



# Scottish Commission for Learning Disability Hate Crime Reporting Framework

July 2019

## Foreword

The Scottish Commission for Learning Disability (SCLD)'s Hate Crime Reporting Framework is part of a suite of policies which underpin our commitment to find new and better ways to improve the lives of people with learning disabilities. The Framework operates in tandem with our commitment to respecting, protecting and fulfilling the human rights of everyone with a learning disability and those of their families and carers.

SCLD has a commitment to human rights based on SCLD's values and the internationally recognised human rights values of freedom, respect, equality, dignity and autonomy. Supporting people with learning disabilities to identify and report hate crime means that we can support them to live safe and fulfilled lives.

SCLD aspires to be an organisation which:

- Empowers people to access their fundamental human rights to enable them to change their lives
- Ensures people are safe and protected
- Is outcome focussed.

We believe that people with learning disabilities are at the heart of everything we do. Central to that, is the pro-active development of a safe and effective culture that enables us to deliver outcomes for everyone.

SCLD is committed to the safety and protection of everyone who works with us and regards promoting safeguarding and the welfare of everyone as a paramount consideration and a cornerstone of everything we do.

**It is the duty of all SCLD staff and volunteers to take action and report any incidents, either witnessed or self-reported, in accordance with this Framework.**

# Hate Crime Reporting Framework

## 1 PURPOSE

### 1.1 To ensure:

- That everyone working with SCLD is protected from abuse and exploitation and is empowered to report their experiences of hate crime in their communities
- That in the event of a hate crime or hate incident occurring SCLD staff have the correct information about how to take forward this situation.

## 2 SCOPE

2.1 This framework applies to all SCLD staff and volunteers. This document should be read in conjunction with the associated documents listed in section 7.

## 3 RESPONSIBILITY

3.1 This Framework is designed to support all SCLD staff and volunteers to understand their responsibilities in ensuring that all of the people we work with are supported to challenge and report their experiences of hate crime.

3.2 The responsibility for determining whether a hate crime has taken place lies with the criminal justice system. It is the responsibility of SCLD to ensure that people with learning disabilities know their rights in this regard and are supported to make a report to the police if they need it.

## 4 WHAT IS HATE CRIME?

4.1 Hate crime legislation in Scotland talks about hate crime and hate incidents. In law these are different things and will be dealt with differently.

4.2 What is a Hate Incident?

A hate incident is when something is done or said that is motivated by hatred towards the person because they are considered to have one of the following characteristics:

- Race
- Sexual orientation
- Religion/faith
- Disability
- Transgender/gender identity.

4.3 The term **statutory aggravation** is used to describe the fact that the motivation for the incident is one of these characteristics.

4.4 The person does not need to actually identify as a person with the characteristic they are being targeted for; it is still a hate incident if the action or comment is targeted at them by someone who believes them to be part of that group.

4.5 When is a Hate Incident also a Hate Crime?

A hate crime is an act that is both criminal and rooted in prejudice.

For the incident to be considered a hate crime there needs to be a criminal act that has a **statutory aggravation**.

## 5 WHAT CAN I REPORT?

5.1 Any type of hate incident can be reported. The police and criminal justice system will only be able to take those that qualify as hate crimes further but if there are persistent hate incidents directed to the same person or the same perpetrator is offending frequently then the police can build up a picture of what is happening when it is reported. This could over time constitute a case of harassment.

5.2 Some reported incidents may be more appropriately dealt with under Adult or Child Support and Protection legislation. The police will be able to advise and may make a referral to social work if required (in Scotland most Adult Support and Protection referrals come from the police).

5.3 Some situations may be dealt with by anti-social behaviour powers in which case this would be passed to the local authority or a registered social landlord.

5.4 Incidents at work should be reported to human resources; there may be a discrimination claim under the Equality Act 2010.

5.5 At school the initial protocol would be to report as per the school's bullying procedure.

## 6 HOW TO MAKE A REPORT

6.1 Any identification or suspicion of a hate crime having taken place must be discussed immediately with your line manager or, in their absence, with the Organisational Lead for Child and Adult Protection or Chief Executive.

Consider the following and record any decisions:

- The concern identified and the facts as we know them
- Who is or may be responsible?
- Is there a need to involve emergency services?
- What immediate protective action may be required and by whom?

- Are there parents, guardians or carers who may need to be informed, particularly in order to best support the person?
- What additional information do we need to help ascertain the facts or assess the level of risk and is this in accordance with the necessary investigative procedures?

6.2 It is important to keep a written record of the facts as they are known or reported. Keep a record of any relevant conversations or observation and ensure these are dated. You may need to pass this information on to investigating police. Ensure these are stored securely in line with SCLD policy.

6.3 Police Scotland have a hate crime reporting form on their website: <https://www.scotland.police.uk/secureforms/hate-crime/> or you can call 101 or 999 only if there is an active crime taking place.

6.4 **Please Note:** It will be up to the police and courts to determine if there is enough evidence to make a prosecution. It is the role of SCLD staff to support the reporting of any concerns that might be a hate crime to the police.

## 7 ASSOCIATED DOCUMENTS

- SCLD Values
- SCLD Safeguarding Policy
- SCLD Child and Adult Protection Framework
- SCLD Whistleblowing Policy
- SCLD Health and Safety Policy

## 8 COMMITMENT TO EQUALITY AND DIVERSITY

SCLD is committed to embracing diversity and promoting equality of opportunity. Everyone who accesses our organisation or works for us in a paid or voluntary capacity should be safe, empowered to play a part in promoting their own welfare and that of others, able to take risks and able to live a life free from abuse. This applies to all, regardless of age, gender, ethnicity, disability, sexuality or belief.