

## ITEM No ...8.....

**REPORT TO:** POLICY & RESOURCES COMMITTEE – 13 FEBRUARY 2017

**REPORT ON:** HATE INCIDENT/CRIME REPORTING GUIDANCE

**REPORT BY:** EXECUTIVE DIRECTOR OF NEIGHBOURHOOD SERVICES

**REPORT NO:** 37-2017

### **1.0 PURPOSE OF REPORT**

1.1 The purpose of the report is to seek Committee approval for the adoption of a revised guidance on the reporting of hate incidents or crimes.

### **2.0 RECOMMENDATIONS**

2.1 It is recommended that the Committee:

- Approves the adoption of the Hate Incident/Crime Reporting Guidance as described in Appendix 1;
- Approves that Dundee City Council's web site hosts a link to Police Scotland's online Hate Incident reporting site;
- Approves that the Head of Community Safety and Protection be Dundee City Council's "Single Point of Contact" with responsibility for forwarding reports of hate incidents to the Hate Incident Multi-Agency Partnership (HIMAP);
- Notes that amendments to the City Council's Personal Harassment Policy to take account of this guidance will be taken forward in conjunction with the trade unions; and
- Notes that all Harassment Support Officers will be fully trained in the Equality Act 2010, and have an understanding of Dundee City Council's Hate Incidents/Crimes reporting policy.

### **3.0 FINANCIAL IMPLICATIONS**

3.1 There are no financial implications. All actions required can be contained within existing budgets.

### **4.0 BACKGROUND**

#### **4.1 Relevant Legislation**

Section 74 and 146 of the Criminal Justice (Scotland) Act 2003, the Offences (Aggravation by Prejudice) (Scotland) Act 2009 and the Crime and Disorder Act 1998 gives the courts the power to issue higher tariff sentences in cases where offenders are found guilty of an offence motivated by perceived disability, religion or belief, homophobia, transphobia and race.

Part III of the Public Order Act 1986 introduced offences relating to the incitement of racial hatred. Section 33 of the Crime and Disorder Act 1998 introduced offences of pursuing a racially-aggravated course of conduct which amounts to harassment and which causes, or is intended to cause, a person alarm or distress. Section 96 of the Crime and Disorder Act 1998 made provision for offences racially aggravated, requiring courts to take such aggravations into account when determining sentence.

Section 74 of the Criminal Justice (Scotland) Act 2003 makes provision for offences aggravated by religious prejudice, requiring courts to take such aggravations into account when determining sentence and also to state the extent of and reasons for any consequent difference in sentence. This provision was enacted following the report of the Working Group on Religious Hatred.

The Offences (Aggravation by Prejudice) (Scotland) Act 2009 provides for statutory aggravations for crimes motivated by malice and ill will towards an individual based on their sexual orientation, transgender identity or disability. Where offences are proven to be as a result of such malice or ill-will, the court must take that into account when determining sentence. This can lead to a longer custodial sentence or higher fine or a different type of disposal.

The Criminal Justice and Licensing (Scotland) Act 2010 strengthens statutory aggravations for racial and religiously motivated crimes (Section 74 of the Criminal Justice (Scotland) Act 2003). Where offences are proven to be as a result of such malice or ill-will, the court must take that into account when determining sentence. This can lead to a longer custodial sentence or higher fine or a different type of disposal.

The Equality Act 2010, Section 149 (1) places a duty on public authorities to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act. The adoption of the guidance and the amendments to the existing Council policies contribute to demonstrating Dundee City Council's commitment to fulfilling its responsibilities under the Act.

#### **4.2 Definition of Hate Incidents and Hate Crimes**

Hate Incidents are incidents where the victim (or someone else) recognises that the event has occurred because of (or has been influenced by) malice or ill-will towards a particular social group. This can be as a result of a disability, religion or belief, race, sexual orientation and/or transgender status. Some incidents can involve malice or ill-will towards more than one characteristic or social group that the person is seen as being part of.

Some Hate Incidents are also Hate Crimes. A hate crime is any crime which is motivated by malice or ill will towards a social group.

Incidents which are based on other personal characteristics, such as age and belonging to an alternative subculture, are not considered to be hate crimes under the law. These can still be reported as a Hate Incident but they will not be prosecuted specifically as hate crimes.

#### **4.3 Tackling Hate Incidents/Crimes**

In 2010, Hate Incident Multi-Agency Partnership (HIMAP) was established as a sub group of the Dundee Community Safety Partnership.

#### **4.4 HIMAP's role is to:**

- Collate hate crime incidents reported by partner agencies
- Analyse reported incidents to identify trends and patterns
- Develop co-ordinated strategies and action to address causes
- Identify and facilitate Multi Agency Meetings (MAM) as appropriate
- Identify and share best practice, raise awareness and promote shared training
- Involve protected communities in the development and delivery of HIMAP

4.5 It is intended that the guidance will support the aims of HIMAP and be a useful tool in informing partners and the public on issues around hate crime and how to report it. The guidance will be published on the Council's website.

4.6 The Council's Personal Harassment Policy and Managing Violence and Aggression Policy will be reviewed and updated to include references to Hate Incidents and to provide appropriate guidance for employees. These proposed changes will be subject to consultation with trade unions in the usual manner.

## **5.0 POLICY IMPLICATIONS**

- 5.1 This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. No major issues have been identified.
- 5.2 An Equality Impact Assessment is attached to this Report.

## **6.0 CONSULTATION**

- 6.1 The Chief Executive, Executive Director of Corporate Services, Head of Democratic and Legal Services all other Chief Officers and Police Scotland have been consulted on the preparation of this report and are in agreement with its contents.

## **7.0 BACKGROUND PAPERS**

- 7.1 None.

Elaine Zwirlein  
**Executive Director of Neighbourhood Services**

Tom Stirling  
**Head of Community Safety & Protection**

4 January 2017





# HATE INCIDENTS/CRIMES REPORTING GUIDANCE



## Hate Incident/Crime Reporting Guidance

1. Even in the 21st century people are still being abused or attacked simply because they're gay, black, Muslim, Trans, disabled. Whether it's being shouted at, threatened, beaten up, having your car vandalised or being conned out of money, being targeted simply because you're different is wrong and needs to be stopped.
2. Hate Incidents / Crimes are incidents where the victim (or someone else) recognises that an event has occurred because of, or has been influenced by, malice or ill-will towards someone because of their perceived disability, religion or belief, race, sexual orientation or transgender status.
3. Incidents which are based on other personal characteristics, such as age and belonging to an alternative subculture, are not considered to be hate crimes under the law. You can still report these, but they will not be prosecuted specifically as hate crimes.
4. Victims and/or witness to a Hate Incident should have be aware of how to report such incidents and have confidence that all reports to be taken seriously and investigated in a professional and thorough manner in line with the wishes of the victim/witness.
5. For many it will have taken some courage to make contact and report an incident, or more commonly repeated incidents of Hate. Initial response is crucial to establishing confidence and gaining full details of the report. Reports can be made anonymously if requested.
6. Failure to provide an appropriate response to reports of hate incidents/crimes could cause irreparable damage to future community confidence in reporting. It should also be recognised that while hate crime is particularly distressing for the victim it can also have significant impact on the victim's family, friends and wider community cohesion.
7. All reports of hate incidents and crimes within Dundee are reported to Dundee Community Safety Partnership's, Hate Incident Multi-Agency Partnership (HIMAP). HIMAP's primary role is to :
  - demonstrates to victims of hatred that their voice is heard
  - support communities in raising their concerns
  - collate hate crime incidents reported by partner agencies
  - analysis all reported incidents to identify trends and patterns
  - develop a co-ordinated strategy and action to address causes
  - identify and share best practice, raise awareness and promote shared training

### 8. What are hate incidents?

Hate incidents can take many forms:

- verbal abuse like name-calling and offensive jokes
- harassment
- bullying or intimidation by children, adults, neighbours or strangers
- physical attacks such as hitting, punching, pushing, spitting
- threats of violence
- hoax calls, abusive phone or text messages, hate mail
- online abuse for example on Facebook or Twitter
- displaying or circulating discriminatory literature or posters
- harm or damage to things such as your home, pet, vehicle
- graffiti
- arson
- throwing rubbish into a garden
- malicious complaints for example over parking, smells or noise.

## 9. When is a hate incident also a hate crime?

- When hate incidents become criminal offences they are known as hate crimes. A criminal offence is something which breaks the law of the land.
- Any criminal offence can be a hate crime if it was carried out because of hostility or prejudice based on disability, race, religion, transgender identity or sexual orientation.
- When something is classed as a hate crime, the judge can impose a tougher sentence on the offender under the criminal justice legislation.
- Incidents which are based on other personal characteristics, such as age and belonging to an alternative subculture, are not considered to be hate crimes under the law. You can still report these, but they will not be prosecuted specifically as hate crimes.

## 10. Reporting procedure:

If a member of the public raises a concern with any member of council staff, that they have been victim of or witness to verbal, physical or physiological abuse related to perceived disability, religion or belief, race, age, belonging to an alternative subculture, sexual orientation and/or transgender status they should be encouraged to report all such incidents:

## 11. How to report hate incidents:

### 11.1 Directly to Police Scotland:

- In case of imminent or risk of harm phone dial 999 ask for Police
- In non-emergency situations phone 101
- In person at any Police station
- Police Scotland's on-line reporting forms: <https://www.scotland.police.uk/hate-crime/>

In some cases victims/witnesses of Hate Crime may not feel comfortable reporting the matter directly to the Police and may be more comfortable reporting it to someone an agency they are familiar with. To ensure all victims/witnesses are able to report Hate Crimes, Police Scotland works in partnership with a wide variety of partners agencies who perform the role of 3rd Party Reporting Centres. Staff within 3rd Party Reporting Centres have been trained to assist a victim or witness in submitting a report to the police and can make such a report on the victim/witnesses behalf.

### 11.2 Local Third Party Reporting Centres:

Victim Support, Dundee Voluntary Action, Dundee Citizens Advice, Deaf Links, Dundee International Women's Centre, Volunteer Centre Dundee, SACRO. **A full list of local Third Party Reporting Centres can be found at:**  
<http://www.scotland.police.uk/assets/pdf/205073/hate-crime-3rd-party-reporting-centres>

### 11.3 Antisocial Behaviour Advice Line

Hate Incidents can also be reported via Dundee City Council's Antisocial Behaviour Advice Line:

800 3845 or 01382 307342. The Line is open 24 hours a day, 7 days a week.

### 11.4 Dundee City Council Employees

Dundee City Council Employees who are victims of or are witness to a Hate Incident while on council business can also lodge a complaint through Dundee City Council's Personal Harassment and /or Violence and Aggression Policies.

All Hate Incidents reported using the Antisocial Behaviour Advice Line or Dundee City Council's Personal Harassment and/or Violence and Aggression Policies must be forwarded to the Single Point of Contact ([tom.stirling@dundeecity.gcsx.gov.uk](mailto:tom.stirling@dundeecity.gcsx.gov.uk) ) if the situation has been resolved internally.



## 12. Support for victims of Hate Crimes

Victim Support Scotland's trained volunteers understand the practical and emotional difficulties caused by crime and provide free, confidential and independent help and support for victims of crime. Support can be provided by phone, home visit or office appointment, whatever is best for you, contact Victim Support at 0845 603 9213.

## Reporting Hate Incident

Members of the public or Council Employees who are victims or witness to verbal, physical or physiological abuse related to perceived disability, religion or belief, race, age, belonging to an alternative subculture, sexual orientation and/or transgender status they should be encouraged to report all such incidents

Is there an imminent	Risk of Harm?
<p><b>YES</b></p> <p><b>Call 999 ask for Police</b></p>	<p><b>NO</b></p> <p><b>Report incident to the Police at: Any Police station</b></p> <p><b>By dialling the non-emergency number 101</b></p> <p><b>On-line using Police Scotland's Hate crime reporting form: Copy link &amp; paste in browser.</b>  <a href="https://www.scotland.police.uk/hate-crime/">https://www.scotland.police.uk/hate-crime/</a></p>
<p><b>Third Party reporting Centres</b></p>	<p><b>Third Party reporting Centres: Copy link &amp; paste in browser.</b>  <a href="http://www.scotland.police.uk/assets/pdf/205073/hate-crime-3rd-party-reporting-centres">http://www.scotland.police.uk/assets/pdf/205073/hate-crime-3rd-party-reporting-centres</a></p>
<p><b>To get help and support</b></p>	<p><b>Victim Support Tel 0845 603 9213</b></p>



**EQUALITY IMPACT ASSESSMENT TOOL**

**Part 1: Description/Consultation**

<b>Is this a Rapid Equality Impact Assessment (RIAT)?</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<b>Is this a Full Equality Impact Assessment (EQIA)?</b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<b>Date of Assessment:</b>	24/01/2017	<b>Committee Report Number:</b> 37-2017
<b>Title of document being assessed:</b>	Hate Incident/Crime Reporting Guidance	
<b>1. This is a new policy, procedure, strategy or practice being assessed</b> (If yes please check box) <input type="checkbox"/>	<b>This is an existing policy, procedure, strategy or practice being assessed?</b> (If yes please check box) <input checked="" type="checkbox"/>	
<b>2. Please give a brief description of the policy, procedure, strategy or practice being assessed.</b>	To support Dundee's Hate Incident Multi Agency Partnership (HIMAP) in addressing Hate Crime in the city.	
<b>3. What is the intended outcome of this policy, procedure, strategy or practice?</b>	Encouraging the reporting of hate incidents or crimes and to provide guidance on how to do so.	
<b>4. Please list any existing documents which have been used to inform this Equality and Diversity Impact Assessment.</b>	DCC Personal Harassment Policy and Aggression/Violence Incident Report Forms Section 74 and 146 of the Criminal Justice (Scotland) Act 2003, the Offences (Aggravation by Prejudice) (Scotland) Act 2009 and the Crime and Disorder Act 1998. Part III of the Public Order Act 1986. Section 33 & 96 of the Crime and Disorder Act 1998. Section 74 of the Criminal Justice (Scotland) Act 2003. The Criminal Justice and Licensing (Scotland) Act 2010. The Equality Act 2010, Section 149 (1)	
<b>5. Has any consultation, involvement or research with protected characteristic communities informed this assessment? If yes please give details.</b>	Yes membership of the HIMAP who include organisations representing or involved with people with protected characteristics.	
<b>6. Please give details of council officer involvement in this assessment.</b>  (e.g. names of officers consulted, dates of meetings etc)	Scott Mands E&D Co-ordinator.	
<b>7. Is there a need to collect further evidence or to involve or consult protected characteristics communities on the impact of the proposed policy?</b>	No.	

(Example: if the impact on a community is not known what will you do to gather the information needed and when will you do this?)	
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## Part 2: Protected Characteristics

Which protected characteristics communities will be positively or negatively affected by this policy, procedure or strategy?

**NB Please place an X in the box which best describes the "overall" impact. It is possible for an assessment to identify that a positive policy can have some negative impacts and visa versa. When this is the case please identify both positive and negative impacts in Part 3 of this form.**

**If the impact on a protected characteristic communities are not known please state how you will gather evidence of any potential negative impacts in box Part 1 section 7 above.**

	Positively	Negatively	No Impact	Not Known
<b>Ethnic Minority Communities including Gypsies and Travellers</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Gender</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Gender Reassignment</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Religion or Belief</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>People with a disability</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Age</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Lesbian, Gay and Bisexual</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Socio-economic</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Pregnancy &amp; Maternity</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Other (please state)</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Part 3: Impacts/Monitoring

<p><b>1. Have any positive impacts been identified?</b></p> <p>(We must ensure at this stage that we are not achieving equality for one strand of equality at the expense of another)</p>	No.
<p><b>2. Have any negative impacts been identified?</b></p> <p>(Based on direct knowledge, published research, community involvement, customer feedback etc. If unsure seek advice from your departmental Equality Champion.)</p>	None.
<p><b>3. What action is proposed to overcome any negative impacts?</b></p> <p>(e.g. involving community groups in the development or delivery of the policy or practice, providing information in community languages etc. See Good Practice on DCC equalities web page)</p>	N/A
<p><b>4. Is there a justification for continuing with this policy even if it cannot be amended or changed to end or reduce inequality without compromising its intended outcome?</b></p> <p>(If the policy that shows actual or potential unlawful discrimination you must stop and seek legal advice)</p>	N/A
<p><b>5. Has a 'Full' Equality Impact Assessment been recommended?</b></p> <p>(If the policy is a major one or is likely to have a major impact on protected characteristics communities a Full Equality Impact Assessment may be required. Seek advice from your departmental Equality lead.)</p>	No.
<p><b>6. How will the policy be monitored?</b></p> <p>(How will you know it is doing what it is intended to do? e.g. data collection, customer survey etc.)</p>	Through the HIMAP reports to the Community Safety Partnership and the Community Safety and Justice Board.

**Part 4: Contact Information**

<b>Name of Department or Partnership</b>	<a href="#">Click here to enter text.</a>
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<b>Type of Document</b>	
Human Resource Policy	<input type="checkbox"/>
General Policy	<input type="checkbox"/>
Strategy/Service	<input type="checkbox"/>
Change Papers/Local Procedure	<input type="checkbox"/>
Guidelines and Protocols	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>

<b>Manager Responsible</b>	<b>Author Responsible</b>
<b>Name:</b> Tom Stirling	<b>Name:</b> Scott Mands
<b>Designation:</b> Head of Community Safety & Protection	<b>Designation:</b> E & D Co-ordinator
<b>Base:</b> 3 City Square	<b>Base:</b> 21 City Square
<b>Telephone:</b> 01382 433203	<b>Telephone:</b> 01382 437482
<b>Email:</b> Tom.stirling@dundeecity.gov.uk	<b>Email:</b> Scott.mands@dundeecity.gov.uk

<b>Signature of author of the policy:</b>	Scott Mands	<b>Date:</b> 24/01/2017
<b>Signature of Director/Head of Service:</b>	Tom Stirling	<b>Date:</b> 24/01/2017
<b>Name of Director/Head of Service:</b>	Tom Stirling, Head of Community Safety & Protection	
<b>Date of Next Policy Review:</b>	24/01/2020	