Hate crime

This page is from APP, the official source of professional practice for policing.

This guidance is for police officers and staff at all levels of the police service, working alongside partners where appropriate, to deliver a consistent, proportionate and robust policing response to hate crime and non-crime hate incidents. The guidance sets out arrangements that forces should consider to support an effective response to allegations of hate crime and non-crime hate incidents. It also includes content for those responding to these events.

These crime and non-crime incidents may have a disproportionate psychological, and in some cases physical, impact on victims and the wider community as compared to equivalent ‘non-hate’ crimes (Hall, 2005; Home Office (2018) Hate Crime, England and Wales, 2017/18, page 28).

Hate crimes can be socially divisive, potentially heightening tensions between communities (Hall, 2005). They are likely to involve repeated victimisation (Home Office (2018) Hate Crime, England and Wales, 2017/18, page 24), and they can increase the risk of civil disorder (Hall, 2005).

Hate crimes may be, or may become, critical incidents, regardless of how trivial an incident may initially appear.

In all cases of hate or hostility, victims should be treated sensitively in a way that is appropriate to their needs, recognising the greater impact that hate crimes and incidents may have on victims.

Current position

On 20 December 2021, the Court of Appeal published its judgment in the case of Miller v The College of Policing [2021] EWCA Civ 1926.

Mr Miller lodged an appeal on five grounds. The Court of Appeal upheld two of these grounds.

1. Common law principle of legality – appeal not upheld
2. Lawfulness of the guidance under common law – appeal not upheld
3. Interference in freedom of expression – appeal upheld
4. Prescribed by law – appeal not upheld
5. Proportionality – appeal upheld

In the **Police, Crime, Sentencing and Courts Act 2022**, which received Royal Assent in April 2022, the government included provisions that enable the Home Secretary to issue a statutory code of practice to the police about the recording and retention of personal data relating to non-crime hate incidents.

The College of Policing is working with the Home Office to develop this code of practice and is concurrently reviewing this Hate crime authorised professional practice (APP) to ensure that the future code of practice and updated APP fully align. The code is expected to be published in late 2022 or early 2023.

Not all incidents reported need to be recorded. A record should only be made where it meets the threshold, as set out in the **national standard for incident recording (NSIR)**.

*A single distinct event or occurrence which disturbs an individual, group or community’s quality of life or causes them concern.*

**National standard for incident recording (NSIR)**

Forces **must** ensure that, where non-crime incidents are being recorded and dealt with, this is done by the **least intrusive method**, and achieves a legitimate policing purpose. For example, it may not be necessary to record personal data of any party, other than the complainant, to achieve the relevant policing purpose. Simply recording location data and an overview of the circumstances may meet intelligence, problem solving and auditing needs.

To achieve the least intrusive method, officers and staff **must** apply proportionality, common sense and discretion when deciding, based on the available facts, whether a report, perceived by the reporting person as motivated by hostility, should, or should not be recorded as a non-crime hate incident. A non-crime incident must not be recorded as such where it is trivial. A hostility qualifier, which would denote the incident as a non-crime hate incident, should not be added where it is irrational, and/or there is no evidence to support the perception of the complainant or other person that the incident is motivated by hostility against a monitored strand or protected characteristic.

For further information, see [Recording non-crime incidents perceived by the reporting person to be motivated by hostility](https://www.college.police.uk/app/major-investigation-and-public-protection/hate-crime).