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Summary

- This Code of Practice applies to all statutory, voluntary and community groups involved in the multi-agency reporting and recording of racist incidents.
- The aim of the Code is to provide guidelines for local agencies to establish effective procedures for the reporting and recording of racist incidents.
- The definition of a racist incident that should be used by all agencies is that recommended by the Stephen Lawrence Inquiry Report:
A racist incident is any incident which is perceived to be racist by the victim or any other person.
- Agencies should be committed to recording both crimes and non-crimes as racist incidents.
- The agency that has the first contact with the victim or witness reporting a racist incident should respond in a sensitive way that shows an understanding of how victims of such incidents may feel.
- All agencies involved in dealing with racist incidents should ensure that the people in those agencies receive good quality training specific to their continuing training and development needs.
- Information about the incident should be taken down clearly and accurately on the racist incident form.
- If the victim agrees to the case being referred to the police or another agency, this must be done as soon as possible.
- A locally agreed protocol should ensure that someone is responsible for keeping the victim informed of progress, whether that is the police, the agency that took the initial report, or another agency.

1. INTRODUCTION

1.1 The aim of this Code is to establish effective procedures for the reporting and recording of racist incidents.

1.2 It has been drawn up in response to recommendation 15 in the Report of the Stephen Lawrence Inquiry. The Report identified serious faults in the way a specific racist murder was dealt with, but also showed that practice throughout the country on dealing with racist incidents varies considerably.

1.3 This Code is being published on behalf of the Racist Incidents Standing Committee (RISC)¹ whose aim is to encourage all relevant agencies to address the problem of racist incidents, both individually and in collaboration.

1.4 There is clearly a need for a co-ordinated response to racist incidents by the police and other agencies at the local level. Agencies need to work together in preventing racist incidents as well as in dealing with incidents that have already occurred. From 1 April 2000, police forces and local authorities will be required, under the new duty of Best Value, to provide information on their performance against specific 'performance indicators' on racist incidents. These include (for the police) the percentage of racist incidents where further investigative action is taken, and (for authorities) the number of racist incidents recorded by the authority per 100,000 population.

Aim of this Code

1.5 The Code of Practice is applicable to all statutory, voluntary and community groups involved in the multi-agency reporting and recording of racist incidents.

1.6 There are many "players" who may have a role in dealing with racist incidents and standard procedures are needed if effective inter-agency

action is to be taken. The agencies involved will vary from area to area, but there are certain core agencies. They include the police and local authorities, in particular Housing and Education Departments, social services, Victim Support, and may include race equality councils, multi-agency panels, religious organisations, Citizen's Advice Bureaux, tenants' associations and other community groups. Though the involvement of some agencies is perceived to be indispensable, this is not intended to exclude any other agency or organisation. **All those who participate in local arrangements developed to facilitate reporting racist incidents should sign up to this Code.**

1.7 The aim of the Code is to provide guidelines for local agencies to establish effective procedures for the reporting and recording of racist incidents. Local needs demand local solutions and it is hoped that this Code will assist agencies in coming up with solutions that most effectively assist in the reduction of racist crime and disorder. Different service providers will have different information needs and a differing range of options open to them, such as offering support to victims, legal advice or action against the perpetrators. An example of this is local housing authorities, which may be called upon to take action through the civil courts against tenants who racially harass their neighbours.

1.8 The Code should help to ensure that action is taken to help the victims of racism and to deal with perpetrators appropriately.

1.9 The Code focuses on procedures for reporting and recording racist incidents in a multi-agency context, not the investigation of incidents or crimes which is primarily the responsibility of the police. Guidance for the police on the investigation of racist incidents is given in the ACPO Action Guide to Identifying and Combating Hate Crime (*Breaking the Power of Fear and Hate*).

¹ RISC brings together those policy units of the Home Office which have an interest in racist incidents with other departments and agencies with similar interests:- the Association of Chief Police Officers, the Metropolitan Police Service, Her Majesty's Inspectorate of Constabulary, the Association of Chief Officers of Probation, the Crown Prosecution Service, the Department for Education and Employment, the Department of Environment, Transport and the Regions, the Lord Chancellor's Department, the Commission for Racial Equality, the National Association for the Care and Resettlement of Offenders, Victim Support, the Association of Police Authorities and the Local Government Association.

2. DEFINITION OF A RACIST INCIDENT

2.1 Recommendation 12 of the report of the Stephen Lawrence Inquiry was that the definition of a racist incident should be:

“any incident which is perceived to be racist by the victim or any other person.”

2.2 This definition has already been adopted by the police and several other agencies and it is commended to all. It is a simpler and clearer version of the ACPO definition that was previously used by most agencies. It is vital that in establishing a comprehensive system for the reporting and recording of racist incidents, the different agencies involved are working to the same definition.

2.3 In his Action Plan on the Report, the Home Secretary said that the Home Office would “ensure that the Inquiry’s simplified definition of a racist incident is universally adopted by the police, local government and other relevant agencies”.

2.4 **The definition of a racist incident that should be used by all agencies is that recommended by the Report of the Stephen Lawrence Inquiry.** The purpose of this definition is not to prejudge the question of whether a perpetrator’s motive was racist or not: that may have to be proved if, for instance, the perpetrator is to be charged with a racially aggravated offence. The purpose of the definition is rather to ensure that investigations take full account of the possibility of a racist dimension to the incident and that statistics of such incidents are collected on a uniform basis.

3. GUIDELINES ON THE USE OF THIS DEFINITION OF A RACIST INCIDENT

3.1 Recommendation 13 of the Stephen Lawrence Report was:

“That 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.”²

3.2 Agencies should be committed to recording both crimes and non-crimes as racist incidents.

3.3 Racist incidents are not recorded only to provide statistics at a national level, nor even to provide statistics at a local level, although these are obviously useful outcomes of recording. But recording incidents also allows the victim to be offered support and enables intelligence to be gathered, which will help appropriate preventative measures to be put in place and information to be collected that may help in dealing with the perpetrator/s, and focus resources on areas of need.

3.4 Recording racist incidents under the new definition should capture all incidents with a racist element, including low-level harassment and those incidents that are not identifiable offences. The rationale for this is that recording all such incidents allows the police and other agencies to identify tension indicators early on which can be used to prevent further incidents or crimes or can provide useful information if the incidents later escalate to the level of crimes. The aim is to identify underlying trends and build up a picture of racism in the local area. Historically there has been much under-reporting and under-recording

of racist incidents. Many incidents are still not reported to the police, though some may be reported to other agencies. Even if crimes are reported, the racist element may not be mentioned.³

Examples on recording racist incidents

3.5 The examples below refer to cases where the incident or crime occurs in a public place, and investigation is the responsibility of the police. In a case where the incident occurs in a place which is under the control of an employer or service provider, the employer or service provider is obliged to take action in order to comply with the Race Relations Act 1976 (currently being amended to apply to all public services). Thus, for example, if a black woman feels herself to be the subject of racial discrimination at work, this should be dealt with in the first instance by her employer under equal opportunities policy, although she may of course report any incidents to another agency if she feels more comfortable doing so.

Examples of incidents which provide useful information for the future

3.6 An Asian man calls the police because white youths are hanging around outside his house. He perceives their presence as racist and the police therefore fill in a racist incident form. Some time later his windows are smashed. The earlier information about racist incidents may provide useful intelligence to the police in solving the crime.

²The Inquiry felt that the use of the words “racial” or “racially motivated” were “inaccurate and confusing”. They said that incidents involving racism should be referred to as “racist”.

³Findings from the 1996 British Crime Survey on ethnic minorities’ experience of crime, including that perceived to be motivated by racism, showed a considerable gap between crime incidents perceived to be “racially motivated” by victims and the number of incidents recorded by the police. The BCS estimates that in 1995 382,000 offences were considered by the victim to be motivated by racism. Of these, 143,000 were committed against ethnic minorities. Only 12,222 racial incidents were recorded by the police for 1995/96. In his work, “Ethnicity and Victimization: Findings from the 1996 British Crime Survey”, Andrew Percy offered a number of reasons why police figures do not match the BCS - not all incidents are reported to the police; when reporting to the police, victims may fail to mention evidence or perceptions of racism; even when racist allegations are made, some incidents may not be recorded by the police, or not recorded as racist incidents; there are technical differences between the two measures which reduce comparability, although Percy suggests that these are not likely to make much difference.

3.7 A teacher overhears a white child calling an Asian child a “Paki”. The teacher records this as a racist incident, even though the abused child does not complain to him, and speaks to the child responsible for the abuse. If a more serious incident occurs later on, the teacher has a written record of a previous incident that would allow the subsequent incident not to be dealt with in isolation.

Example of the wider implications of applying the definition of a racist incident (‘perceived to be racist by the victim or any other person’)

3.8 The car tyres of a Chinese woman have been slashed. She does not think the incident is racist, but her white neighbour does and reports the matter to the local Race Equality Council. They should record the incident as racist based on the perception of the neighbour, even if the victim disagrees.

Example of an ‘Asian on Asian’ racist incident

3.9 There is a dispute outside a shop between two groups of youths. One of the young men, of Pakistani origin, is punched in the face by a young man of Indian origin. The victim reports this to the police and tells them that he believes it is a racist incident. The police should record this as a racist incident, since the young man believes that he was attacked because of his ethnic origin.

Example of a ‘White on White’ racist incident

3.10 Two white males from a community of asylum-seekers visit a local pub shortly after moving into the area. The white barman refuses to serve them, saying that all asylum-seekers are troublemakers. The two men report this incident to a local support group, who should record it as a racist incident, since it is based on stereotyping of the two men according to their ethnic group.

4. INTER-AGENCY WORK ON REPORTING AND RECORDING RACIST INCIDENTS

Multi-agency working

4.1 Multi-agency panels operate throughout the country as a way in which agencies can work together to tackle racism. Some areas take the idea of a multi-agency panel a stage further and operate a “Common Monitoring System”. These include Nottinghamshire and Bristol. These groups bring together all reports of racist incidents received by any agency or organisation in their area to produce reliable information on the level of attacks and harassment. If effective, they can provide a wealth of information about racist incidents within an area that can be useful for prevention as well as investigation. **Such reports should normally omit information that could identify individuals. The aim is not to monitor the work of agencies, but the level of incidents.**⁴

4.2 All areas should use multi-agency panels or a common monitoring system as an organised way in which agencies can work together to tackle racist incidents. Any area planning to operate a common monitoring system or a multi-agency panel should consider carefully the advice on information sharing in chapter 7.

Reporting Centres

4.3 Recommendation 16 of the Stephen Lawrence Inquiry Report said:

“That all possible steps should be taken by Police Services at local level in consultation with local Government and other agencies and local communities to encourage the reporting of racist incidents and crimes. This should include:

- the ability to report at locations other than police stations; and
- the ability to report 24 hours a day.”

4.4 Many areas already have arrangements in place for reporting at locations other than police stations. Other reporting sites commonly include: - housing offices, Race Equality Councils, Victim Support, and Citizens’ Advice Bureaux. Some areas also have arrangements for reporting in mosques, churches, shops, libraries, schools, community centres, leisure centres, social services, hospitals and doctors’ surgeries⁵ and other community organisations. Some people feel unhappy about having to approach the police in order to report racist incidents and would prefer to report to another agency.

4.5 All areas should consider further what agencies and organisations could be used as reporting centres for racist incidents and take steps to which allow reporting at locations other than police stations. The aim is to gather as much information as possible about racism in an area in order to prevent and tackle it - therefore the greater the flexibility and options for reporting racist incidents, the more likely that an accurate picture of the situation will be given.

Twenty-four hour reporting

4.6 The second part of recommendation 16 is that people should be able to report racist incidents 24 hours a day. Racist incidents take place throughout the day and night and it is important that people do not have to wait all night in fear so that they can report to an agency other than the police the next day. The police clearly allow reporting 24 hours a day, and in some areas, other reporting centres, such as hospitals and the council, also take reports of racist incidents, but there is more scope for 24 hour reporting.

4.7 Each area needs to consider what local agencies and services, apart from the police, are available to take reports 24 hours a day, and take steps to extend 24 hour coverage where necessary.

⁴ In Nottinghamshire there are two parts to the way the system operates. Reporting centres are at the front-line of the response to racist incidents and these include housing offices, police stations, schools, community centres and churches. The second part is the Inter-Agency Steering Group which encourages agencies locally to develop specific policies and procedures to respond to racist incidents.

⁵ Areas such as Bristol. South Wales is doing a lot of work in this and is currently piloting reporting in hospitals and shops.

Training

4.8 It is important that the agency that receives reports of racist incidents is well equipped to deal with them. The minimum data content form outlined in chapter 6 should be used to ensure consistency between reporting centres. No one should be given the task of recording racist incidents without first receiving adequate training.

4.9 The Stephen Lawrence Inquiry Report made recommendations about training in racism awareness and valuing cultural diversity within the police service, local government and other agencies including other sections of the criminal justice system.⁶ This training should involve local minority ethnic communities. Detailed recommendations about this training are outside the remit of this Code, but it is clearly an important area that agencies need to explore. Good training that improves understanding about racism, minority ethnic groups, and the role of each agency in dealing with racist incidents will improve the service that victims receive and the efficiency with which racist incidents are dealt with⁷. It is particularly important that those agencies actually taking the reports are trained to deal sensitively with the victim⁸.

4.10 All agencies involved in dealing with racist incidents should ensure that their staff receive good quality training specific to their continuing training and development needs.

Schools

4.11 Guidance issued to schools⁹ makes clear that all schools' behaviour policies should cover racial and sexual harassment and make clear how staff and pupils should deal with it. Schools should themselves handle low level, daily occurrences and their management of this aspect of school discipline should be subject to inspection. **Each school should record all racist incidents, including the date, the names of perpetrators and victims, the nature of the incident, and action taken in response. Parents and governors should be informed of the number and nature of such incidents and the action taken to deal with**

them. Governing Bodies should inform LEAs annually of the pattern and frequency of any incidents.

4.12 The guidance also says that close co-operation with the local police can be a constructive way to reduce anti-social behaviour and prevent offending. **Schools should always advise the police of any criminal activity; this includes racist incidents that are categorised as crimes.** Schools should pass on information about serious and/or persistent incidents or perpetrators to the police as this may provide useful intelligence.

4.13 Although minor incidents may not result in court proceedings, it is still important to log these incidents. Repeat incidents often mean that earlier reports assume greater importance, may assist in the identification of perpetrators, and may in the case of prosecution become evidence, or be disclosable as unused material. **All organisations which are involved in recording racist incidents should bear this in mind.**

4.14 The guidance commends a multi-agency approach that supports schools, particularly those with pupils who demonstrate behavioural difficulties. This support should include helping schools to address particular problems with racist behaviour.

Further information

4.15 Further information, including contact details and good practice case studies, will be available from around September 2000 on www.RaceActionNet.co.uk. This is an updated version of the 1996 'National Directory of Action Against Racial Harassment' and contains much new information in addition to that contained in the paper version. Further details are available from Carwyn Gravell at Lemos&Crane, 20 Pond Square, Highgate, London N6 6BA. He can be telephoned on 020 8348 8263 or e-mailed on carwyng@lemos.demon.co.uk.

⁶ Recommendations 48-54

⁷ SARI in Bristol does training for all agencies as part of a package of help.

⁸ See Chapter 5 on victims.

⁹ This guidance, "School Inclusion: Pupil Support", was issued jointly by the Department for Education and Employment, the Social Exclusion Unit, Department of Health and Home Office in July 1999

5. TREATMENT OF VICTIMS AND WITNESSES

5.1 The Report of the Stephen Lawrence Inquiry made a number of recommendations about the treatment of victims and witnesses. Those that are particularly relevant to this Code of Practice are:

29. That Police Services should together with the Home Office develop guidelines as to the handling of victims and witnesses, particularly in the field of racist incidents and crimes. The Victim's Charter to be reviewed in this context.

30. That Police Services and Victim Support Services ensure that their systems provide for the pro-active use of local contacts within minority ethnic communities to assist with victim support and with the handling and interviewing of sensitive witnesses.

31. That Police Services ensure the provision of training and the availability of victim/witness liaison officers, and ensure their use in appropriate areas particularly in the field of racist incidents and crimes, where the need for a sensitive approach to young and vulnerable victims and witnesses is paramount.

44. That Police Services and the Courts seek to prevent the intimidation of victims and witnesses by imposing appropriate bail conditions.

Background

5.2 The concerns in the Stephen Lawrence Inquiry Report that the needs of victims and witnesses should be looked at more closely stem particularly from the way in which Duwayne Brooks, Stephen Lawrence's friend who was with him when he was murdered, was treated by the police. The Report emphasises that Mr Brooks was not treated as a victim of a racist attack, as he

should have been, but that "Mr Brooks was simply treated as a potential witness, and inadequately treated at that" [5.13]. The Report goes on to say that Mr Brooks was not looked after in accordance with the Victim's Charter and that no positive steps were taken to ensure victim support and proper care. It puts much of this down to racist stereotyping by the police.

5.3 All agencies dealing with victims and witnesses of racist incidents should do so with sensitivity and understanding. The needs of victims and witnesses should be central to any police investigation, and improvements need to be made to the treatment of victims and witnesses throughout the criminal justice system.

5.4 Victim Support, ACPO, the CPS and the Home Office are taking forward the work programme in respect of victims and witnesses in the Home Secretary's Action Plan on the Stephen Lawrence Inquiry report. Recommendations on dealing with vulnerable or intimidated witnesses were made in "Speaking up for Justice"¹⁰. The report recognised that the most effective way to reduce intimidation is by strengthening the working relations between the people involved at local level, and recommended the development of a national framework for inter-agency protocols for dealing with witness intimidation and vulnerable witnesses. In total there are 78 recommendations. Those which required legislation were implemented in the Youth Justice and Criminal Evidence Act 1999. The action plan for the implementation of the recommendations as a whole, called *Action for Justice*, was published in November 1999.

The Victim's Charter

5.5 The Victim's Charter sets out 27 standards of service which victims of crime should expect to receive from the criminal justice agencies.

¹⁰ Report of the interdepartmental working group on the treatment of vulnerable or intimidated witnesses in the criminal justice system, published by the Home Office in June 1998.

It includes information on what other information is available to victims and a list of addresses that may be useful. The Charter is not specifically aimed at victims of racist crime, but the procedures and standards it sets out should apply to them as to other victims.

details on how to make a complaint about the police, any other criminal justice agency or Victim Support, if the victim is unhappy about the way they have been treated, the information they have received or the decisions which have been made.

5.6 The Charter also outlines what will happen once the police start to investigate and what will happen if the case goes to court. It provides

Information that can be given to victims and witnesses

5.7 The following information leaflets for victims and witnesses are produced centrally by the Home Office and are handed out by the police:

Leaflet / Information	Target Audience
Victims of Crime	All victims of crime
Witness in Court	All prosecution witnesses called to give evidence (also available to defence witnesses)
Information Pack for the Families of Homicide Victims	Family and close friends of homicide victims
Release of Prisoners: Information for the victims of serious sexual or other violent offences	Victims of serious offences (the leaflet explains what role they can play after conviction and sentence)
Victim's Charter	Any victim who requests a copy

Most of these leaflets are available in a range of minority ethnic languages, and "Victims of Crime" is available as a Braille and audio tape product. Other information leaflets are sometimes prepared locally.

5.8 It will be useful to produce an information leaflet for victims of racist incidents detailing what help is available locally and providing contact details that the victim can use. That leaflet should be available from all agencies which might be contacted by victims.

The national framework for inter-agency protocols for dealing with witness intimidation and vulnerable witnesses which is being developed (see paragraph 5.4) will help agencies better to work together on such cases.

First Contact

5.9 A multi-agency approach is a good way through which to provide help to victims of racist incidents - victims can report to the agency that they feel most comfortable contacting and can receive support from that or another agency, whichever is best placed to help and with whichever they are most happy to be in touch.

5.10 The agency that has the first contact with the victim or witness reporting a racist incident should respond in a sensitive way that shows an understanding of how victims of racist crime may feel. Training should be provided for those people who will make that first contact with victims. Racist incidents often involve a level of personal attack and/or a degree of persistence that makes them particularly pernicious. The random nature of many racist attacks can be especially threatening to victims.

5.11 Victims may well be fearful of the consequences of reporting a racist incident and it is important that the options available are explained clearly. This includes the option whether or not to allow information on the incident to be passed to the police or other agencies. (See Chapter 7 on Disclosure of Information.)

5.12 **If the victim wants the case to be referred to the police or another agency, this must be done as soon as practicable.** Agencies receiving reports from victims must take action as soon as practicable to enable the case to be taken forward effectively.

5.13 **Information about the incident should be taken down clearly and accurately on the local racist incident form.** (See Chapter 6 on the minimum data content for racist incident forms.)

5.14 Information should be gathered on a wider range of indicators than just the incident currently being reported to establish whether there is a broader picture of repeat victimisation.

5.15 Those victims reporting a crime to the police should be asked if they wish to be kept informed of developments in their case. This requirement is part of the current Victim's Charter. The police have their own guidance in the ACPO Action Guide to Identifying and Combating Hate Crime (*Breaking the Power of Fear and Hate*) on how to deal with victims with relation to their investigation of the racist crime/incident.

5.16 **A locally agreed protocol should ensure that someone is responsible for keeping the victim informed of progress, whether that is the police, the agency that took the initial report, or another agency.** This applies to all victims, including victims of racist incidents which are not classified as crimes. A record should be kept of all contact with the victim. A level of support should be offered which takes into consideration the victim's needs. The victim should be given the name of someone who will act as a contact for him or her, and to whom any further problems can be reported.

5.17 For those victims who wish to be kept informed, they should be told:

- **When someone is caught, cautioned or charged.**

- **When changes are dropped or substantially altered.**
- **The date of the trial (including first hearings, plea and directions hearings etc.)**
- **The final result.**

5.18 In response to the Glidewell Review of the CPS and recommendation 35 of the Stephen Lawrence Inquiry Report, the CPS has taken on the responsibility of explaining to victims the reasons for dropping or downgrading charges. They have set up pilot projects in several areas to establish effective ways of doing so and to identify the resources required to introduce a nationwide system. The aim is to have such a system in place by April 2001.

Victim Support¹¹

5.19 Victim Support is a free, confidential service; information is not passed back to the police, or to any other agency, without the consent of the individual concerned. Victim Support has a national telephone helpline which is especially aimed at the most isolated and vulnerable victims of crime, including those who have not reported the offence to the police.

5.20 Following the Lawrence Inquiry, Victim Support is taking the following initiatives:

- a new leaflet for victims of racist crimes
- a revision of the service model for victims of racist crimes; this will become a specialist service
- a volunteer recruitment drive aimed at increasing representativeness
- revision of basic volunteer training, with particular attention to diversity issues.

Involvement of Victim Support and other agencies

5.21 The current policy on police disclosure to Victim Support Schemes (VSS) is that when an individual reports a racist crime to a police officer, they should be provided with the leaflet 'Victims of Crime'. The leaflet outlines the services offered by Victim Support and explains that the victim's details will be passed on to them by the police. The leaflet also explains that the victim may, if they wish, tell the police if they do not wish their

¹¹ Victim Support is an independent registered charity which receives financial support from the Government. It offers both practical help and emotional support to victims of crime and, through its witness service in the Crown Court, to witnesses called to give evidence at trial. A witness service is also being implemented in magistrates' courts.

details to be passed on. Otherwise, the police automatically tell Victim Support about racist crimes which are reported to them (as they do in cases of burglary, theft, criminal damage, arson, and assault other than domestic violence). Victims referred to Victim Support will receive an offer of help which the victim may accept or refuse. Police officers should follow local force procedures in making referrals.

Satisfaction Surveys

5.22 The national office of Victim Support encourages local schemes to carry out Victim Satisfaction Surveys. About one sixth of Victim Support Schemes have so far carried out such a survey. Most of those Schemes felt the exercise was useful and a small percentage resulted in changes in service delivery and/or methods of contact. One of the findings emerging from research Victim Support has done into the use of the Survey at a local level was that publicity should be aimed more at minority victims since they were found to be less likely to have heard of Victim Support.

5.23 In some areas the police send out questionnaires to assess how satisfied the victim has been with the police response to him/her. Work is being carried out on developing this area in response to recommendation 2 of the Stephen Lawrence Inquiry Report.

5.24 The Home Office is developing victim and witness satisfaction surveys to be conducted at a national level in the current year. These surveys will assess the satisfaction of victims and witnesses with the various criminal justice agencies and with the various stages in the criminal justice process. Follow up work will specify improvements to be introduced where necessary and set a benchmark satisfaction level against which future results can be measured. A key aim of the surveys will be to establish the views of ethnic minority users of the criminal justice agencies.

6. MINIMUM DATA CONTENT

6.1 ACPO have now adopted a minimum data content for recording of racist incidents. The Stephen Lawrence Inquiry Report made clear the importance of establishing a comprehensive system of reporting and recording racist incidents. Accurate and timely information on racist incidents must be collected that provides as much information as possible to deal with the incident, assist the victim and share information with other appropriate agencies.

6.2 The form is intended, as its name makes clear, to capture the minimum information needed to deal with racist incidents. If local agencies, in consultation with the police, think that more information should be collected about an incident, perhaps because of particular local problems, then additional questions could be included on a locally-agreed form.

6.3 Guidelines on recording and using information contained in the form are to be found in chapter 7. These guidelines could be referred to on the form, as well as being explained in separate notes that go with the form and in training for anyone responsible for filling in forms. Broadly speaking, personal information

about the victim (i.e. information which could identify the victim) should never be recorded or processed without the victim's consent (but see paragraph 7.8).

6.4 **Relevant agencies should adopt the same minimum data content for recording racist incidents that has been adopted by the Police Service.** Consideration of necessary guidelines for those using the form and also of what additional data might be collected should be done at the local level.

6.5 The minimum data content outlined is designed in such a way that the agency taking the report can fill most parts in, although there are certain sections that only the police can fill in and this is clarified on the form. When designing a form using the minimum data content, there is scope for local areas to make clear who can fill in which sections and to provide guidelines to reporting centres on how to fill in the forms.¹²

6.6 A copy of the national minimum data content for recording racist incidents follows.

MINIMUM DATA CONTENT REQUIRED IN RESPECT OF RACIST INCIDENTS

Unique Reference Number: (For police use only)

Reported to: (i.e. The person receiving the report such as Police Officer, counter clerk, REC member etc. but not the victim)

At (location reported at): (i.e. Police Station, home address, community centre etc)

Referred by: (i.e. the agency or other person referring the victim to the police if the incident is being referred)

Time, date of report:

¹² Greater Manchester Police use a system which enables different agencies to fill in racist incidents forms and then forward the details to the police. A police officer always visits a new reporting centre to explain how the form should be filled in before they start taking reports.

VICTIM DETAILS

Full name (including any other name used):

Age/date of birth:

Address (include postcode and telephone number):

Type of occupancy - owner occupier / council tenant / private tenant / housing association tenant:

Gender:

Religion: (These will be the 35 classes of religion used in the NSPIS crime application)

Ethnicity - Black / White / Asian / Other / Unknown:

Note: 'Religion' and 'Ethnicity' details are sensitive personal data, and should only be recorded with the explicit consent of the victim.

Occupation:

School (if applicable):

Language spoken:

Victim number 1 of: (...) (Separate sheet / page for each victim)

Repeat victim: Y/N

Was previous incident reported: Y/N

PERSON REPORTING (If different from victim details)

(This would cover cases of third party reporting)

Ditto information as above.

Relationship with victim.

TYPE OF INCIDENT

Note: Details of the incident should be recorded under the following headings only by a police officer. If report being taken by person other than police officer, please provide a general description of the incident in this part of the form.

Crime (specify): (This should be a description of the type of crime including Act & section etc.)

Non crime (specify): (This should include details of behaviour which, while not specifically a recordable offence, would still constitute a racist incident.)

Incident log number: (For police only.)

Crime number (with RI flag): (For police only.)

Investigating Officer: (For police only.)

LOCATION

Type of location e.g.: (These are intended to be examples and not an exhaustive list.)

In or near the home
Place of worship
Place of education
Street
Leisure facility
Work place
Licensed premises
Public Transport
Internet
Other (specify)

GEOGRAPHIC POSITION / EXACT LOCATION

e.g.: House number, street name, postcode, map reference (For police, this will depend on the force system in use.)

BRIEF DESCRIPTION OF INCIDENT

Is the incident part of a series: Y/N

Is an extreme organisation believed to be involved: Y/N (specify)

Who Identified the Incident as Racist?

Victim
Police
Other (specify)

INITIAL ACTION FOR VICTIM

(This is not intended as an exhaustive list)

VSS referral made.

Crime prevention advice.

Consent for referral to other agency: Y/N

Referred to other agency (specify).

Specialist officer.

Revisit.

Other action (specify).

Update - time, date, manner.

Interpreter required (Y/N).

SUSPECT(S) / OFFENDER(S) DETAILS

Full name (include née name/alias):

Age/date of birth:

Address (include postcode, telephone number of type of occupancy):

Type of occupancy - owner occupier / council tenant / private tenant / housing association tenant:

Gender:

Religion: (These will be the 35 classes of religion used in the NSPIS crime application.)

Ethnicity - Black / White / Asian / Other / Unknown:

Occupation:

School (if applicable):

Language spoken:

Relationship to victim:

Offender number 1 of: (Information should be repeated for each offender)

Has Suspect / Offender been Subject of Racist Complaint in Previous Twelve Months?

Y/N (specify)

ACTION RELATING TO SUSPECT/OFFENDER

Process: Y/N

If no - reason:

- Wishes of victim
- Sufficiency of evidence
- Public interest consideration

- Other reason (specify). (This is intended to cover disposal of offences under the Home Office counting rules for recorded crime i.e. TIC, offender dead etc).

- CPS no action

If yes:

- Prosecution

- Caution

- Other order. (i.e. orders under Crime and Disorder Act, Protection from Harassment Act etc)

- Advice No Further Action

OUTCOME

PTI File Number

Victim informed of outcome - time, date:

7. **DISCLOSURE OF INFORMATION ON RACIST INCIDENTS**

Introduction

7.1 The public rightly expects that personal information known to public bodies will be properly protected. However, the public also expects the proper sharing of information, as this can be an important weapon against crime. Agencies should, therefore, seek to share information with the consent of the individuals concerned where necessary where this would be in the public interest. Failure to share information could hide the full extent of racist behaviour and be to the detriment of the community as a whole.

7.2 There are no restrictions on the sharing of information that does not identify individuals. However, there are legal restraints on the sharing of personal information. 'Personal information' is information which identifies a living person, or could identify a living person in conjunction with other information available to the recipient. Thus it can include information such as dates of birth, addresses and postcodes even if the individuals concerned are not named.

Basic guidance on disclosure of personal information

7.3 Whenever a racist incident is reported (whether or not the incident amounts to a crime), the person reporting should be asked to consent to the disclosure of this information to other agencies, for the sole purpose of prevention or detection of that or other racist incidents or crimes. If the person reporting is also the victim, they should also be asked whether they wish Victim Support to be informed. Due regard should be taken of language or other communication difficulties of the person providing the consent, and translation facilities should be made available if necessary.

7.4 The other agencies in question are the agencies named in Section 115 of the Crime and Disorder Act 1998 i.e. a chief constable, a police authority, a local authority, a probation

committee, a health authority, or a person acting on their behalf.

7.5 While victims should not be pressurised into consenting to disclosure against their will, the advantages should be made clear to them. Sharing information about racist incidents allows these problems to be addressed, and is to the advantage of both the victims and other (potential) victims of racist incidents.

7.6 The person reporting can choose to have this information disclosed to only some of the named agencies. For example, they may consent to disclosure of information to the local authority and health authority, but not to the police.

7.7 In this case, it is important that this restriction is clearly communicated to the authority receiving the information. In the above example the health authority or local authority is not entitled to pass the information on to the police. If it was felt that reports would be automatically forwarded to police despite the wishes of the reporting person, this might prevent victims from reporting incidents even to third parties and remote reporting sites.

7.8 Where an agency receives a report of a racist incident which is particularly serious, it may conclude that it would be irresponsible not to share the data with other agencies, including the police, even though the informer does not consent. It will wish in reaching its decision to take account not only of the seriousness of the incident but also of the danger of recurrence, any danger to the informant, and the interests of the victim if different from the informant. Where the agency decides it must disclose despite the informant's wishes, it should not disclose the informant's name, and should tell the informant of its action.

Data Protection Implications

7.9 The recognition that non-statutory agencies may be best placed in some circumstances to

receive and disseminate information about racist incidents, much of it sensitive, means that they as well as the statutory agencies will need to consider the data protection implications carefully. If the information relates to any identified living individual, it will be subject to the Data Protection Act if it is held on computer, or in a structured non-computerised system such as a card index.

7.10 The holder of information which is subject to the Act must:

- notify the Data Protection Commission
- observe the data protection principles (which are set out at Annex A)

7.11 As can be seen from Annex A, the data protection principles do not only affect the way in which information may be shared with others. Particularly relevant to the recording and reporting of racist incidents are their requirements that information held shall be adequate, relevant, and not excessive in relation to the purpose or purposes for which it is processed; shall be accurate and, where necessary, kept up-to-date; and shall not be kept for longer than is necessary for the purpose for which it is processed. These principles are enforced by the Data Protection Commissioner. A companion booklet to this Code of Practice is being made available by the Home Office. This provides data protection guidance for all agencies, including those not traditionally associated with processing sensitive information.

7.12 In particular, all agencies receiving information about racist incidents and crimes should ensure that their Data Protection notification (if required) provides for the disclosure of information to other agencies. It is true that Section 29 of the Data Protection Act allows certain exemptions from the Act's restrictions on disclosure where the application of those restrictions would be likely to prejudice the prevention and detection of crime, but it will not be possible to rely on this provision routinely, and indeed the provision will not apply at all where the information disclosed relates to a racist incident which is not a crime.

7.13 Every effort should be made to obtain the direct consent of the victim before recording or processing any personal information about him or her. If this consent is not forthcoming, then any

details which could identify the victim (e.g. name, address, postcode) should not be recorded. The need for direct consent means that if a third party is reporting on behalf of the victim, the third party needs to be able to provide written authorisation of the victim's permission for personal details to be recorded. If this is not forthcoming, an anonymised record should be made, unless it is decided that the incident is serious enough to merit disclosure to the police without consent (see 7.8).

7.14 Sensitive personal data about victims should not be processed without the explicit consent of the victim. This should be made clear on the form. Sensitive information relating to perpetrators can be recorded and processed without the consent of the perpetrator. Further guidance on this and other aspects of Data Protection requirements should be sought in the Guidance issued as a companion to this Code of Practice.

7.15 Among the other duties incumbent on the holders of personal data is the obligation to provide "subject access", that is to allow people about whom data are held to see the data. Again, there is an exemption from this obligation where granting subject access would be likely to prejudice the prevention or detection of crime.

7.16 Agencies which receive initial reports of racist incidents and then pass them on to the police in accordance with this guidance must consider whether any purpose is served by their continuing to hold the information. Best practice is that personal information should be deleted once it has been passed to the police, in accordance with the fifth data protection principle. In addition to this, information processed by any agencies must be used only for the purpose of furthering the objectives of this Code of Practice, in accordance with the second data protection principle.

Further information

7.17 For further information on information exchange under the Crime and Disorder Act, see Chapter 5 of the Guidance on Statutory Crime and Disorder Partnerships. This is available on the Home Office website at

<http://www.homeoffice.gov.uk/cdact/actgch5.htm>

7.18 The Data Protection Commissioner has prepared a checklist of issues to be addressed when setting up information sharing arrangements. These can be found at Annex B.

7.19 In addition, the Office of the Data Protection Commissioner issued advice on data protection implications for information sharing under the Crime and Disorder Act in September 1999. This is available on the Data Protection website at

<http://www.dataprotection.gov.uk/crimedi.htm>

and from the Office of the Data Protection Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF (01625 545745).

Annex A

DATA PROTECTION PRINCIPLES

The Data Protection Principles as outlined in Part 1 of Schedule 1 of the Data Protection Act 1998 are as follows:

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless-
 - (a) at least one of the conditions in Schedule 2 is met, and
 - (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Annex B

DATA PROTECTION CHECKLIST

B.1 The Data Protection Commissioner has helpfully prepared a checklist of issues to be addressed when setting up information sharing arrangements. It is essential to go through the stages in the checklist when drawing up protocols or considering the use or disclosure of personal information.

(i) **What is the *purpose* of the information sharing arrangement?**

B.2 It is important in data protection terms that the purpose of any information sharing arrangement is clearly defined. This is because if personal information is to be disclosed, then disclosures must be registered with the Data Protection Commission and the data protection principles will take effect. These principles themselves relate directly to the purpose or purposes for which personal information is held. For example, information must be adequate, relevant and not excessive in relation to the purpose for which it is held, and must not be held longer than is necessary for that purpose.

B.3 Parties to any arrangement should be aware that under the Data Protection Act 1998 (which will take effect early in 1999) they will need to have a 'legitimate basis' for disclosing sensitive personal data. It is likely that parties proposing to share information for purposes in accordance with the Crime and Disorder Act 1998 will be able to meet this requirement.

It should also be made clear to all parties that information received under the arrangement is to be used only for the specified purpose(s). Thus there should be a restriction on secondary use of personal data received under any information sharing arrangement unless the consent of the disclosing party to that secondary use is sought and granted.

(ii) **Will it be necessary to share *personal information* in order to fulfil that purpose?**

B.4 Depersonalised information is information presented in such a way that individuals cannot be identified. If depersonalised information can be used to achieve the purpose, then there will be no

data protection implications. Consideration should therefore always be given to whether the purpose can be achieved using depersonalised information: would failure to share personal information mean that the objectives of the arrangement could not be achieved?

(iii) **Do the parties to the arrangement have the *power* to disclose personal information for that purpose?**

B.5 If the purpose cannot be achieved without sharing personal information, then each party to the arrangement will need to consider whether they have the power to disclose information for this purpose. This is particularly significant for public sector bodies or agencies whose powers and responsibilities are defined by statute or administrative law. If a public body acts ultra vires or outside its powers then it may, at the same time, breach the lawfulness requirement of the first data protection principle. Section 115 of the Crime and Disorder Act may provide the parties with the lawful power they need provided the requirements of that section are met (see paragraphs 5.5 to 5.10 above).

(iv) **How *much* personal information will need to be shared in order to achieve the objectives of the arrangement?**

B.6 Consideration must be given to the extent of any personal information disclosed. Some agencies may hold a lot of personal information on individuals but not all of this may be relevant to the purpose of the information sharing arrangement, so it may not be right to disclose it all. This is a matter for consideration by the agency holding the information.

(v) **Should the *consent* of the individual be sought before disclosure is made?**

When disclosing personal information, many of the data protection issues surrounding disclosure can be avoided if the consent of the individual has been sought and obtained. This is particularly significant if the personal information to be shared identifies victims or witnesses where

consideration should be given to any effects of disclosure of their personal data on third parties. It might be agreed that information be shared between local authorities and police forces for the purpose of seeking evictions. Suppose the police disclose the number of call-outs to X's address, and suppose some of those call-outs were at the request of X's spouse because of domestic violence. If the number of call-outs is used as a ground for eviction, the spouse might be made homeless along with the alleged abusing partner. This might then prevent others suffering domestic violence from calling the police in future for fear that eviction might be a consequence. In this case, therefore, it would be important to decide whether to provide details of all call-outs, or to withhold information on those related to domestic violence.

(vi) **What if the consent of the individual is not sought, or is sought but *withheld*?**

Consideration must be given to whether the personal information can be disclosed lawfully and fairly.

In terms of *lawfulness*, an agency will need to consider whether personal information is held under a *duty of confidence*. If it is, then it may only be disclosed:

- with the individual's consent; or
- where there is an overriding public interest or justification for doing so.

It will not always be the case that the prevention and detection of crime or public safety constitutes an overriding public interest for the exchange of personal information.

It may be agreed that information be shared between local authorities and police forces for the purpose of seeking injunctions against violent individuals. Victims may have complained to the police believing their details would not be shared more widely. If their names are passed to the local authority so that they can be called as witnesses, then when the action reaches court the allegedly violent individuals will know who has complained to the police.

As regards *fairness*: even if the personal information held is not subject to a duty of confidence, the agency will still need to consider how the disclosure can be made fairly. In data protection terms, in order to obtain and process personal data fairly, the individual should be informed of any non-obvious uses (including disclosure) of their personal data, and be given the opportunity to consent to those uses.

If consent is therefore not obtained, consideration will have to be given to how the disclosure can be made fairly. This might involve arguments of public interest, but these would have to be balanced against any potential resulting prejudice to the interests of the individual concerned, as in the examples which have been given on domestic violence and disclosure of details of witnesses. Local authorities are asking some police forces to vet applicants for public sector housing. It has been suggested that this is to be done for crime prevention purposes. First, there is a question as to whether a local authority has the power to decline public sector housing on the grounds that an applicant has previous convictions. Second, can it really be said that the vetting of all applicants for public sector housing, where there is no evidence of criminal activity, is done for crime prevention purposes? This does not mean that there should be a blanket ban on disclosures of previous convictions, but that this information should only be disclosed where relevant and appropriate.

(vii) **How does the non-disclosure *exemption* apply?**

The Data Protection Acts 1984 and 1998 contain general 'non-disclosure provisions', but allow a number of specific exemptions. There is an exemption in both Acts which states that personal information may be disclosed for the purposes of the prevention and detection of crime, or the apprehension and prosecution of offenders, in cases where failure to disclose would be likely to prejudice those objectives.

A party seeking to rely on this exemption needs to make a judgement as to whether, in the particular circumstances of an individual case, there would be a substantial chance that one or both of those objectives would be noticeably damaged if the personal information was withheld (see paragraphs 5.17 to 5.18 above).

(viii) **How do you ensure compliance with the *other data protection principles*?**

Any information sharing agreement should also address the following issues.

- how will it be ensured that only the *minimum personal information necessary* is shared and held for the purpose(s) of the arrangement?
- how will the *accuracy* of the personal information be maintained? One party to the arrangement may know that there has been a change in personal information

which they have disclosed: how does that party ensure that all recipients of that personal information are kept informed of developments, so that they can keep their records up to date?

- *for how long* will personal information be retained? It would be anomalous if the disclosing agency were to remove the personal information from their systems, but the other parties continued to hold it.
- how will individuals be given *access* to personal information held about them? Under data protection legislation, individuals have a right of access to any information held about them. This right may be denied in certain limited circumstances, which include where access would prejudice the prevention and detection of crime. This could be significant, for example, if a police force wished to disclose personal data to another party, but for operational reasons did not want the individual concerned to know the disclosure had been made. On the other hand, it is not sufficient to deny subject access merely because the information is held for crime prevention purposes. Mechanisms must therefore be in place to ensure that the wishes of the disclosing party are considered.
- how will the personal data be *stored*? The more sensitive the personal data shared, the more security measures should be taken by each party receiving that personal data. This is not limited to physical security of the equipment on which it is held but extends to technological security (for example, limited staff access, appropriate levels of staff access), and to staff security (staff with authorised access should be aware of its purpose and extent).