



Hate Crime and Incident Reporting and Guidance

March 2017

We speak your language

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

Hablamos su idioma

Slovak

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我们会说你的语言

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Contents

	Page
Introduction	4
Definitions	5
What we will do	6
How we will do it	6
Who will do it	7
References	9
Hate Crime Incident Reporting Form	11

Introduction

A hate incident is any incident which is perceived to be motivated by hate by the victim or any other person. It can be a result of prejudice on the perceived or actual grounds of race or ethnic origin, disability, religious belief or similar philosophical belief, sexual orientation, age or gender identity.

It is called a hate crime, if the incident is a criminal offence. The Councils may have a limited role to play in these as the police are responsible for investigating criminal offences and for gathering evidence.

The Councils are committed to tackling hate crime and harassment arising from perceptions of difference and to fostering good relations between different groups as stated in the Council's Joint Equality and Diversity Policy for Service Delivery.

The effects of hate crime or harassment can be severe for individuals, families and the community. The Councils, as major employers and service providers, have an important role to play in:

- Providing services that support victims of hate crime or harassment;
- Acknowledging the significance of hate crime or harassment on the community; and
- Taking action in partnership with other agencies to eliminate hate crime and harassment in the district.

[Safer Derbyshire](#) is a multi-agency partnership based at County Hall, Matlock whose aim is to reduce crime, disorder and the fear of crime in Derbyshire by providing support, advice and leadership to partners and communities. The partnership to which both Councils are partners provide the county lead for hate crime.

Hate crime and hate incidents come in many forms:

- Physical attacks (Physical assault, damage to property, offensive graffiti, neighbour disputes and arson)
- Threat of attack (Offensive letters or emails, abusive or obscene telephone calls, groups hanging around to intimidate you and unfounded, malicious complaints)
- Verbal abuse or insults (Harassment over the phone, by text or face to face, abusive gestures and remarks, bullying and threats).

The Councils recognise that crimes of this nature are under reported and the purpose of this document is to encourage the reporting of incidents in particular those involving members of **minority groups**.

Minority groups are those involving people from a black or minority ethnic background, or who are regarded as disabled, elderly, or who are lesbian, gay or bi-sexual or any other characteristic protected by the Equality Act 2010. In line with best practice, the Councils also record incidents where people with alternative lifestyles and dress codes (e.g. Goth, Emo, Steampunk) are victimised because of their difference. These are categorised under 'alternative subcultures'.

The types of incidents can therefore relate to:

- Race
- Religion/Faith
- Homophobia
- Gender
- Age
- Disability or
- Sexual orientation
- Social Class
- Alternative subcultures

Hate crime and harassment may not always be reported directly. There may be circumstances where harassment is disguised or results in repeated requests for service. For example, a tenant repeatedly contacting the Council to report broken windows, when the real problem is harassment because of the tenant's race, gender, disability, sexuality or religion.

Hate crime or harassment can create a climate of fear. This can stop people from taking their full part in everyday life, and in democratic processes because of their ever-present fear of harassment. It can also discourage reporting of incidents.

Incidents of hate crime and harassment are not only significant offences against an individual, family or group; they have widespread and long-term implications for the whole community.

Definitions

What is **harassment**?

The Criminal Justice and Public Order Act 1994 describes harassment as 'entailing threatening, abusive or insulting words or behaviour, or disorderly behaviour' or the display of 'any writing, sign or other visible representation which is threatening, abusive or insulting'.

What is a **hate crime**?

Any **criminal offence** (e.g. physical assault, damage to property, offensive graffiti) which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a persons' race, religion, sexual orientation, disability or transgender status or based on perception of a persons' race, religion, sexual orientation, disability or transgender status.

What is a **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 persons' race, religion, sexual orientation, disability or transgender status or based on perception of a persons' race, religion, sexual orientation, disability or transgender status.

What we will do

The Councils will within the scope of their functions and when appropriate to do so:

- Work in partnership with the police and all relevant external agencies to deal with incidents of harassment and hate crime.
- Take reports of harassment and hate incidents / crimes seriously and encourage reporting.
- Provide an on-line reporting tool to encourage victims and witnesses to report hate incidents independently if they wish to.
- Ensure complainants/witnesses are dealt with sympathetically.
- Ensure that complainants/witnesses personal details are protected and kept securely.
- Signpost victims and witnesses to specialist support and advice services where appropriate.
- Keep victims and witnesses informed on their complaints about harassment and hate incidents / crimes.
- Deal with perpetrators of harassment or hate incidents / crimes effectively and appropriately. For example, seeking remedies such as injunctions or seeking possession of council property using our powers under the Anti-social Behaviour, Crime and Policing Act 2014 and the Housing Act 1985 and 1996.
- Send out a clear message that the Councils will not tolerate harassment or hate incidents /crimes.

How we will do it

Action to be taken on receiving a Hate Crime Incident Report

If in the course of your duties an individual reports a hate crime incident to you then ask if the victim/complainant/witness is willing for the incident to be reported. If they are complete the Hate Incident Report Form promptly and within 24 hours of receipt of the complaint. The form is available on the Intranet and Website, or from Improvement Officers who can also provide assistance with the form, if required. A form is appended to this document for reference purposes.

If they are not willing for this information to be reported then that wish must be respected. We should try to encourage the information to be recorded as this helps build up an accurate and reliable picture of the level and pattern of hate incidents and harassment in the district. Advise the victim/complainant/witness that there is an on-line reporting form and information about hate crime incidents on the website. They may choose to report the incident or seek support later.

When to make a referral without consent

There are specific circumstances in which someone's wish not to report a hate incident cannot be respected. This is because the Councils have statutory duties to protect people from serious harm. Where the individual is a vulnerable adult, the Councils' Safeguarding Vulnerable Adults Policy will apply and a referral must be made to one of the designated Safeguarding leads, who will determine what action should be taken. Both Councils' also have safeguarding policies for children too.

Where an individual is vulnerable and at risk of serious harm or even death but does not meet the safeguarding criteria, the Joint Vulnerable Adult Risk Management Policy will apply and a referral must be made to one of the designated VARM Champions for them to determine what action should be taken.

Hate Incident Report Form

Ideally the receiving officer dealing with the incident should complete the hate incident report form with the victim/complainant in attendance as this will assist in building up a true picture of the incident reported. This should be done immediately or as soon as possible.

If there is any further action taken on behalf of the victim then this must also be recorded.

For those employees who may be involved in the recording or interviewing of a client experiencing harassment then details taken should be full and accurate. A case could be made stronger by evidence from a number of witnesses about one alleged perpetrator. Therefore, details of minor incidents should be fully recorded.

If the victim/complainant has any evidence of the incident advise them to carefully retain it and/or take a photograph of it if more appropriate. This will usually be a matter for the Police if the victim/complainant chooses to report the incident to the Police directly or through us. If we are asked to report the matter to the Police on behalf of the victim it is important that we have their clear and explicit consent to do so. This can be sought once the form has been received (if submitted independently).

On completion of the form, a copy needs to be sent to the Improvement Officer for assessment and monitoring purposes. Forms submitted online will be sent directly to the Improvement Officers (Equality leads).

In the event of hate crime incidents being reported which are not about Council services; the form should still be completed and sent to the Improvement Officer who will decide on what action is to be taken.

Who will do it

Responsibilities under the guidance

Generally the responsibility for ensuring the effective implementation of this guidance lies with all employees. An information campaign will be run to raise awareness of the guidance. However it is recognised that the need for awareness will be greater for some job roles e.g. Housing Officers, Improvement Officers (Equality leads) and that this can be identified through the appraisal system. Hate Crime training is available for free via Derbyshire County Council's Community Safety team as part of their regular training programme for partner agencies. The Safer Derbyshire website has details of this training: http://www.saferderbyshire.gov.uk/training-and-resources/courses-and-bookings/hate_crime/default.asp

Employees

Employees have a responsibility under this guidance to report and record and/or challenge incidents of hate crime and/or harassment if they:

- Witness them (this includes seeing, hearing or reading them).
- Have incidents reported to them by victims or witnesses.
- Have strong suspicion or evidence of hate crime or harassment.

In challenging incidents, employees should pay due regard to their own health and safety, particularly if working off site and alone.

Improvement Team

- To review each report and to contact the victim if they have asked for 'action/support' on the form. Otherwise to record the incident report for monitoring purposes only noting the safeguarding provisions under 'when to make a referral without consent'.
- To assess whether any level of investigation is required by the Council and if so who would be best placed to do this.
- To report incidents to the Police on behalf of the victim if asked to do so by the victim (noting the need to have clear and explicit consent for this and also the safeguarding provisions under 'when to make a referral without consent').
- To signpost the victim to specialist support and advice services where appropriate (noting the need to have clear and explicit consent before transferring any personal information and also the safeguarding provisions under 'when to make a referral without consent').
- To receive copies of the Hate Incident form for monitoring purposes.

Managers

The Councils are committed to creating a harassment free environment and have a responsibility to employees, both under the law and as an employer committed to equality to protect and support employees who may be subjected to harassment from members of the public. As a major provider of services the Councils also recognise their responsibility to protect and support service users.

Although it is the responsibility of all employees to report and challenge incidents of hate crime or harassment, management have a specific responsibility to ensure that they do everything they can to support and protect employees and service users from intimidation and harassment.

This may be by:

- Stating clearly to members of the public who harass employees that their behaviour will not be tolerated.
- Stating that the service may be withdrawn, if necessary and appropriate, in order to protect employees.

- Supporting and advising employees who experience hate crime or harassment from service users, protecting them and offering assistance.
- Supporting a member of the public who has experienced or is reporting hate crime or harassment.
- Ensuring details of incidents are recorded and seek further guidance if required from the Improvement Officers.
- Raising awareness of this guidance, and arranging training for those employees with a job role which may require recording of incidents.

An employer is potentially liable for the welfare and conduct of its employees. If it can be shown that alleged hate crime or harassment was not investigated or remedied an employee or service user may have a strong case of unlawful discrimination against the employer/Council. Managers must therefore take all reasonable steps to prevent discrimination from occurring and ensure employees and service users are protected.

References

Compatibility to Related Legislation

This guidance document complements related statutory instruments in the provision of service specifically:

Children's Act 1990

Section 27 details a duty of care, when dealing with incidents and / or complaints involving children

Data Protection Act 1998

Responsibility to ensure that personal information is processed fairly and lawfully, kept accurate and up to date. Information is not held for longer than necessary and held securely.

Human Rights Act 1998

Articles 6, 8, and 14, significant in respect for private and family life, prohibition of discrimination and right to a fair / public hearing

Protection from Harassment Act 1997

While the Act does not specifically define 'harassment', it clarifies it as conduct which causes alarm or distress. Harassment has to be caused on more than one occasion, and the offender ought to know that their conduct will cause alarm and / or distress. This is subject to reasonableness.

Criminal Justice and Immigration Act 2008

The act creates specific offences relating to tackling homophobic hatred and violence.

The Crime and Disorder Act 1998

The act creates specific offences relating to racially and religiously motivated crimes.

Approved at SAMT 17th March 2017