

HATE CRIME POLICY
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HATE CRIME

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Legal Basis

Legislation specific to the subject of this policy document:

- Crime and Disorder Act 1998
- Sentencing Act 2020 (sec.66)
- Crime and Disorder Act 1998
- Public Order Act 1986
- Criminal Justice Act 2003

Other relevant legislation which you must check this document against (required by law)

- Human Rights Act 1998 (in particular A.14 – Prohibition of discrimination)
- Equality Act 2010
- Health and Safety at Work etc. Act 1974 and associated Regulations
- General Data Protection Regulation (GDPR) and Data Protection Act 2018
- Freedom Of Information Act 2000
- The Civil Contingencies Act 2004

Other documentation which you must check this document against:

- College of Policing – Code of Ethics
- Norfolk and Suffolk Constabularies' Standards of Professional Behaviour
- College of Policing – Authorised Professional Practice
- Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data Statutory Guidance
- CCR Prioritisation of Demand and Call Grading Policy
- [Tackling Hate Crime – National Policing Hate Crime Strategy and Hate Crime Operational Guidance](#)
- [Guidance of Prosecuting cases of Racist and Religious Crime – Crown Prosecution Service.](#)
- [Hate Crime – Cross Government Action Plan.](#)
- [Stop Hate in Norfolk \(SHiN\) Norfolk's third party reporting process.](#)
- 7 Minute Briefing
- TrueVision Posters
- Norfolk and Suffolk Victim Care
- Victims Code (Justice Dept)

1. Introduction

- 1.1 Hate crimes and incidents can have real and lasting effects on individuals, their families, communities and society as a whole. These types of crime are taken seriously by Norfolk Constabulary.
- 1.2 Hate crimes have no place in a modern democratic society and Norfolk Constabulary is committed to tackling hate and prejudice.

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2. Aims

- 2.1 The aim of this policy and procedure is to ensure victims, witnesses and other vulnerable involved parties are provided with the best possible support and service, and that offenders are held accountable for their actions, through a consistent approach from Investigating Officers and other parties involved in the recording and investigation process.
- 2.2 This is vitally important as hate crimes and incidents can have a more profound and longer lasting impact on victims compared to the same crime or incident which does not have a hate element. A victim being targeted for who they are or what they believe is an attack on characteristics which are at the core of the victim's identity as an individual.
- 2.3 This policy references and acknowledges:
 - [Tackling Hate Crime – National Policing Hate Crime Strategy and Hate Crime Operational Guidance](#)
 - [Guidance of Prosecuting cases of Racist and Religious Crime – Crown Prosecution Service.](#)
 - [Hate Crime – Cross Government Action Plan.](#)
 - [Stop Hate in Norfolk \(SHiN\) Norfolk's third party reporting process.](#)

3. Statement of Policy

- 3.1 This policy has been formally agreed via the approved policy development/review process. It will be maintained by the Community Safety Department in conjunction with the Central Policy Unit.
- 3.2 The policy is intended to promote equality, eliminate unlawful discrimination and actively promote good relations regardless of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, economic or family status.
- 3.3 Managers have a responsibility to ensure this policy is applied fairly, and unless otherwise stated, all policies and procedures are non-contractual.
- 3.4 This policy sets out Norfolk Constabulary's approach to identifying and combating hate crimes ensuring it supports the Equality and Diversity Strategy and Strategic Plan.
- 3.5 Norfolk Constabulary is committed to providing a first-class service, protecting and serving the people of Norfolk. The Constabulary will investigate all reports of hate crime and will work with partners to provide victims an enhanced level of support, with additional focus on identifying and reducing repeat victims. By doing this, the Constabulary wants to achieve an accurate level of hate crime/incident reporting that is a true reflection of what is being experienced by vulnerable communities. Norfolk

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Constabulary recognise that offenders or victims of hate crime may become vulnerable to being drawn into radicalisation and terrorism and have a duty as such under The Counter Terrorism and Security Act (CTSA) 2015 to consider a Prevent Referral and refer to the CHANNEL process. For more information click [here](#).

- 3.6 All Non-Crime Hate Incidents will be subject to a threshold test and if deemed appropriate will be recorded.
- 3.7 The Police, Crown Prosecution Service, National Offender Management Service and other agencies that make up the criminal justice system agreed a common definition of monitored hate crime to cover five 'strands,' in particular – disability, gender-identity, race, religion/faith and sexual orientation. Primarily, this was to ensure a consistent working definition to allow accurate recording and monitoring.
- 3.8 All forces have adopted the working definition of antisemitism by International Holocaust Remembrance Alliance (IHRA):

“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed towards Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.” Whilst the definition is not legally binding, this definition is a useful tool which helps colleagues, partner agencies and the public to identify antisemitism.”

- 3.9 Section 146 of the Criminal Justice Act 2003 defines 'disability' as meaning 'any physical or mental impairment'.

4. Applicability

- 4.1 This policy is mainly aimed at officers and staff who will be involved in investigating and tackling hate crimes as well as supporting victims and witnesses. Others will find it useful as a reference document.

5. Definitions

Hate Crime

- 5.1 A hate crime is defined as:

“any criminal offence which is perceived by the victim or any other person to be motivated by a hostility or prejudice based on:

- a person's race or perceived race – any racial group or ethnic background including countries within the UK and Gypsy and Traveller groups.*
- a person's religion or perceived religion – any religious group including those who have no faith in a theology.*

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- *a person's sexual orientation or perceived sexual orientation – any person's sexual orientation.*
- *a person's disability or perceived disability – any disability including physical disability, learning disability and mental health or developmental disorders.*
- *a person who is transgender or perceived to be transgender – including people who are transsexual, transgender, cross dressers and those who hold a Gender Recognition Certificate under the Gender Recognition Act 2004."*

5.2 The police and the CPS have agreed this definition for identifying and flagging hate crimes.

5.3 There is no legal definition of hostility so the everyday understanding of the word is used, which includes ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment and dislike.

Hate Incident

5.4 A hate incident is defined as:

"A non-crime hate incident (NCHI) is any incident where a crime has not been committed, but where it is perceived by the reporting person or any other person that the incident was motivated by hostility or prejudice based on:

- *a person's race or perceived race – any racial group or ethnic background including countries within the UK and Gypsy and Traveller groups.*
- *a person's religion or perceived religion – any religious group including those who have no faith in a theology.*
- *a person's sexual orientation or perceived sexual orientation – any person's sexual orientation.*
- *a person's disability or perceived disability – any disability including physical disability, learning disability and mental health or developmental disorders.*
- *a person who is transgender or perceived to be transgender – including people who are transsexual, transgender, cross dressers and those who hold a Gender Recognition Certificate under the Gender Recognition Act 2004."*

5.5 It is important to note that the definition of a hate crime/incident is not solely restricted to the categories identified below. Hate crimes/incidents can take a number of different forms, and Norfolk Constabulary may treat offending as hate related where the circumstances identify that to be the case.

5.6 Evidence of the Hate element is not a requirement, you do not need to personally perceive the incident to be hate related. It would be enough if

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another person, a witness, or even a Police Officer thought that the incident was hate related.

5.7 It is important that any police action taken is proportionate and reflects local and national policy. Particular care is needed to ensure that a group or individual's right to freedom of expression under Article 10 is not infringed beyond that which is permitted in law. Any decision making must be appropriate and adequately recorded, with reference to Article 10 in finely balanced cases.

5.8 The code:

- Includes guidance relating to whether and how the personal data of an individual who is the subject of an NCHI report should be processed as part of an NCHI record.
- Provides detailed information on the right to freedom of expression, and clear case studies to illustrate how this right should be taken into account in the context of NCHI recording.
- Clarifies that debate, humour, satire and personally held views which are lawfully expressed are not, by themselves, grounds for the recording of an NCHI.
- Sets out that an NCHI should not be recorded if the report is deemed by the police to:
 - Be trivial.
 - Be irrational.
 - Have no basis to conclude that an incident was motivated by hostility.
 - Have been made as part of a legitimate debate, for example, on political or social issues (individual who made them should not be stigmatised simply because someone is offended).

5.9 The code also introduces the additional threshold test, which clarifies that personal data should only be included in an NCHI record if the event presents a real risk:

- of significant harm to individuals or groups with a particular characteristic or characteristics.
- that a future criminal offence may be committed against individuals or groups with a particular characteristic or characteristics.

NB: the individual making the report should be referred to as the 'complainant' and the person being complained about the 'subject'.

5.10 For the purposes of the code, a 'particular characteristic' means race, religion, sexual orientation, disability or transgender identity, as defined in hate crime legislation. This test will enable the police to intervene where necessary to safeguard vulnerable individuals and communities.

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5.11 The College of Policing publish non-statutory Authorised Professional Practice (APP) guidance on NCHI recording: College of Policing – Hate Crime APP.

5.12 This guidance, documents, examples and flowcharts have been uploaded onto LMS:

[Gather information - Interactive Decision Tree for Recording Non-Crime Hate Incidents](#)

[Best I Can Be](#)

Key terms for the process for recording non-crime hate incidents

Process for recording non-crime hate incidents

College of Policing APP Guidance

Protected Characteristics

5.13 Hate crimes and incidents are recorded in Norfolk when they pertain to the following protected characteristics:

- Disability
- Race
- Religion or Belief
- Sexual Orientation
- Gender Identity

5.14 These terms differ from those used in the Equality Act (2010), but are the current terms used by the CPS, including for charging.

5.15 Additional information and considerations for each protected characteristic can be found in the appendices.

6. Reporting

Reporting Mechanisms

6.1 Victims, or witnesses can report hate crimes and incidents through a variety of means. The means that are promoted within Norfolk are:

- Telephone:
 - Non-emergency: 101
 - Emergency: 999
 - CrimeStoppers: 0800 555111
- Online Reporting:
 - [Norfolk Constabulary website](#)

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- TrueVision
 - CrimeStoppers Web Reporting Tool
 - By texting the CCR: Text to email service for the public on 07786 200777.
 - In person at a police station (PEO):
 - Kings Lynn
 - Norwich (currently Wymondham)
 - Great Yarmouth
 - Direct to a police officer.
 - Through a third party at [Stop Hate in Norfolk \(ShiN\)](#)
- 6.2 These reporting mechanisms should be promoted to the public at every opportunity, including at community engagements. It is particularly important to promote the external reporting mechanisms, as individuals or communities may not have the trust or confidence to report it directly to the Force.
- 6.3 The Contact and Control Room (CCR) manages victim contact via 101, 999 and online reporting. Every contact is assessed using the Threat, Harm, Risk, Investigation, Vulnerability and Engagement (THRIVE) which allows operators to identify hate crime offences efficiently. If a hate crime is identified, then a dedicated opening code of 'CR15 Hate Crime' is used which also automatically adds the Diversity and Hate Crime tags to the incident. This allows supervisory staff to easily search for these incidents to make sure they are being managed appropriately against policy. Further to this on every incident of anti-social behaviour (ASB) the victim is asked explicit questions to ascertain if it is hate related. Any incident opened as CR15 is automatically flagged to the supervisory staff within the CCR.

7. Recording of Hate Crimes

Victim/Witness Perception

- 7.1 If a victim or witness believes that an offence has taken place for which the motivating factor is hate towards a protected characteristic, it will initially be recorded according to this perspective, without any officer interpretation.

Officer Perception

- 7.2 If the reporting party does not believe that an offence has been motivated by hate, but the recording officer believes that it has, the officer should initially record this as a hate crime.

Recording a Hate Crime on Athena

- 7.3 When recording a hate crime on Athena, vital considerations include:

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- Ensure that '**Primary Classification**' records the normal standard offence.
- Add the relevant '**hate incident non-crime**' to '**Included Classification**'
- Complete '**Keyword**' boxes with appropriate Hate Motivated Characteristic/s.

7.4 Record any victim vulnerabilities or needs under the 'Victim information' tab and consider risk assessments and referrals.

8. Supporting the Victim

Contact with Victims

8.1 Being targeted for a hate crime has an increased level of impact on victims. To provide optimal reassurance, all contact with victims should be made face-to-face whenever possible, unless specifically requested otherwise by the victim.

Victim Code of Practice (VCOP)

8.2 There can often be barriers to victims coming forward to report hate crimes, which can include, embarrassment, fear of not being acknowledged or being ridiculed by Police, lack of confidence in any action being taken, or general mistrust in the Police. Therefore, it is vitally important to agree a comprehensive victim code of conduct and to adhere to this at all times. This will help to maintain the victim's confidence in Policing and reassure them that their report has been acknowledged and is being treated seriously and proportionately.

Victim Personal Statement (VPS)

8.3 Victims should be offered the opportunity to complete a Victim Personal Statement (VPS) in every instance of hate crime. The VPS will more comprehensively capture the increased impact that the hate crime has had on the victim, and may be used in court, as crimes with a hate element carry an elevated sentence. This should be captured as soon as possible.

Norfolk and Suffolk Victim Care

8.4 Norfolk and Suffolk Victim Care (NSVC) can offer support to victims or anyone else affected, even if they choose not to report or the incident does not result in a crime being recorded.

8.5 To ensure that data is not shared without the consent of the victim, consent status will need to be clarified. Athena investigation records will default to 'YES' for consent to NSVC contact, if the victim does not consent to this, this will need to be amended to 'NO' on the investigation record. The attending Officer should provide victims for all hate crimes with contact

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details for NSVC so that they can self-refer at a later date should they wish to.

- 8.6 Norfolk and Suffolk Victim Care can be contacted by victims as often as they require.
- 8.7 Victims can contact Norfolk and Suffolk Victim Care for support even if they have not reported a crime to the police.

Signposting for Specialist Support

- 8.8 For information on additional/specialist support and signposting available to victims, please contact the engagement officers for advice.
- 8.9 Local and national support providers for each of the protected characteristics can also be found on the guidance sheets in the appendices.

Neighbourhood Policing Teams (NPT)

- 8.10 If a victim has ongoing impacts and or is thought to be at risk of being a repeat victim, the investigating officer should consider liaising with a local SNT supervisor.

9. Risk Assessment

Area Daily Management Meeting (DMM)

- 9.1 Hate Incidents which have been put through the THRIVE process and are deemed to need immediate high-level management must be flagged up in the Area DMM.
- 9.2 Community Reassurance (Community Impact Assessments (CIA)) – Officers should be aware that the fallout from hate crimes can have a wider impact on entire communities. Consideration should be given to whether a CIA is required.

Type of Risk Assessment

- 9.3 When assessing risk for a Hate Crime, consideration must be given to a victim's vulnerability using existing processes including relevant MASH referrals, adult and child risk assessments and the Hate Crime Risk Assessment.

Frequency of Risk Assessments

- 9.4 Being the victim of a hate crime creates an elevated level of risk compared to offences with no hate element, therefore it is important to complete an initial risk assessment at the earliest possible opportunity.
- 9.5 During the investigation of a hate crime, a further assessment of risk for any parties at risk should be completed and attached to the investigation for any new developments or change of circumstances. This includes in the

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instances of repeat victimisation or any other factors which may affect the level of risk.

10. Referrals

Vulnerability

- 10.1 If the victim is deemed to be vulnerable a Protecting Vulnerable People (PVP) Adult or PVP Child referral should be created on Athena, and an interest registered to the Multi Agency Safeguarding Hub (MASH).

Vulnerable to Radicalisation

- 10.2 During the course of an offence or subsequent contact, an offender may exhibit views pertaining to a recognised ideology and/or a legitimate political view. If it is considered that any views exhibited show a legitimate vulnerability to radicalisation, for example they may be observed showing the same views or prejudices over the course of multiple offences, then the appropriate process should be followed. If the investigating officer has concerns relating to vulnerability to radicalisation, then advice should be sought from a local PREVENT SPOC or the Norfolk Prevent Team in Community Safety. Following this advice, the investigating officer should subsequently complete a Prevent referral by submitting a PIR on Athena.
- 10.3 The reporting process is documented here.

11. Investigation

- 11.1 Any crime has the potential to have a significant effect on the victim; referrals to victim support services should always be considered. A proportionate investigation is one where the resources used to investigate the viable lines of enquiries are relative to the seriousness and solvability of the investigation. (Refer to the Investigations Policy).
- 11.2 Hate Crime investigations must be reviewed regularly by a supervisor to ensure that the appropriate disposal is identified promptly.
- 11.3 Evidence Led Prosecution (ELP): All officers and staff understand the importance of considering an ELP when a victim is reluctant to make a statement or support a prosecution.

Hate Crimes against members of the Constabularies

- 11.4 If any officer or member of staff is the subject of a hate crime (on or off duty) Op Hampshire processes will be followed. The officer or member of staff will be given the same care and attention as any victim of crime.
- 11.5 Any police officer or member of police staff who is subject of a hate crime whilst on duty will be supported by referral to staff support networks and wider victim support (where appropriate). A referral to staff support groups must be victim led and responsibility for this referral remains with the victim's supervisor. The duty Inspector should also be made aware and the

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incident raised at the area daily management meeting (DMM). Where an individual is not a member of a staff association, other available support should be offered, e.g. Workplace Health, Safety and Wellbeing, Force Chaplains etc.

- 11.6 When a police officer or police staff member is subject of a hate crime, they should be immediately relieved at custody and where possible, should not form part of the booking in process. Under no circumstances should they be required to undertake constant supervision duties on the suspect.
- 11.7 The officer's/member of staff's supervisor is to be informed of the situation. (If the staff member was working alone, they should inform their supervisor or if they were double crewed/working with others at the time of the incident, their colleague must inform the supervisor that a hate crime has taken place).
- 11.8 The supervisor must then contact the officer/staff member at the most appropriate time and arrange for a debrief as soon as possible.
- 11.9 Supervisors should ensure that the appropriate support and welfare provisions are offered to the officer/staff member.
- 11.10 The supervisor should ask if the officer or staff member would like relevant staff association or UNISON contacted, if appropriate.
- 11.11 Officers or staff who are subjected to hate crime must not input the crime or retain OIC status for it.
- 11.12 The Sergeant/supervisor responsible must ensure that victim updates are provided to the officer/staff member in line with the Victim's Code

Youth Offending Team (YOT)

- 11.13 All crimes committed by perpetrators under 18 must have a Police Electronic Notification to the YOT (PENY) submitted. PENY guidance can be found [here](#).

Restorative Justice

- 11.14 Restorative justice brings together people harmed by crime or conflict with those responsible for the harm, to find a positive way forward. Restorative justice gives victims the chance to tell offenders the real impact of their crime, get answers to their questions and a letter of explanation can be considered. Restorative justice holds offenders to account for what they have done. It helps them understand the real impact, take responsibility, make amends, and is shown to reduce reoffending.
- 11.15 Under the Victim's Code of Practice, all victims of crime must be offered information on any restorative service available to them. Officers in Norfolk and Suffolk Constabularies have access to the Norfolk and Suffolk Restorative Justice Hub for access to relevant process, resources and advice.

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11.16 Due to the sensitive nature of hate crime, and the potential community impact, the RJ facilitator must be trained to a minimum of Level 2 to appropriately risk assess and deliver a suitable RJ process. This process can take place independently or in conjunction with other criminal justice processes but cannot be used as a disposal in its own right. This is a voluntary agreement between the two parties concerned.

Disposals

11.17 CPS charging advice must be sought in respect of hate motivated crimes. Depending on the severity and context of the incident, the OIC can consider and suggest one of the following additional disposal options to CPS with justification:

- Community Resolution (CR) for hate crime need to be authorised by an Inspector, should only be considered for low level offences and the victim must be consulted first.
- If the victim does not wish to support further action, then Code 16 should be applied but due consideration must be given to giving words of advice via a community resolution and applying outcome code 8.

11.18 Prosecutors will make charging decisions in all crimes classified as Hate Crime under CPS Policies. In a case where any offences under consideration for charging include an offence which must be referred to a prosecutor under this guidance, then all related offences in the case will be referred to a prosecutor to consider which should be charged.

12. Guidance and Resources

- 7 Minute Briefing
- TrueVision Posters
- Norfolk and Suffolk Victim Care
- College of Policing Hate Crime APP
- Victims Code (Justice Dept)

13. Partnership and Scrutiny Framework

Community Resolution and Prevent Strategic Group (CRPSG)

13.1 The CRPSG is comprised of multiagency partners from the statutory sector, as well as local partners from the local community and voluntary sectors. Partners in this group have a vested interest and speciality in working with groups of diverse protected characteristics. The network is facilitated by the Local Authority representative. Police are represented by the Chief Inspector in Community Safety and the EDI team. Some of the major aims of the network include:

- Consistent Collaborative Working

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- Raising Awareness
- Encouraging Reporting
- Awareness of the Hate Crime data

14. Training and Awareness

National Hate Crime Awareness Week (NHCAW)

14.1 During NHCAW, the EDI Team will coordinate a Constabulary-wide awareness campaign which may consist of:

- Intranet Briefing Article(s)
- Training and Awareness events (Police only or Multiagency)
- Poster and Visual Display Campaign at stations

Training Days

14.2 Officers and Staff complete CPD and mandated training which can be utilised to reinforce awareness, share good working practices and receive guidance and updates on legislation and policy. These days also reinforce awareness of officers and staff working with diverse and/or vulnerable communities.

Student Officers

14.3 All student officers (PC, CID) have an interactive hate crime input that is delivered to raise awareness and give guidance on managing hate incidents/crimes.

External Engagement

14.4 All opportunities to raise awareness and encourage reporting of hate crimes with the public should be considered. Community events with high and diverse footfalls in particular should be attended where possible to help build trust and confidence in policing and help to give individuals the confidence to report. It is also important to present multiple methods of reporting to ensure that the best effort to capture reporting is made.

14.5 This awareness can be raised at community engagement events with the help of local and national resources, such as:

- SHiN (Stop Hate in Norfolk) Campaign
- 7 Minute Briefing – Hate Crime

15. Monitoring

Strategic Business and Operational Services (SBOS)

15.1 A regular hate crime review is generated by the Strategic Business and Operational Service (SBOS) department and sent to relevant constabulary

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officers and staff. This allows for analytical analysis of emerging trends, hot spots or identification of specific vulnerable/repeat victims.

- 15.2 The information is reviewed and any emerging trends and community tensions are shared with relevant staff to inform National Community Tension Team (NCTT) returns.

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Appendix A – Disability Guidance Sheet

Definition (Equality Act [2010]):

A person has a disability if:

- a) they have a **physical** or **mental** impairment, and
- b) the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

Considerations:

Mental Health:

A crime committed against a victim because of a mental health condition is to be treated the same as a physical disability would be, as per the definition above.

The broad umbrella of Mental Health disability can relate to the autistic spectrum, learning disabilities, dementia, depression and other neurodiversity.

Learning disabilities in particular can make victims susceptible to 'mate crime' where victims are deceitfully befriended with the goal of exploiting them e.g. extorting money from the victim or utilising the victim's residence, all under the guise of a friend. Individuals who are targeted by this are always encouraged to report to Police and will receive the necessary support and acknowledgement of their vulnerability to this.

Appendix B – Race and Nationality

Definition (Equality Act [2010]):

Race includes:

- a) colour;
- b) nationality;
- c) ethnic or national origins

Considerations:

The definition above encompasses the following sub-characteristics of note:

- Refugees, asylum seekers and migrants
- Gypsy Roma and Traveller

Appendix C – Religion or Belief

Definition (Equality Act [2010]):

Religion means any religion and a reference to religion includes a reference to a lack of religion.

Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

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In relation to the protected characteristic of religion or belief:

a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief;

a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief.

Appendix D – Sexual Orientation

Definition (Equality Act [2010])

This section has no associated Explanatory Notes

Sexual orientation means a person's sexual orientation towards:

- a) persons of the same sex,
- b) persons of the opposite sex, or
- c) persons of either sex.

Considerations:

Disclosure and Privacy:

Victims, witnesses and indeed offenders may not have disclosed their sexuality or a gender transition to their families, friends, colleagues or associates. When dealing with an incident/investigation which may relate to these protected characteristics, we should ensure that this is kept private wherever possibly to maintain the dignity and right to privacy of the individual. In the case of a victim being targeted for these characteristics you may also consider discretely and sensitively asking the victim what information they are happy to be disclosed to others and what they wish to be omitted.

Perception:

Sexual Orientation is a protected characteristic which unfortunately can be open to assumption from offenders, and so people of all orientations may be targeted under the perception that they have a particular orientation.

Hate Crime legislation covers the targeting of a victim because of a **perceived** protected characteristic, these instances should be treated the same as when the characteristic is substantiated.

Appendix E – Gender Identity

Definition (CPS Homophobic, Biphobic & Transphobic Hate Crime Prosecution Guidance):

'Trans' or 'transgender' are terms for people whose gender identity does not correspond with their birth gender. The terms 'transgender' is used in, and the concept of 'transgender identity' is recognised by the hate crime legislation and include references to being transsexual, or undergoing, proposing to undergo, or having undergone a process or part of a process of gender reassignment.

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S.66 of the Sentencing Act 2020 is also relevant to cases where the offender has made assumptions about a person's presumed sexual orientation or being transgender, whether or not that assumption is correct.

Considerations:

Disclosure and Privacy:

Victims, witnesses and indeed offenders may not have disclosed their sexuality or a gender status to their families, friends, colleagues or associates. When dealing with an incident/investigation which may relate to these protected characteristics, we should ensure that this is kept private wherever possibly to maintain the dignity and right to privacy of the individual. In the case of a victim being targeted for these characteristics you may also consider discretely and sensitively asking the victim what information they are happy to be disclosed to others and what they wish to be omitted.

Gender Identification:

We should record a victim's gender according to which gender they identify with and disclose, regardless of any preconceptions.

However, due to a European Commission of Human Rights (ECHR) precedent CPS may make a charging decision where a person without a Gender Recognition Certificate under the Gender Recognition Act (2004) would be treated for sex discrimination purposes as their legal/birth gender.

Pronouns:

Individuals who identify as gender non-binary (see glossary below), make take exception to being referred to 'her' or 'him'. The most universal pronoun that could be used is 'they'. You may also consider asking the individual how they would like to be referred to and if they have preferred pronoun.

It is important that the correct pronouns are used for trans and non-binary individuals as using incorrect pronouns can be upsetting and make individuals feel revictimized or alienated. If unsure, it is always best to ask the individual what pronoun they would like to be used or how they identify themselves.

Individuals who identify as gender non-binary may not use gendered pronouns (he/her) and may ask for the gender-neutral pronouns (they/them) to be used, e.g. 'they wanted to make a report' or 'I gave them an update'.

The same may apply toward titles; 'Mrs' or 'Mr', again it is best to be led by the preference of the individual, 'Mx' is a common universal title.

Perception:

Transgender Identity is a relevant characteristic which unfortunately can be open to inference from offenders, and so people of all identities may be targeted under the perception that they are transgender.

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HATE CRIME POLICY

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Hate Crime legislation covers the targeting of a victim because of a **perceived** protected characteristic, these instances should be treated the same as when the characteristic is substantiated.

Transgender Identity Glossary:

Transgender: Applies to a person whose gender is different from their "assigned" sex at birth.

Cisgender: Applies to someone whose gender matches their "assigned" sex at birth (i.e. someone who is not transgender).

Non-binary: Applies to a person who does not identify as "male" or "female".

Genderqueer: Similar to "non-binary" - some people regard "queer" as offensive, others embrace it.

Genderfluid: Applies to a person whose gender identity changes over time.