability, sexual orientation or transgender identity (Offences (Aggravation by Prejudice) (Scotland) Act 2009).

c. Reluctance of the victim or complainer

Each reported hate crime/incident will be thoroughly investigated in a professional manner, using transparent and accountable processes. However, there may be occasions where a victim or complainer directly requests no further investigation or enquiry is made into their report, for example, if the complainer has fear of reprisal or concerns over the confidentiality of their transgender identity or sexual orientation.

The ACPOS Crime Resolution Policy states that:

“There may be occasions when a crime is reported to the police but it is evident that the complainer or witness is reluctant to assist the police, provide a statement or they state that they do not wish the police to investigate the crime. This reluctance can be for a number of reasons including fear of repercussions. This should have no bearing on the recording of the crime and this should continue to be done in adherence to the Scottish Crime Recording Standard.”

If this is the case, it is vital that the wishes of the victim or complainer are respected. However, in deciding whether to pursue an investigation or not, the police must first consider the following factors:

- the safety of the victim
- public safety
- public interest

In effect, the safety of the victim (both in relation to the incident reported and in the form of any repercussions should the suspect be approached or the crime investigated by the police) must be taken into consideration. The wishes of the victim must also be balanced with public safety and public interest aspects. If it is felt that any of these factors are compromised then the crime should be investigated.

It should be noted that the ACPOS Crime Resolution Policy will be implemented in relation to minor or non serious crime only. All serious crimes should be investigated as a matter of course.

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If a reported hate crime or incident is subject to no further enquiry due to the terms of the Crime Resolution Policy, the details of the crime or incident should be considered for submission to the Scottish Intelligence Database.

The principles of the ACPOS Crime Resolution Policy should be made clear in any local publicity literature.

d. Under reporting

It is widely recognised that many hate crimes go unreported. This could follow a victim's previous negative experience of the police, or the perception that the police will not take a report seriously. It may also be due to a lack of knowledge on the victim's part that what has happened is a hate crime or concern that the victim's safety and wishes will not be respected.

In the case of the Lesbian, Gay, Bisexual and Transgender communities, victims may feel unable to report incidents because they wish to keep their sexual orientation or transgender identity private or because of other personal factors.

For some people, experience of hatred or prejudice can be a frequent, even daily occurrence, and so for many victims it is accepted as a fact of life – particularly by those who may have previously reported incidents to the police and have seen little in the way of effective response.

Each Force must consider implementing mechanisms and pro-active work to improve this position. It is important that at Force and local levels, any barriers to reporting hate crime are identified and action initiated to remove them. Winning trust and confidence in an incremental way will, over time, increase the proportion of hate crimes reported. The benefits of this increased reporting will be a clearer picture of the level of actual incidents and a better flow of intelligence leading to more effective preventative and enforcement action.

e. Public sex environments

The issues surrounding public sex environments can be complex and consequently provide a challenge for the police. Whilst complaints regarding consensual public sex must be considered and responded to, it must also be noted that people engaging in such activity are potential targets for hate crime perpetrators. Reporting of crime committed in these environments can present particular problems, as victims may not wish to report victimisation due to a misconception that the police will primarily be interested in why they were there, as opposed to tackling hate or prejudice motivated crime.

Section: 6

The police have a responsibility to ensure that local community concerns are adequately addressed, as even consensual activity between adults in such environments may be unlawful. However, the police must accept they also have the dual responsibility of ensuring that any victims of crime in such environments receive a professional response.

When policing public sex environments, it can also be beneficial to obtain the assistance of support groups and partner agencies.

ACPOS has produced guidelines in relation to the policing of public sex environments.

f. Recording hate crime

ACPOS recognises that crime recording systems throughout the Scottish Forces differ, therefore recording procedures may vary. It is essential, however, that all Forces must comply with the [Scottish Crime Recording Standard \(SCRS\)](#).

Sources of crime reports are many and varied, originating from members of the public or police officers alike. All reports of hate crimes or hate incidents must result in an auditable report. The date reported, date occurred and the date the enquiry was completed will subsequently feature as the index reference for statistical purposes.

For the purpose of recording, identifying the crime or incident is critical and the circumstances must be marked or highlighted as being a hate crime or incident. It must be clearly understood that evidence of an actual offence having taken place is not necessary for a hate incident to be recorded.

It is a matter for individual Forces to determine the most effective system of hate incident reporting and monitoring forms, if additional clarification is considered necessary over and above existing crime reporting systems.

All the generic factors previously acknowledged relating to the reporting and recording of hate crime are equally applicable to urban and rural areas. However, the specific issues of denial, isolation, lack of effective support and the belief that hate crime is an urban problem, place a particular responsibility on the police in rural areas to adopt and adapt the good practice advocated in this manual.

Forces must have the capability to highlight or 'mark' specific incidents for the attention of local command areas, or specific departments or officers, for further enquiry.

Section: 6

Good practice indicates that hate incidents and crimes of prejudice should be flagged on Force Command and Control systems. Flagging such incidents on Command and Control logs will allow an accurate picture of hate incidents/crimes to be maintained. This will further facilitate accurate crime and intelligence reports culminating in the ability to conduct detailed research and analysis, ultimately feeding into the [National Intelligence Model \(NIM\)](#). This approach will further enhance the ability to identify and respond to issues of repeat victimisation and offending. Where this policy is implemented, it is important that clear guidelines are given to ensure flags are correctly applied.

As well as effective technical systems to ensure the identification of hate crimes or incidents, it is essential that police employees at all levels appreciate how their role contributes to providing a policing service that better meets the needs and builds the confidence of all communities.

g. Scottish Crime Recording Standard

In April 2004, the Scottish Crime Recording Standard (SCRS) was introduced throughout Scotland. The aim of the standard is 'To provide a more victim orientated approach that serves the needs of our communities and ensures uniformity in crime recording practices throughout Scotland'.

The following principles apply:

- All reports of incidents, whether crime related or not, will result in the creation of an incident report which is auditable
- Following initial registration, an incident will be recorded as a crime in all cases if:
 - a) the circumstances amount to a crime defined by Scots Law or an offence under statute, and,
 - b) there is no credible evidence to the contrary
- Once recorded, a crime will remain recorded unless there is verifiable evidence to disprove a crime has occurred

h. Remote/third party reporting

One form of effective partnership engagement is the active identification of organisations which have the capability to introduce remote (also known as third party) reporting schemes, or offer advice and support for victims.

Remote/third party reporting allows a victim of a crime or incident, or any other person, to report the incident to a partner or external agency which will in turn forward the report to the police.

Section: 6

The external agencies may be able to offer support or advice to the victim or signpost the victim to an agency that can offer this support or advice, therefore acting as a formal or initial link between the victim and the police.

Working alongside partner agencies and individuals, remote/third party reporting organisations must be identified in both city and rural areas. These organisations offer an alternative for victims of hate crime, or any other persons, to report details of a crime or incident, instead of reporting matters directly to the police. Creating this opportunity is a very productive way of gathering community intelligence and generating information, supporting an intelligence led approach to combat hate crime.

An information sharing protocol must be established to formalise the procedure between the third party site and the police so that those using the site are confident about what will happen with the information they provide, and that it will remain secure. The principles of the ACPOS Crime Resolution Policy (see sect 6c) should be made clear in any such procedure.

[ACPOS guidance on information sharing can be found in the publication Information Sharing with Partners – Guidance Manual 2008.](#)

In cases where a victim has reported a crime or incident by means of remote/third party reporting and has chosen to remain anonymous, the information should be scrutinised and evaluated for intelligence purposes and entered onto the Scottish Intelligence Database (SID) if appropriate.

In line with the Scottish Crime Recording Standard, anonymous reports of crime must be supported by corroborative evidence prior to the creation of a crime record. Where a victim's details are withheld from the police, the circumstances will be recorded as an incident only until the victim's details are made known.

i. Monitoring

Accurate monitoring of hate crimes or incidents is essential to give an overview of ongoing trends and enable appropriate preventative action in the form of support or referral to another agency.

Different Forces have different approaches with some Forces having identified liaison officers available to offer support and advice to members of the public and police personnel. These officers should also be aware of the current trends, recording, reporting and monitoring procedures in place.

Many Forces have introduced liaison officers with specific responsibility for engaging with communities and providing support to victims and witnesses of hate crime. However, for this role to be effective, Forces must recognise the need for an ongoing investment in terms of key training and support.

Section: 6

It is essential that liaison officers are allocated the time to effectively meet the needs of the communities.

While liaison officers provide specific support, the vast majority of community engagements will be with other police employees and it is essential that their encounters are positive and professional. Indeed, such encounters are critical in ensuring trust and confidence is maintained and developed. Several Forces have introduced awareness training on hate crime issues as part of their wider diversity training, some drawing on the active involvement of minority communities.

The format of monitoring forms used at remote/third party reporting sites is also extremely important. A monitoring form should cover details of the incident, victim, suspect and an indication of the motive of the crime, provides invaluable statistical information and intelligence opportunity. The completion of such forms, whether by hand or electronically, also allows the victim to be referred to other partner agencies for additional support or advice.

Forces must integrate the use and completion of such forms in Force policy documents in Standard Operating Procedures. The information gleaned from monitoring forms should be logged separately from other information, allowing for easy access and dissemination of related hate crime statistics.

j. Community/Lay Advisory Groups

Independent, Community or Lay Advisory Groups were originally created following a recommendation⁵ made by the Stephen Lawrence Inquiry. These groups are comprised of independent persons with an expertise across all areas of diversity who are able to make informed judgements in which the community can have confidence and the police will accept as valid comment.

The direct involvement of these independent persons is a key function in terms of public trust, confidence and satisfaction. Their lay perspective may also add further value to the investigation of particularly serious hate crimes such as murder.

Subject to Forces' policies, consideration should be given to utilising Community/Lay Advisors in a role of reviewing the investigation of hate crimes, measuring police effectiveness and actions in this respect. Good or inefficient practice may then be highlighted and Advisors can give advice or guidance they deem as appropriate throughout the process.

⁵ Macpherson, W. 1999, The Stephen Lawrence Inquiry Report, Recommendation 8.

Section: 7

Support for victims and witnesses

When any person becomes the victim of crime, it is essential that the level of support offered to them (by the police and other relevant agencies) provides the most appropriate and effective assistance. Without such support, victims can be left feeling isolated and unable to recover from the incident, and any ongoing investigation may be hampered.

The victim of any crime can be left with such feelings. However, where a person is the victim of hate crime, they can face the added trauma of knowing they were victimised because of their personal or perceived identity. This may have the added effect of compounding an already difficult experience.

It must be remembered that the victim may also be in 'cultural isolation', where they may not have ready access to other people who have a shared experience.

For this reason, it is essential that appropriate support, relevant to the victims' needs, is offered as early as possible in any police response.

Much work has been done on a national basis to address the needs of victims of crime, through ACPOS, and at Government level. As a result of this, a [Scottish Strategy For Victims](#) has been published by the [Scottish Government](#).

a. Repeat victimisation

In common with other crimes such as domestic violence, it can often be the case that where a person becomes the victim of a hate crime or incident, they may already have been the victim on a number of occasions. Previous incidents may not have been reported for a variety of reasons and as such, when an incident is reported, it may be the culmination of a lengthy course of victimisation.

In these cases, the police response is of paramount importance as it may be the first time that the victim has decided to make contact. In addition to any information provided by the victim, checks for crimes or incidents should be made with Force recording systems and the Scottish Intelligence Database (SID), in order to establish if any related incidents have been recorded. Where it is identified that a person or an immediate family member is a repeat victim, it may be beneficial to consider the use of panic alarms, portable CCTV, and other security measures in line with any existing Force procedures, in order to provide an additional level of support and reassurance.

Section: 7

It is also beneficial to include any instances of repeat victimisation as part of local Tasking and Co-ordinating Group (TACG) briefings, so emerging issues or community tensions can be addressed across relevant departments.

b. Secondary victimisation

When a person is the victim of a hate crime and they perceive a lack of commitment or understanding in the response from the police, this can have the effect of victimising them for a second time. Whether they are in fact receiving such a level of response is immaterial, as the victims personal reaction is based on their immediate perception.

As such, it is the responsibility of all police employees involved to manage any such perceptions, and take steps to reduce the possibility of secondary victimisation.

c. Interpreting and communication assistance

Every effort must be made to ensure victims of hate crime are able to report matters in the language they find easiest to use. All police employees must be aware of the individual and unique needs of both witnesses and suspects. Consideration must also be given to an individual's requirement for access, customs or beliefs.

Any requirement for interpreting or translating services (including any signing language such as BSL) must be resourced and made available 24/7. For further information on interpreter services, officers should refer to their local Force guidance on interpreters and translation, or the [Working Group on Interpreters and Translation \(WGIT\) Code of Practice](#).

Carers, support workers or appropriate adults may also be able to play a role in fulfilling communication needs of persons in certain circumstances and, particularly at the initial point of any enquiry, their contribution and support may prove vital.

d. Agency referral/crime prevention advice

When a person reports a hate crime, it is always beneficial, subject to Force protocols, to refer the victim to [Victim Support Scotland \(VSS\)](#). This organisation can provide a range of services to assist victims, and can support them through all stages of an enquiry. They have specially trained staff, who can provide personal guidance and assistance, and can offer reassurance, advice and time to the individual.

Section: 7

If a victim has any additional language or communication needs, it is essential for this to be communicated to VSS at the time of referral, so the appropriate interpretation support can be arranged. It is also necessary to inform VSS when an incident is hate related. This will allow staff to tailor their response according to the needs of the victim.

VSS has links with other local support groups and where appropriate, may work with other support groups to address any victims' needs.

In addition to any referral, it should always be considered that crime prevention advice could be a useful measure, as victims of hate crime may feel especially vulnerable. This service should be offered to the victim, and if refused, should be considered at later stages of the enquiry, in order to ensure victims are given the opportunity of ongoing support.

e. Victim Information and Advice service (VIAs)

When a report is submitted by the police to the Crown Office and Procurator Fiscal Service, they will identify any victims of hate. These people will then be referred by the Procurator Fiscal Depute to their dedicated [Victim Information and Advice service \(VIAs\)](#).

The principal aims of VIA are:

- to provide information to victims, bereaved next of kin and witnesses about the criminal justice process in general
- to keep victims and bereaved next of kin informed about the progress of the case that affects them in particular
- to advise on and facilitate referral to other agencies for specialist support and counselling as required

Section: 8

Initial Investigation

Initial actions taken at the scene of any crime or incident can have a significant impact on any later investigation. The following are important points to be considered when attending instances of hate crime:

- dealing with the victim in a sensitive and appropriate manner. If a victim feels their complaint is not being taken seriously from the outset, it is likely their trust and co-operation will be difficult to secure
- establishing whether the incident is a repeat offence with regard to the victim, location, description, or possible location of any suspects
- confirming whether there are any officer safety issues
- preserving the scene of the incident to prevent the loss or destruction of evidence
- gathering evidence at the scene (especially forensic and DNA evidence)
- medical examination of victims or contacting Scenes of Crime Officers (SOCO) to photograph any injuries (this could be a vital factor when dealing with reluctant complainers or those who could potentially withdraw a complaint)
- locating and speaking to witnesses
- establishing evidence of ill-will, malice or hate
- dealing with any suspect(s), whether present at the scene or not
- accurately recording all details at the time
- ensuring that a supervisory officer is informed of the hate related aspect of the crime or incident
- considering the attendance of a SOCO to gather forensic evidence at the scene
- seeking advice or assistance from Criminal Investigation Department (CID) officers, Community Safety Departments or Diversity Units

Section: 8

Some specific considerations may have to be made in respect of victims or witnesses:

- addressing any safety and medical needs
- reassuring the victims and witnesses
- recording any visible injuries in notes at the scene
- recording the victim's or witnesses' emotional response to the incident, e.g., are they in a state of shock?
- identifying any special requirements of the victims or witnesses, e.g., the need for an interpreter and taking practical steps to address them at the earliest stage
- confirming details of a victim's disability or ethnicity in an appropriate and tactful manner
- if the suspect has left prior to police arrival, obtaining a 'first description' to circulate locally to mobile patrols
- seeking consent of the victim for referral to other appropriate agencies and providing relevant contact details of such agencies

Section: 9

Further Investigation

Certain fundamental principles must underpin any further investigation, regardless of whether a specialist investigator is appointed or the initial investigator retains the enquiry:

It is best practice to contact the victim within 24 hours of the officer being assigned the investigation unless the victim specifically requests otherwise. Ideally, this initial contact should be made by the investigating officer in person. This reassures the victim that the police are treating the crime seriously

- The investigating officer should arrange a single point of contact with the victim to avoid confusion and ensure consistency. Should the officer be unavailable for any significant length of time (e.g., for annual leave), a deputy should be appointed and introduced to the victim
- The investigating officer should continue to monitor the level of risk to the victim and witnesses throughout the investigation, and if necessary put in place appropriate interventions to reduce or remove any real or anticipated risks and ensure the victims or witnesses affected are kept informed
- Subject to risk assessment and the individual circumstances of the case, advise the victim if a suspect has been charged and is later released on bail from court, together with details of any bail conditions. If a suspect breaks any bail condition (e.g., by attempting to make contact with the victim), the suspect can then be arrested and brought back before the court. Any evidence where bail conditions have been breached strengthens the case for a remand in custody at any later court hearing
- Subject to risk assessment and the individual circumstances of the case, inform the victim prior to a suspect being released from police custody and give reasons for that release
- The wishes and needs of the victim and any witnesses must be considered and balanced with the requirements of the investigation process (e.g. a victim may not be available to provide a statement on a particular day due to their religious observances). Community Safety or Diversity Departments may be consulted for further guidance on this subject

Section: 9

Adhering to the above considerations will help in maintaining the confidence and trust of the victim and the community in the police service.



Section: 10

Supervisory responsibilities

To ensure that all police employees involved in hate crime investigation maintain the highest standards, supervisors must take an active interest in overseeing the investigative process. They must provide both support and assistance as well as taking steps to bridge any gaps in the investigation.

Specific Supervisory Responsibilities:

- Ensure the initial investigating officer is taking positive action and fully supporting the victim
- Identify potential critical incidents and brief the duty officer
- Review the initial crime investigation to ensure that all possible avenues of initial enquiry have been made
- Ensuring deputy investigating officer is appointed or identified, if appropriate
- Ensure the officer has completed the relevant hate crime monitoring form and detailed intelligence submission prior to terminating duty
- Brief the press officer if appropriate

Further guidance can be found in the [ACPO Critical Incident Guidance Manual](#) and the [ACPOS Diversity Strategy](#).

Section: 11

Debriefing

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

- capturing the learning experience and highlighting good practice
- identifying any gaps in policies and procedures with regard to hate crime investigation for referral to senior management
- identifying the welfare needs of employees as a result of dealing with the incident
- individual or collective training needs

Section: 12

Community Impact Assessment (CIA) considerations

Due to the potential for the consequences of any hate crime to escalate, even minor or non-serious crimes should be considered in terms of the potential wider impact within the community. Where appropriate, a formal Community Impact Assessment should be completed.

Initial factors for consideration in completing a Community Impact Assessment may be:

- safety of the victim and/or witnesses
- potential impact on the victim's specific community
- potential impact on the community as a whole
- potential for the incident to develop into a critical incident

Although it is recognised that any incident will have its own unique set of circumstances, it is important that any action taken must be proportionate and appropriate to the incident, the communities affected and the potential for escalation of tension within those communities.

In cases where such potential for escalation exists, either to the community to which the victim belongs or the immediate community in general, a formal Community Impact Assessment must be considered. This process should be completed in consultation with a Senior Investigating Officer and the relevant Divisional Commander in line with relevant Force procedures.

Where the potential for critical incident escalation does not exist, consideration must still be given to the circumstances of the crime (or incident) in respect of factors that may present difficulties for the victim or investigation.

Although not an exhaustive list, examples may include:

- where a victim has been attacked due to homophobia and wishes to keep their sexual orientation confidential
- where a person has been victimised by someone who is known to them and as a result the risk of recurring incidents is higher
- where the likelihood of retribution or recurring incidents is increased as a result of the initial incident being reported to the police

Section: 12

Any impact assessment should be re-visited at regular intervals in order to identify any additional issues emerging.

The object of such assessments should not only be to minimise the impact of the crime on the community but also to identify opportunities to promote positive relationships between the affected communities and the police, both in the short and long term.

It should be noted that management of the impact assessment process in relation to serious or high profile incidents may be discussed, considered and challenged in the public arena. It is essential therefore that any impact assessment and management process is ethical and transparent.

Section: 13

Intelligence submissions

The **National Intelligence Model (NIM)** adopted by ACPOS and ACPO identifies patterns of crime and enables a fundamental approach to problem solving where resources can be aligned and tasked in line with an accurate understanding of crime and incident problems.

Accurate intelligence is essential to predicting tensions within a whole community and it is the effective analysis of this that will inform any operational, risk or impact assessment process.

The standard of intelligence must be graded in accordance with the nationally accepted system of intelligence grading. Where intelligence is provided by a confidential source, the appropriate information handling process should be followed to ensure the individual source is not compromised.

NIM promotes a cooperative approach to policing. Many of the problems facing modern law enforcement agencies will require solutions forged in partnership with other external agencies, such as Community Planning Partnerships, Race Equality Councils, outreach workers and other community bodies. Such an approach lends independent credibility to the process, thereby improving community confidence and encouraging the free flow of information, essential for the gauging of tensions.

Section: I 4

Case management

a. Crime allocation

Each Force must have a policy that clearly indicates where the ownership of hate crime investigation rests.

Those officers responsible for the allocation of hate crimes must ensure that this policy is fully understood and adhered to by investigating officers. This will clearly establish and ensure ownership throughout the course of an investigation.

All hate crimes must be assessed and taken seriously from the outset and throughout the duration of their investigation.

b. Standard police reports/productions etc.

Investigating officers must recognise the importance of completing all relevant reports etc. to the highest possible standard. There is an added responsibility for supervisors to ensure remedial action is taken where errors or omissions are identified.

It is of crucial importance that the Procurator Fiscal is advised whether the victim or any other person has perceived an incident to be hate motivated.

In any instances of hate crime the following may be considered for inclusion within the Standard Police Report:

- evidence of ill-will or malice from the victim, witnesses, and/or their friends, family, neighbours or support workers
- details of any previous incidents against the victim
- details of any previous incidents involving the accused
- impact of the alleged offence on the wider community
- the likelihood of recurrence
- views on the safety of the victim and/or their family
- any relevant information from other agencies e.g. social services or housing
- whether there are any other bail conditions or orders in existence relative to the accused, e.g., Anti-Social Behaviour Orders (ASBOs)
- whether the current incident breaches any such bail condition or order
- where offenders are appearing from custody, making specific requests for special bail conditions to be set in order to safeguard the victim or witnesses involved
- details of concerns that the victim may have about confidentiality, for example, of their transgender identity or sexual orientation

Section: 15

Media and publicity strategies

An integrated media strategy is essential for the prevention, investigation and detection of hate crime. Depending upon the prevailing circumstances, such a media strategy will require the adoption of both pro-active and re-active approaches. Media considerations are important in all hate related crimes but never more so when the incident is (or has the potential to become) a critical incident.

Police officers (and particularly investigating officers) will invariably benefit by seeking early advice from a Press Officer when dealing with hate related incidents. Equally, the Press Officer will benefit from early notification of such incidents by investigating officers. This interaction will assist in the early formulation of a media strategy and creation of a range of media handling options for both investigating officers and their line managers.

Effective media management can harness the media to great effect and value by:

- publicising public information on hate incidents
- providing public reassurance
- disseminating safety and advice messages
- communicating and explaining policing policy on hate incidents/crime
- supporting crime prevention
- publicising appeals for information
- enhancing reputation by promoting a professional image
- warning and informing during critical incidents

a. Pro-active approaches

Pro-activity offers many opportunities to raise awareness of issues and specific cases, to market initiatives and successes in countering fear of crime and to promote an anti-hate crime ethos. One specific pro-active opportunity arises where an investigating officer may consider a witness appeal through the media to progress the investigation. Indeed, such an appeal can also be used to encourage other victims of hate crime to come forward either directly to the police or through remote/third party reporting. Appeals should include a contact number for the incident room and the number for [Crimestoppers](#).

Terminology is important when describing hate crime. For example, offences should not be described as being racially motivated unless there is supporting evidence. The use of terms such as 'hate incident', 'racist incident' and 'homophobic incident' can be used where this is the perception but there is as yet no supporting evidence.

Section: 15

- In the absence of current ACPOS (Scottish) media guidelines, it would be advisable to refer to existing [ACPO Media Guidelines](#), which provide further clarification on media engagement and reporting, and should be read in conjunction with the [Lord Advocates Guidelines – Police and Media](#).
- Any pro-active media appeal relating to suspects should not promote negative stereotypes or use insulting or outdated terminology. If investigators or press officers are unsure of appropriate terminology, they should consult their Force diversity advisors.
- Consideration should be given to the confidentiality of any victim in terms of their sexual orientation or transgender identity
- Confidentiality should also be considered in terms of any victim who may have a disability or medical condition
- Consideration should be given to the target audience and their media preferences such as Radio, Internet Sites, Single Issue and Local Community Newspapers. Community consultation with community or lay advisors may help in identifying the most appropriate media to use. The targeted use of posters, distribution of leaflets and siting of appeal boards may prove valuable. For all these options, translation into relevant languages or alternative formats may also be necessary.
- It is imperative that communities are updated through the relevant media with details of arrests, charges and court verdicts. This helps public reassurance and confidence in the criminal justice system, and may encourage people to come forward in future.

b. Re-active approaches

Police dealings with the media are an ideal opportunity to demonstrate our openness and accountability to the public. Nevertheless, there may be particular instances where a proactive appeal could be detrimental to an investigation. However, it must be acknowledged that the media have a range of sources of information beyond the police service which may produce questions requiring a police response. Media reports based on information from non-police sources may be influenced by the particular agenda of the external source, leaving the police the difficult task of countering distortion to the prejudice of the investigation.

Section: 15

In response to such unsolicited enquiries press officers should prepare for investigating officers:

- Specific responses
- Key information points

In particular cases it may not be possible to discuss all details 'on the record'. Instead it may be appropriate to brief media on the background of an incident to encourage responsible and accurate reporting, or to alert them to the detrimental effect media coverage may have on the investigation.

It may occasionally be appropriate to hold a pre-verdict briefing after evidence in a complex case has been heard. This offers the chance to clarify a complicated case, particularly for reporters who have not attended the whole trial. These options should only be considered in consultation with the designated press officer.

Section: 16

Partnership working

All Forces across Scotland have recognised and understood the importance of meaningful and sustainable partnership working for a number of years. The need to engage with all communities is not merely good practice but is a statutory requirement placed on the providers of all key public services by the [Local Government in Scotland Act 2003](#).

The aims of community planning in Scotland are:

- Making sure people and communities are genuinely engaged in making decisions on the public services affecting them, and,
- A commitment from organisations to work together in providing better public services

This is underpinned by the specific and general duties all public services are subject to under the [Race Relations Amendment Act 2000](#), the [Disability Discrimination Act 2005](#) and [The Equality Acts 2006 and 2010](#). These duties can be summarised as follows:

- Eliminating unlawful discrimination
- Promoting equality of opportunity and participation, and
- Encouraging positive attitudes between communities and groups

In all its forms, effective partnership working creates increased opportunity and accessibility to services. Community planning partnerships involving the NHS, local authority councils and other public service bodies have clear benefits for all through the sharing of information and intelligence to quantify and combat hate crime.

The close links formed through these structured processes also allow for the development and creation of solid joint working practices used to solve problems, enhance service delivery, and broaden our understanding and expertise of how hate crime impacts on communities.

Information exchange is key to partnership working and it is important that information sharing protocols are established to formalise the procedure between the police and partner agencies. This provides confidence that processes and personal details will remain secure. ACPOS guidance on information sharing can be found in the publication [Information Sharing with Partners – Guidance Manual 2008](#).

Section: 17

Hate crime occurring within the Scottish Police Service

ACPOS are committed to ensuring our workforce is inclusive, respects personal dignity and actively promotes equality and diversity.

We recognise that members of the police service may also be victims of hate crime:

- when interacting with the public in connection with their duties and a member of the public is the offender, or
- within or outwith the workplace and a member of the police service is the offender.

As a service committed to dealing appropriately with hate crime and all other forms of discrimination, it is vital that we provide the same high level of investigative process, respect and support to internal victims, as we provide to members of the public.

It should also be recognised that, if an internal victim perceives they are being afforded an inferior service, there is also potential for external impact to the police as a whole. If, for example, a dissatisfied internal victim seeks the solace of their own community in sharing their experience, then the confidence of that community in the police is bound to be reduced, as they question how the police can provide an effective response to others, when they cannot provide it for themselves. We want people to feel confident in reporting crime, and this applies as much to members of the police service as to the general public.

The principles underpinning the recommended investigative process, and also that of victim support, should be equally applied to the management and practice of investigating internal allegations of hate crimes or incidents.

There is a clear distinction between hate crime and incidents in the workplace, and the civil law relating to harassment and discrimination in the workplace. Hate crime requires a motivation of malice and ill-will, but harassment and discrimination at work do not require such malicious intent to constitute civil wrongs, for which both individual members of staff and employers may be taken to an Employment Tribunal. The liabilities and responsibilities of staff and employers in such cases are clearly laid down in civil law and are in no way diluted or set aside by the provisions of the hate crime legislation.

The following general principles apply to police employees, special constables and cadets:

Section: 17

a. General principles

1. Police officers or members of staff, whether on or off duty, who believe or perceive they were the specific intended victim of a hate incident in a public place, carried out by a member of the public, should have the incident dealt with under their Force hate crime policy, and be treated as any other victim.
2. All police employees should be mindful of the increased stress caused if they are subjected to targeted abuse relating to prejudice or hatred while going about their day to day work.
3. Where this is the case, it is essential that supervisors speak with the individual concerned and, where appropriate, ensure they are offered the full range of help and support available (for example, Occupational Health, Welfare Staff, or Staff Associations).
4. All police employees are required to take responsibility for eliminating unacceptable behaviour. Managers and supervisors are required to take action to ensure that the work environment is conducive to the principles of equality of opportunity and is free from intimidation, offensive acts or materials.
5. Chief Constables are vicariously liable for the conduct of their employees that takes place “not just in the workplace” or “during work hours” but also during events that are connected to work and the workplace e.g. office parties, off-site training events.
6. As previously noted, there is a clear distinction between inappropriate comments, conduct or communication made in the workplace, or connected to work and the workplace, but where there is no malicious intent evident, and conduct where a group, or individual member of the police service, is the specific, intended victim of prejudice or hatred.
7. The development of a range of internal Force policies and procedures including Dignity at Work, Code of Ethical Practice, Bullying and Harassment, and Grievance, reflects the Service’s commitment to ensuring we have an inclusive workforce that respects dignity and actively promotes Equality and Diversity.
8. Supervisors and managers must be supported when they deal positively with any inappropriate comments, conduct or communication made in the workplace, provided they are satisfied there was no specific targeting of any group, or of any individual, based on prejudice or hatred.
9. ACPOS produced national grievance principles in 2009 to help each of the Scottish Forces and the Scottish Police Services Authority (SPSA) in the development of a Grievance Policy and Guidance.

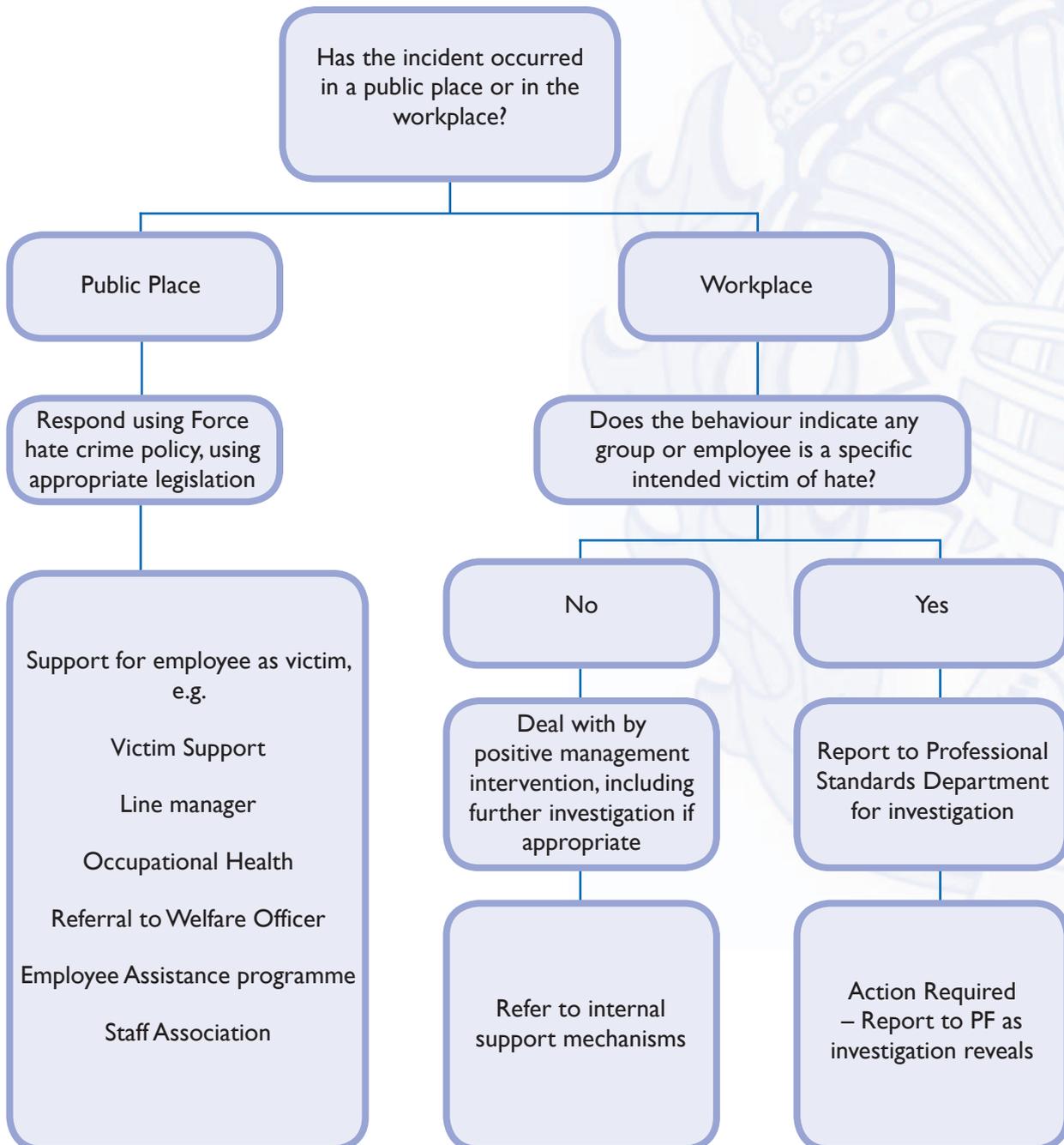
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10. These principles are not designed or intended for making complaints that would normally be dealt with under the Police Conduct Regulations or Police Staff Disciplinary Policy. If there is a suggestion that the issue concerns disciplinary or criminal proceedings against a Police Officer or member of Police Staff, advice should be sought from the Force Head of Professional Standards (for Police Officers and Special Constables) or the Force Director of Human Resources (for members of Police Staff and Police Cadets).
11. Any internal hate incident, which amounts to a recordable hate incident or hate crime, must be referred to the Professional Standards Department for recording and investigation.
12. It must be recognised that confidentiality to victims and those who report hate incidents/crimes cannot always be guaranteed. This should be addressed in discussions with victims, at an early stage.
13. Force Equality and Diversity Units, Human Resources Departments, Professional Standards Departments and Staff Associations are all available to support and advise.
14. All Forces and the SPSA should develop minimum standards to tackle internal hate crime with appropriate procedures, recording mechanisms and support structures.

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b. Decision-making flow

To assist supervisors and managers in making the right decision appropriate to the circumstances:



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Hate crime training

ACPOS recognises that in order to provide a robust response to the victims of hate crime, the police service needs to provide appropriate, informative and effective training to all police employees dealing with hate crime. This recognition is demonstrated in the [Equality and Diversity Strategy 2009 – 2012 'Celebrating and Valuing Difference'](#). The strategy outlines the service's approach to tackling hate crime and training in this area by identifying them as strategic commitments.

The complex and costly training issues associated with the police response to hate crime should not be underestimated. It is important for Forces to demonstrate their commitment to tackling hate crime by encouraging their employees to participate in training offered at local and national levels.

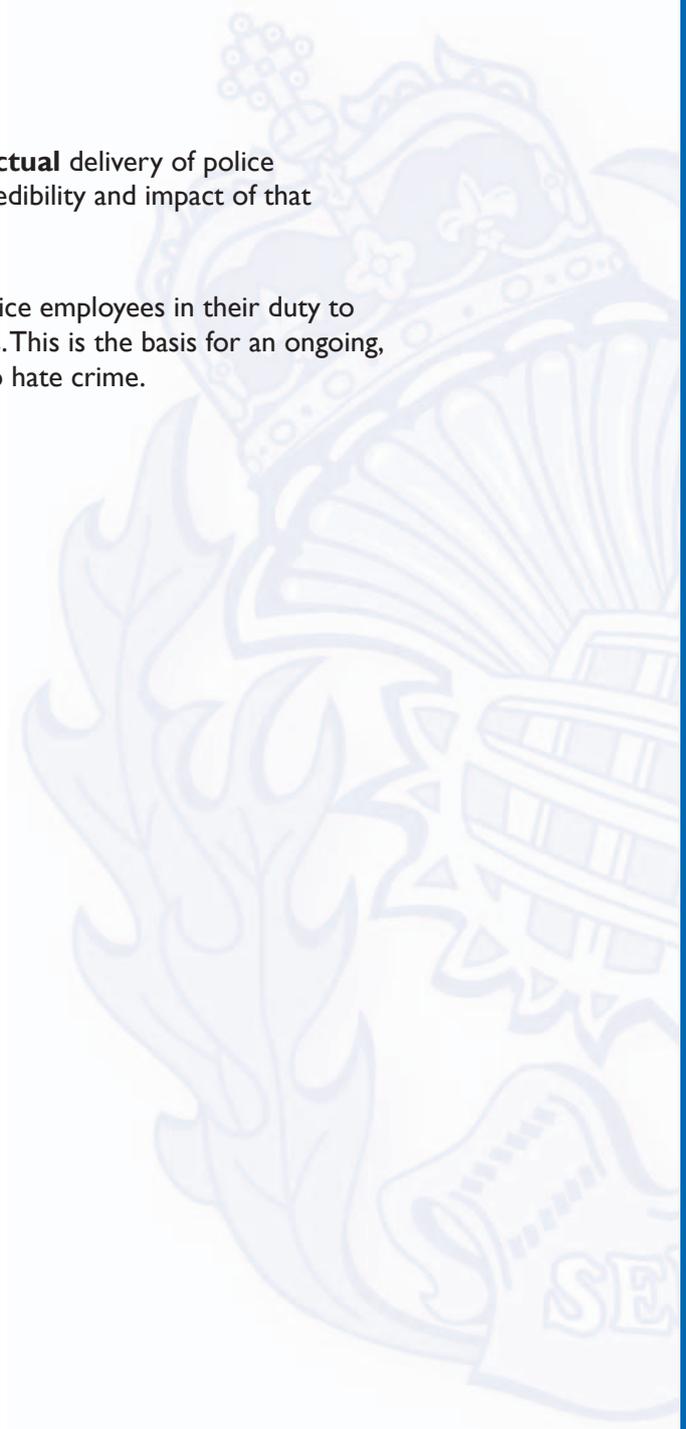
It is beyond the remit of this guidance to determine the format or content for hate crime training in Scotland because the operating environment often changes, particularly in relation to legislation. However from a good practice perspective, some common themes have emerged that underpin any discussion on the inherent training implications for police responding to hate crime. These themes are:

- the investigation of hate crime must be incorporated into probationer, Detective Officer, SIO and critical incident training
- the involvement of members of local communities to provide advice or oversight of these training processes ensuring additional quality assurance (see previous section on the use of lay/community advisors)
- senior police management commitment to the importance of recording hate incidents/crimes through briefing opportunities
- keeping hate crime prevention, investigation and detection high on the agenda of those individuals charged with the design of current and future police training programmes
- the recognition of correlation between international terrorism and incidents of hate crime in local communities with resultant training implications for the police
- that communities across the United Kingdom are becoming more diverse, with inherent training implications for the police
- that training is not always best delivered on a course or in a classroom. Engaging with diverse communities, their environment and their problems is a valid training experience

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- the use of lay involvement in the **actual** delivery of police training can greatly enhance the credibility and impact of that training

The continuing requirement to train all police employees in their duty to respect, protect and promote human rights. This is the basis for an ongoing, appropriate and proportionate response to hate crime.



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Abbreviations

ACPO – Association of Chief Police Officers (England and Wales)

ACPOS – Association of Chief Police Officers in Scotland

BSL – British Sign Language

CCTV – Closed Circuit Television

CID – Criminal Investigation Department

CIA – Community Impact Assessment

COPFS – Crown Office and Procurator Fiscal Service

NCIS – National Criminal Intelligence Service

NHS – National Health Service

NIM – National Intelligence Model

SCRS – Scottish Crime Recording Standard

SOCO – Scenes of Crime Officer

SPSA – Scottish Police Services Authority

SID – Scottish Intelligence Database

SIO – Senior Investigating Officer

SOP – Standard Operating Procedure

TACG – Tasking and Co-ordinating Group

PINS – Police Information Network (Scotland)

VIA – Victims Information and Advice service

VSS – Victim Support Scotland

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Appendix – Examples of best practice partnership working

a. Hate Free Highland

An example of good partnership working and remote/third party reporting is the work carried out by Northern Constabulary, Highland Council and NHS Highland amongst others through the Highland Community Planning Partnership. Their initiative titled Hate Free Highland is a campaign offering members of the public alternative hate crime or incident reporting mechanisms through third party organisations and online reporting. All partners have access to processed reports and have their own unique user identity. The online site is hosted by an external virtual server and stands alone from all partner servers.

The partnership regularly monitors reports made through the website, provides coordinated support to third party reporting organisations and raises awareness of the campaign. The significance of the partnership approach is that some of the barriers associated with traditional police reporting options have been removed. Joined up services can also offer follow-up support to victims of hate incidents and take further action to identify and resolve areas of concern. Further information is available at www.hatefreehighland.org.

This example highlights the benefits of public services collaborating through community planning partnerships to not only share resources and information, but also engage and work with communities.



Notes





Notes



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