

HATE CRIME

Executive Summary:

WMP are committed to ensuring that their response to Hate Crime is one which is effective and victim/community focused.

WMP's overarching aim is 'To reduce Hate Crime and its impact on the communities of the West Midlands'. Tackling Hate Crime is pivotal to developing and maintaining community cohesion.

We will continue to seek new and innovative ways to encourage reporting, engaging with the public and partners to understand and overcome barriers to reporting and increase confidence in our diverse communities.

Approved Professional Practice (APP):

*(*delete as appropriate)*

- This policy has been checked against APP. West Midlands Police has adopted the APP provisions, with supplementary information contained herein, which reflects local practice and the needs of the communities served by West Midlands Police.

APP CONTENT

Policy Statements:

- The following documents should be read in conjunction with this Hate Crime policy which will provide a detailed explanation of the delivery aims and objectives and a guide to assist officers dealing with all aspects of Hate Crime and specific considerations for each strand:
 - **Definitions Procedural Guidance**
 - **Hate Crime Control Plan 2020-22**
 - **[WMP Hate Crime Intranet Portal](#)**
 - **[CPS Hate Crime Guidance](#)**
- This policy has been revised in order to support West Midlands Police's strategy in dealing with and investigating Hate Crime, with the following overarching strategic objectives:
 - Continue to close the reporting gap by increasing confidence in victims and communities, and removing barriers to reporting
 - Hate crime victims to receive a quality start to finish service
 - Improve positive outcomes (including Restorative Justice) alongside satisfaction for victims of hate crime
 - With partners, identify opportunities for early intervention & prevention of hate crime/hostility

HATE CRIME RISK ASSESSMENT AND OVERSIGHT

- Initial response to reports of Hate Crime will be assessed against the THRIVE+ Risk Assessment and the appropriate 'P' grading determined:
 - T**hreat – What is the threat?
 - H**arm – What is the harm?
 - R**isk – What is the risk?
 - I**nvestigation – What are the investigative opportunities?
 - V**ulnerability – What are the vulnerabilities?
 - E**ngagement – What are the engagement opportunities
 - +** Prevention & intervention – What can we do to prevent and intervene?
- Hate crime will be graded according to the individual needs of the victim or caller, taking due account of the inherent vulnerabilities and wider community impact associated with incidents of this nature.
- Following agreement reached at Strategic Tasking in July 2018, this latest version of the force's Hate Crime policy contains a new guiding principle. When considering a report of hate crime against the THRIVE+ assessment, the victim of hate crime, due to the potential impact implications to their wider community, **are** considered to be vulnerable unless there are compelling reasons to not do so.
- As a result, there is an implied expectation of intrusive supervisory scrutiny and oversight at all stages of the investigation.
- This scrutiny also extends to chairs of daily NPU TRMs (Threat Review Meetings), who are expected to review all reports of hate crime for the preceding 24 hours, to ensure all investigative and safeguarding actions have been properly considered and put in place.
- This also includes consideration of any wider community impact that may arise from the incident, ensuring where necessary fast track actions are allocated, to include liaison with partners and support services for victims and/or engagement with the affected community.
- NPU Local Command Teams will ensure that reports of Hate Crime are subject to dip sampling on a monthly basis to ensure consistency of standards regarding:
 - Initial THRIVE+ and P grading
 - Incident correctly recorded as a Hate Crime/non-crime incident with relevant markers where appropriate
 - Quality of initial investigation
 - Quality of secondary investigation
 - Frequency and quality of victim contact
 - Appropriate referrals or signposting, including to Victim Support and other third sector support services
 - Evidence of consideration of wider community impact in decision making
 - All reasonable lines of enquiry exhausted to achieve a positive outcome

- This function will normally be delegated to the NPU's Partnership Team and/or the NPU's nominated Hate Crime champion. The dip sampling is collated in a snap survey format and the data is presented to the quarterly Hate Crime Board and Vulnerability Improvement Board.

INVESTIGATIVE PRINCIPLES

- For reports of Hate Crime where there is an identifiable offender (either because an offender is named, or reasonable enquiries could lead to the offender's identity becoming known to the police), the following principles should be applied:
 - The FCID DS for the geographical area where the offence was committed should ensure that the crime report has a full investigation plan highlighting reasonable lines of enquiry.
 - The crime should be allocated to an investigator with fast track actions set in order to progress the report. (Please refer to Hate Crime Investigation guide).
 - Once an offender is identified an account is to be obtained. This does not necessarily mean an arrest will always be required in every case. Voluntary interviews and other less formal means can be considered where appropriate and where rationale exists.
 - Ensure the victim is updated throughout the investigation and consider terminology used, refrain from statements like "one word against the other" as this can lead a victim to feel disbelieved.
 - Consider proportionality of the outcome taking into account the victim's wishes. In many cases it will be appropriate to seek CPS advice with a view to criminal charges, but it may not be so in every case. For example, the victim may not wish to go to court and/or the offender may have no previous convictions and have expressed remorse, in which case consider Out of Court options.
 - In the vast majority of cases, it is highly inappropriate not to seek either CPS charging advice or some form of positive outcome for a report of Hate Crime. In recognition of that, a decision to file a Hate Crime report with a named or identifiable offender as 'NFA' (No Further Action) requires the authorisation of an Inspector.

OUT OF COURT DISPOSALS

- West Midlands Police is now authorised to utilise Conditional Cautions for Hate Crime as well as Community Resolutions.
- Community Resolutions are most suitable where the victim does not want to engage with the criminal justice system and where the level of offending is considered to be at a lower scale, for example, verbal insults.
- The victim contributes to setting the conditions for the resolution, for instance, they may have expressed that a desirable outcome was for an apology from the offender, for damage to be repaired or for restorative justice; in addition the police can impose conditions such as a requirement to attend alcohol treatment or to keep out of a certain area for a set time. In these circumstances, the offender will not receive a criminal record.

- Conditional Cautions can now be used as a diversion from court so are appropriate for a wider range of offences, such as criminal damage, public order offences and low level assaults where it would otherwise be in the public interest to charge but the victim prefers an Out of Court Disposal. The offender will still receive a criminal record.
- The Director of Public Prosecutions has imposed a number of conditions on the dispensation related to Hate Crime as summarised below:
 - The **offence** cannot be:
 - Indictable only;
 - Likely to attract a custodial sentence or higher level community order at court;
 - Intended or likely to stir up racial hatred;
 - Offences up to s39 assault can be authorised by a Sergeant. ABH (Actual Bodily Harm) and above can only be authorised by an Inspector in exceptional circumstances.
 - The **offender**:
 - Cannot be a member of an extreme organisation or repeat hate crime offender;
 - Must admit the offence and express remorse.
 - The **victim**:
 - Cannot be a repeat or high risk victim;
 - Must expressly wish for the offence to be dealt with Out of Court.

OFFENCES OF HATE CRIME AGAINST OFFICERS AND STAFF

- Offences of Hate Crime committed against our officers and staff will not be tolerated and as with all offences against officers and staff, there is an expectation that positive action should be taken.
- If the victim of Hate Crime is a police officer or member of police staff (either on or off duty) then they must not be the investigating officer (OIC) for the offence.
- Police officers and staff have the same right to access the [victim's right to review](#) as any other victim.
- Supervisors will also ensure that at least the same level of service and contact counts is applied to a police family victim as would be afforded any other victim of crime.
- The supervisor must also inform the Senior Leadership Team (SLT) of the officer or staff member to ensure ongoing support is in place.
- The supervisor should consider notifying the Police Federation or Trade Union Representative, subject to the permission of the officer or staff member concerned. Staff Associations and Unions can provide additional valuable support to the employee.

INTERNAL HATE CRIME ALLEGATION POLICY

- Officers and staff have the fundamental right to be treated with dignity and respect in the workplace.
- WMP has an internal [Hate Crime Allegation Policy](#) in recognition that Hate Crimes may be committed by police employees against their colleagues.
- Individuals or supervisors who believe an internal Hate Crime or non-crime Hate Incident may have taken place can seek advice from the PSD Assessments team and/or a HR Advisor as to the appropriate method of reporting (i.e. via misconduct procedures or informal grievance procedures).
- Officers or staff who have allegedly been subject to abuse should be offered support from Occupational Health, Be Well, the Police Federation (officers) or their trade union (police staff), and the relevant staff support association (SSA).

CRIMINAL JUSTICE ACT 2003

- There is a positive expectation that investigating officers will work with CPS prosecutors to apply for sentencing uplifts in all appropriate and relevant cases, utilising the legislative provisions below.
- Wherever possible, Community and Victim Impact Statements should also be used to support applications for enhanced sentencing. These can be accessed from the Hate Crime intranet pages.

[Enhanced Sentencing Legislation \(applies to any offence within England & Wales\) amended 2012](#)**Section 12.145 - Increase in sentences for racial or religious aggravation**

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

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

- (a) must treat that fact as an aggravating factor, and*
(b) must state in open court that the offence was so aggravated.

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

Section 12.146 - Increase in sentences for aggravation related to disability, sexual orientation or transgender identity

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

(2) Those circumstances are—

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

- (i) the sexual orientation (or presumed sexual orientation) of the victim,*
(ii) a disability (or presumed disability) of the victim, or
(iii) the victim being (or being presumed to be) transgender, or

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

- (i) by hostility towards persons who are of a particular sexual orientation,*
- (ii) by hostility towards persons who have a disability or a particular disability, or*
- (iii) by hostility towards persons who are transgender.*

(3) The court—

- (a) must treat the fact that the offence was committed in any of those circumstances as an aggravating factor, and*
- (b) must state in open court that the offence was committed in such circumstances.*

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

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

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

PNC RECORDS

- For Race & Religious Hate Crimes the fact the offender has been convicted of a Hate Crime **IS** recorded as such on their PNC Record.
- For crimes where victims have been targeted based on their sexual orientation, transgender identity or disability the fact that the offender has been convicted **IS NOT** apparent from their PNC record, as it only shows the basic offence for which they have been convicted.
- For a crime to be recorded against the offender as one of hate, having demonstrated hostility towards a victim based on their sexual orientation, transgender identity or disability, officers **MUST** record that fact in the MO section of the Phoenix 208 on ICIS.

RECORDING AND DATA QUALITY

- WMP are committed to managing information successfully in accordance with required recording standards including the Data Protection Act 2018 and Management of Police Information (MoPI).
- Information must be recorded properly at the outset to ensure it is:
 - adequate, relevant and not excessive
 - accurate, relevant and up to date, and
 - kept for no longer than is necessary for its purpose
- The Force recognises that data quality is:
 - Integral to effective policing
 - Helps inform better decision making
 - Increases public and officer safety utilising accurate, up to date information
 - Can increase efficiencies around searching / retrieving data

DATA PROVISION AND STATUTORY RETURNS

- WMP provide statutory data returns that include hate crime statistics and information to help inform Government Policy around Criminal Justice at a National and Local level.
- They also provide information to the general public through Home office Publications and through Freedom of Information requests.
- To ensure hate crime information is searchable, accessible for decision making and managed appropriately throughout its life cycle, particular attention should be applied to the following areas of recording:
 - Offence
 - Offence type
 - Special interest markers
 - Correct application of hate strands
 - Sufficient level of detail contained in incident logs and MO's to define hate crime rationale

PARTNERSHIP COLLABORATION

- Hate Crime and its causes cannot be tackled by WMP alone and in isolation. The Force is committed to working with local and strategic partners through existing forums at each level.
- Key considerations for partnerships are:
 - Information sharing (subject to GDPR and Information Sharing Agreements where relevant)
 - Victim support
 - Offender management and appropriate use of restorative justice solutions
 - Location analysis
- Partnership working will need to be innovative and bespoke dependent on the community's specific needs.
- NPU Partnership Teams should ensure they have mapped the totality of support organisations as well as statutory partnerships within their geography, across all Hate Crime strands.
- Collaborations will include initiatives such as [Third Party Reporting Centres](#) and the online [True Vision website](#) which provide victims and witnesses alternative methods of reporting Hate Crime, which can assist in building trust and confidence.
- There is a positive obligation on investigators and partnership teams to ensure that victims of Hate Crime (or non-crime Hate incidents) are referred to appropriate support agencies.
- Details of support agencies are held by NPU Partnership Teams as well as on the force's Hate Crime intranet pages.
- WMP have agreed an 'opt-out' arrangement with Victim Support, meaning victims of Hate Crime will be automatically referred to Victim Support unless they indicate a preference not to be referred.

GOVERNANCE

- Governance for Hate Crime sits within the Assistant Chief Constable (Crime) portfolio, currently ACC Meir, and is overseen by the Vulnerability Improvement Board.
- The Force Lead responsible for the strategic delivery of Hate Crime is Chief Superintendent Mat Shaer supported by a Subject Matter Expert (SME) DCI Tony Morriss.
- Each NPU or department involved in the response to, investigation and/or prevention of Hate Crime will nominate a senior point of contact for all Hate Crime related issues.
- The Hate Crime Board sits quarterly and has representation from across the NPUs (Neighbourhood Policing Units) and relevant force departments.
- Partners from internal Staff Associations attend as do partners from local authorities, victim services and the CPS (Crown Prosecution Service).
- The Force Lead has nominated Force Strand SMEs as leads for each of the strands (see Hate Crime - Definitions procedural guidance document).

Definitions/Acronyms:

ACC – Assistant Chief Constable
 CPS – Crown Prosecution Service
 ICIS – Custody System
 MO – Modus Operandi
 NPU – Neighbourhood Policing Unit
 OIC – Officer in the Case
 PNC – Police National Computer
 SME – Subject Matter Expert
 TPRC – Third Party Reporting Centre
 WMP - West Midlands Police

Procedural Guidance Documents List:**Hate Crime – Definitions****Publication Instructions**

- Suitable for publication to public

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Force Executive Approval:



CHIEF CONSTABLE

Monitoring and Review

Version	Date Reviewed	No change / Minor Changes / Major Changes (<i>detail</i>)	Amended / Agreed by	New review date