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## Hate Crime Policy

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**Alternative Formats**

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## **1. Introduction**

The Probation Board for Northern Ireland (PBNI) recognises that hate crime is a serious problem which has a devastating impact on victims and their families. The Hate Crime Policy seeks to provide staff with clear guidance in dealing with both service users who are perpetrators and victims or potential victims of hate crime.

PBNI recognise that we are working in an increasingly diverse society and that a capacity for empathy with individuals from diverse backgrounds is essential to the delivery of effective and responsive interventions as well as to desistance by hate crime perpetrators.

## **2. Policy Statement**

PBNI will engage purposefully with service users in relation to offences rooted in prejudice and hate, prioritising public protection and victims' interests. PBNI is committed to dealing effectively with hate crime through the provision of professional analysis in pre-sentence assessment and evidence based effective intervention during supervision. PBNI is committed to challenging and changing service users' behaviour and to reducing the number of victims. PBNI values diversity and the reciprocal recognition by each of us as individuals of our common humanity.

## **3. Purpose and Aims**

PBNI will use the knowledge, understanding and skill base of the organisation to assess, challenge and encourage change in attitudes and behaviours rooted in hate and prejudice.

## **4. Policy Scope**

This paper will outline PBNI's approach to offending motivated by hate. Procedures will accompany the Hate Crime Intervention to provide guidance to staff on service delivery in relation to offending motivated by hate and will work in conjunction with guidance in the Practice Standards 2018.

## **5. Policy Outcome (Benefits)**

Staff will be skilled and confident in the assessment of offending motivated by hate and in the delivery of interventions in respect of hate crime.

## **6. Definitions**

There is no current statutory definition of hate crime however the criminal justice agencies across the U.K use the following definition of hate crime which is adopted from the Macpherson report, arising from the murder of Stephen Lawrence;

*'Any incident which constitutes a criminal offence perceived by the victim, or any other person, to be motivated by prejudice or hate towards a person's race, religion, sexual orientation or disability'.*

The Association of Chief Police Officers (ACPO) define a hate incident as 'Any incident which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate.'

(It should be noted that this is not a legal definition or concept.)

The PSNI apply the principles of the ACPO definition to record all types of hate crime, including those relating to:

- Racist incidents
- Homophobic incidents
- Faith/Religious Incidents (non-sectarian)
- Disability Incidents
- Sectarian Incidents<sup>1</sup>
- Transphobic Incidents<sup>1</sup>

### ***Race***

A racist hate crime is any crime which is perceived to be racist by the victim or any other person, i.e., perceived to be based upon prejudice towards or hatred of the race or the victim, or so perceived by the victim, or any other person. A racial group includes a group of persons defined by reference to race, colour, nationality or ethnic or national origin. Whilst including the many national origins now represented in Northern Ireland, the term also includes national origins in common usage in the United Kingdom namely, Irish, English, Scottish and Welsh. References to a person's racial group refer to any racial group into which he or she falls. Racial group includes the Irish Traveller community, and the Roma Traveller community.

In line with the CJINI recommendation\* PBNI will adapt strategies to different settings and audiences, target anti-racism initiatives towards priority areas (eg workplace, sport and the media) and build on locally developed programs' such as the "Accepting Differences" Programme. PBNI recognises the importance of using early intervention in education to combat negative attitudes, reduce racism and promote good relations.

\*(Recommendation 3.14, page 12).

### ***Religion/Faith***

A faith/religious hate crime is defined as any crime which is perceived to be based upon prejudice towards or hatred of the faith of the victim or so perceived by the victim or any other person.

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<sup>1</sup> There is no statutory category of 'sectarian' or 'transphobic' corresponding to the PSNI definition of hate crime. Where applicable offences motivated by sectarianism may be considered to be aggravated on the basis of either race or religion, depending on the circumstances of the case. It may be that some offences, which are considered in broad terms to be sectarian, do not fall within either statutory category of race or religion. In such situations the offence can still be prosecuted, but the legislation relating to the aggravation element will not apply. (PPS Statistical Bulletin: cases involving Hate Crime 2013/4)

A faith or religious group can be defined as a group of persons defined by reference to religious belief or lack of religious belief. This includes Christians, Muslims, Jews, Hindus, Sikhs and different sects within a religion. It also includes people who hold no religious belief at all.

### ***Sectarian***

A sectarian hate crime is a crime which is perceived to be sectarian by the victim or any other person. The term sectarian is almost exclusively used in Northern Ireland to describe incidents of bigotry towards or hatred of members of different religious or political groups. It is broadly accepted that within the Northern Ireland context an individual or group is often perceived to be Catholic or Protestant, regardless of the degree to which they are believers or practise, and that this is often further extended into attributions of nationalist/republican or unionist/ loyalist, regardless of whether and to what extent this is true.

### ***Sexual Orientation***

A homophobic hate crime is defined as any crime which is perceived to be homophobic by the victim or any other person. Homophobia can be defined as prejudice towards, or hatred of lesbian, gay, or bisexual people, or degradation of their lifestyle, culture or characteristics.

In line with CJINI recommendation\* PBNi is committed to the delivery of effective strategies, to tackle the nature and specific impact of gender based violence on women and men and due to a person's gender identity, to tackle cultural and stereotypical attitudes, including through education, aimed at raising awareness of, and tackling, gender based violence and to ensure effective resources and services for those who are subject to gender based violence.

\*(Recommendation 10:17, page 42)

### ***Transphobic***

Transphobic hate crimes are those perceived to be transphobic by the victim or any other person. Transphobia can be defined as prejudice towards or hatred of transsexual persons. A transsexual person is a person who has 'gender dysphoria' or dissatisfaction with his or her own birth gender. Transsexuals may be lesbian, gay, bisexual or heterosexual and may or may not consider an incident perpetrated against them to be homophobic.

### ***Disability***

A disability related hate crime is any crime which is perceived to be based upon prejudice towards or hatred of the victim because of their disability or so perceived by the victim or any other person. Disability is defined by Article 2(5) of the Criminal Justice (No.2) Order 2004 as any physical or mental impairment. This differs from the definition in the Disability Discrimination Act 1995.

## **Section 2 of the Criminal Justice (No. 2) (Northern Ireland) Order (2004)**

empowers judiciary to increase the sentence of people convicted of certain hate-related crimes if the crime committed was “aggravated by hostility” towards one of four statutory groups

In effect this means that if an offence is perceived by the victim to have been motivated by hate or prejudice towards a person’s **race, religion, sexual orientation or disability**, then it is a hate crime.

This requires sufficient evidence to prove beyond reasonable doubt that the offence was aggravated by hostility based on the victim’s membership (or presumed membership) of one of the four groups.

The aggravation can be proved either by a demonstration of hostility based on the victim’s membership of the group, or that the offence was motivated, wholly or partly by hostility toward members of the group.

The aggravation can occur either at the time of the offence or immediately before or after its commission.

Where the Judge accepts that the aggravation is proved beyond reasonable doubt, the Order requires the judge to ‘*state in open court that the offence was so aggravated*’.

*(Whilst the ‘aggravated by hostility’ option pertains to the four statutory groups only; this can still be considered as a general aggravating factor in sentencing in respect of the other two categories recorded by PSNI)*

The Public Order (Northern Ireland) Order 1987 creates a number of substantive hate crime offences with regard to religious belief, colour, race, nationality, ethnic or national origins. These categories were extended by the 2004 Order to include sexual orientation and disability. The Public Order (NI) Order 1987 creates offences and provides for penalties for the use of threatening, abusive or insulting words or behaviour, the display and distribution of written material, and related activities, or likely, having regard to all the circumstances, to stir up hatred or arouse fear (PPS Hate Crime Policy).

Following a strategic recommendation from the CJINI Inspection December 2017 The Department of Justice (DoJ) is conducting a review of the existing legislative response to hate crime to provide clarity (launched 6/06/19). The review will include consideration of the statutory aggravated offences model that already exists in England and Wales (paragraph 2.7). PBNI will actively participate and contribute to this review and amend policy if required.

## **7. Policy Principles**

- a) PBNI supports a vision for Northern Ireland in which all share a sense of a common moral realm based on human dignity and everyone can realise their full potential and live free from fear and prejudice.
- b) PBNI will continue to establish new and build on existing partnerships with relevant organisations to develop awareness of how individuals from minority or vulnerable groups may suffer as victims of hate crime to ensure they are supported and they are aware of the information they are entitled to through the Victim Information Scheme, and to challenge the intolerance which fosters hate crime
- c) PBNI believes that everyone should be treated fairly regardless of race, ethnic origin, age, gender, religious beliefs, sexual orientation, disability, dependence, marital status or political opinion. PBNI will embrace diversity and will provide a safe and supportive environment for staff, and service users from all backgrounds.
- d) PBNI believes that people have the capacity to change for the better; some people need help to do so.
- e) PBNI holds service users responsible for their actions and, where possible, they should make good the harm they have done.
- f) PBNI is committed to the Department of Justice Community Safety Strategy to build safer shared and confident communities and through the PBNI Corporate Plan (2020-23) will actively contribute to the development and implementation of criminal justice strategy and policy in the area of hate crime.
- g) PBNI recognises that we work within a culturally diverse society; seeing diversity as a source of vibrancy rather than a threat and promoting social inclusion and a sense of citizenship are key principles.

## **8. Roles and Responsibilities**

PBNI will work with others to ensure compliance with legislation and within the Best Practice Framework incorporating NI Standards to promote best practice in the assessment of and delivery of interventions to service users convicted of hate crimes.

PBNI will liaise with appropriate organisations to support victims of hate related crime.

PBNI will seek to ensure staff are appropriately skilled and resourced to challenge hate motivated offending

PBNI will provide training for staff involved in the delivery of hate crime interventions

## **9. Risks**

By following a consistent approach, PBNI is seeking to mitigate risks to public safety through ensuring that staff are resourced sufficiently to deal with the identification,

assessment and supervision of service users who have committed hate crimes thereby ensuring:

- a) legislative compliance
- b) consistent decision making and delivery of services
- c) effective, efficient and economical delivery of services (value for money)

## **10. Costs**

Costs associated with the effective application of this policy include:

- a) staff time and resource involved in development and review, including attendance at training, monitoring and evaluation exercises.

## **11. Training and Communication Plan**

- Existing operational staff shall receive a copy of the revised policy and procedures
- All new operational staff and students shall have this training as part of their induction in to the organisation
- On-going training and support shall be available at team level through staff supervision arrangements.

## **12. Procedures and Guidance**

In accordance with Practice Standards 2018 pre-sentence report authors will identify offending behaviours motivated by hate or prejudice in the analysis of offending behaviour using the Assessment Case Management and Evaluation (ACE) tool

Where a referral received via the NI Court Service Information Technology system (ICOS) has indicated the 'aggravated by hostility' element has been accepted in court PBNI will record this clearly on the Probation Information System (PIMS).

The 'aggravated by hostility' or hate crime element will be addressed in the pre-sentence report. (PSR)

The hate crime toolkit will be used in the management of hate crime service users (as outlined in accompanying procedures).

Victims of hate related offending will be offered the services of the Victim Information Unit where appropriate and signposted to relevant services and organisations

## **13. Linkages and Legal Basis**

This paper has been informed by the following:

- a) PBNI Practice Standards November 2018 v1.54
- b) An Equality Commission/ CJINI Inspection into the Criminal Justice Systems response to Hate Crime 2017.

- c) PBNI Risk of Serious Harm Policy and Procedures;
- d) PBNI Policy and Procedures on Domestic Violence;
- e) PBNI Policy on Health and Safety;
- f) Public Protection Arrangements Northern Ireland (PPANI);
- g) Criminal Justice (No 2) (Northern Ireland) Order 2004;
- h) Part 3 of the 1987 Public Order (NI) Order;
- i) The Human Rights Act 1998;
- j) The Northern Ireland Act 1998 (s75);
- k) Draft Programme for Government Framework 2016-21.
- l) PPS for NI Hate Crime policy;
- m) NIHRC report on Racist Hate Crime.

#### **14. Equality, Human Rights and Freedom of Information**

This policy and its supporting procedures:

- a) Has been equality screened as per schedule 9 (4) (2) (b) of the Northern Ireland Act 1998.
- b) Is deemed to be Human Rights compliant.
- c) Is suitable for Public Disclosure in accordance with the Freedom of Information Act 2000.

#### **15. Monitoring and Evaluation**

The operation of this policy will be monitored by Assistant Director Prisons.

PBNI are also committed to the development and provision of performance information to enable progress of development and review to be monitored and evaluated.

#### **16. Review**

This Policy will be reviewed four years from date of approval.

Interim reviews may also be prompted by feedback, challenge or identified best practice.

#### **17. Breach of policy provision**

Breach of the Board's Policy and Procedures by employees may merit consideration under the Board's Disciplinary Policy.

- a) **References An** Equality Commission/ GJINI Inspection into the Criminal Justice Systems response to Hate Crime 2017.  
(<https://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/CJINI-HateCrime-PolicyBriefing.pdf> )
- b) Equality Commission for NI Annual Report 2017-18.

NIHRC. Racist Hate Crime; Human Rights and the Criminal Justice System in NI, 2013.

c) NICEM. Race and Criminal Justice in Northern Ireland: Towards a blue print for the Eradication of Racism from the NI Criminal Justice System, 2013.

d) <https://www.psni.police.uk/inside-psni/Statistics/hate-motivation-statistics/>  
Update Report to UN Committee on the Rights of Persons with Disabilities by the UK Independent Mechanism, published in October 2018.