

Review of non-crime hate incidents

Terms of reference (ToR)

Strategic aim:

The overarching aim of the review is to determine whether the current police approach to reporting and recording incidents which are not crimes, but which may have been motivated by hostility or prejudice, is fit for purpose. These incidents are currently referred to as non-crime hate incidents (NCHIs). The review will ensure that there is the appropriate balance between preventing harm and protecting human rights freedoms, including legitimate free speech. As part of the review, a deep dive into current practices will be used to develop an evidence basis upon which recommendations will be made.

The review will:

- a. Consider the rationale and necessity for how relevant reports are recorded.
- b. Consider relevant statutory obligations and limitations.
- c. Consider the time and cost of recording and responding to NCHIs and the impact on police resources.
- d. Examine how reporting and recording can help to monitor and respond to vulnerability and community tension, and contribute to the reduction of future harms.
- e. Collate force data on recorded NCHIs pre and post publication of the then government's 2023 **Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data** to understand volume and type of cases.
- f. Use force data to examine current recording and response practices, to inform the recommendations of this review.
- g. Consider how legitimate free speech can be embedded in any future recording processes.
- h. Consider the findings and recommendations in the His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) Inspection into Activism and Impartiality in Policing, including the effectiveness of relevant training.

- i. Make recommendations that ensure that reports which are not crimes, but which may have been motivated by hostility or prejudice, are managed in a way that will help keep individuals and communities safe, build confidence in policing and enable the most appropriate use of police resources.

Background:

The previous government's 2023 [Non-Crime Hate Incidents: Code of Practice on the Recording and Retention of Personal Data](#) ('the Code') defines an NCHI as 'an incident or alleged incident which involves or is alleged to involve an act by a person ('the subject') which is perceived by a person other than the subject ('the complainant') to be motivated – wholly or partly – by hostility or prejudice towards persons with a particular characteristic.'

An NCHI does not constitute a criminal offence.

This builds on the Home Office Counting Rules (HOCR) which state that 'all reports of incidents, whether from victims, witnesses or third parties and whether crime related or not, will, unless immediately recorded as a crime, result in the registration of an auditable incident report by the police'.

For those incidents that do not involve a crime, the National Standard for Incident Reporting (NSIR) defines an incident as 'a single distinct event or occurrence which disturbs an individual, group or community's quality of life or causes them concern'.

The Code sets out that 'personal data [of the subject] may 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(s) and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s).'

A 'particular characteristic' is a characteristic that is protected under hate crime legislation in England and Wales. This includes:

- race or perceived race
- religion or perceived religion
- sexual orientation or perceived sexual orientation
- disability or perceived disability
- transgender identity or perceived transgender identity

Forces can also currently record hostility and prejudice against any other personal characteristics if the hostility or prejudice is a factor in motivation.

The policy for recording NCHIs is based on recommendations 12-14 of the Stephen Lawrence Inquiry Report 1999 which stated ‘the term "racist incident" must be understood to include crimes and non-crimes in policing terms. Both must be reported, recorded and investigated with equal commitment’.

NCHI recording has since been expanded to cover other protected characteristics.

In 2000, the Association of Chief Police Officers (ACPO) - the then professional body for the police in England, Wales and Northern Ireland - responded to the Stephen Lawrence Inquiry Report by publishing their ‘Guide to Identifying and Combating Hate Crime.’ In March 2005, the Home Office and ACPO jointly published the ‘Good Practice and Tactical Guidance’ on hate crime, including NCHI recording. In 2014, the College of Policing (the current professional body for the police in England and Wales), updated the 2005 guidance and published Hate Crime Operational Guidance (HCOG), which included guidance on NCHIs.

In July 2022, following a judicial review (which focused primarily on free speech) relating to the 2014 guidance, the College of Policing published updated [operational guidance for police on NCHIs as Authorised Professional Practice \(APP\)](#). This included directing officers and staff, irrespective of the complainant’s perception, not to record personal information about the subject of an NCHI allegation where the report is assessed as trivial, malicious or irrational, or where the incident engages Article 10 of the Human Rights Act 1998 through legitimate and lawful debate.

In June 2023, following the introduction of the then government’s Code, the College of Policing published revised guidance to align with this.

In September 2024, His Majesty’s Inspectorate of Constabulary and Fire & Rescue Services published their Inspection into Activism and Impartiality in Policing report which included a chapter on NCHIs. The report made a number of recommendations relating to NCHIs which will be considered as part of this review.

The Home Secretary has been clear a consistent and common-sense approach must be taken with NCHIs and has agreed the NPCC and College of Policing should undertake this review.

Timescale:

Completion: December 2025.