

Leicester City Council

Hate Crime Policy – 2022/2025

Our Vision

Leicester city is a great place to live in and we value and cultivate diversity, Leicester City Council is committed to tackling and reducing hate crime across both the council and the city. The Council will work with its staff, partners and communities to tackle hate crime and incidents.

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Foreword

Leicester is a city that is quite rightly proud of its diversity, and proud of its history in welcoming new communities to become residents here so that they can call Leicester their home. As a part of welcoming new residents to Leicester we also wish to make provisions to keep them safe and make them feel protected. We recognise the harm and fear that hate can cause, and the social division that is risked if hateful attitudes are not challenged.

To deliver commitments made by Leicester City Council I am therefore very pleased to provide my support for the publication of this new Hate Crime Policy by the council. We have been involved in supporting community dialogue and listening to Leicester communities to assist the direction and content of the new policy. I would like to thank communities involved in this process as they have genuinely helped us shape the priorities of this policy.

We have also linked with key local partners including Leicestershire Police to ensure that the policy fits with the local framework for tackling reports of Hate Crime. The Safer Leicester Partnership (SLP) includes Hate Crime as a priority so that at a senior level across a range of local organisations we will also work to identify opportunities to tackle hate crime. We will work with local partners to continue to raise awareness of the ways in which residents can report Hate Crime. As part of this we will continue to support the Leicester, Leicestershire, and Rutland 'Stamp It Out' Hate Crime campaign and we encourage residents to use this as a local resource.



Councillor Piara Singh Clair

Deputy City Mayor - Culture, Leisure, Sport and Regulatory Services

1. Context

1.2 Leicester City is a proud multi-cultural, multi-ethnicity and multi-religious city. City's religious demographic is mainly made up of Christians, Hindus, Muslims, Sikhs, Jews as well as many other faiths and those of no faith. Leicester City Council recognises the serious impact that hate can have upon residents, communities and visitors to Leicester. The council's Hate Crime Policy aims to solidify the local approach to tackling hate, and it aligns the council's efforts with those of other key local partners.

1.3 Leicester City Council is committed to equality of opportunity, elimination of discrimination and promotion of good relations between all people regardless of age, disability, race, ethnic or national origin, sex, gender identity, religion and belief, sexual orientation, marital or civil partnership status.

'Leicester City Council resolves to:

- Affirm its commitment to total social harmony.*
- Protect the rights of all our communities that make up our wonderful city of Leicester.*
- Redouble our efforts to ensure fairness for all and work to eliminate hate from our communities.*
- Encourage those who encounter hate crime to come forward and report it to the Police and/or the Council.*
- Support further opportunities for people to come together and celebrate the diversity of the City.*
- Remind all other organisations and institutions of the part they have to play in supporting community cohesion and combating hate crime.*
- With partners prepare and consult upon an action plan to combat hate crime and promote community cohesion, which will include challenging Islamophobia and prejudice in all its forms and promoting positive images of groups vulnerable to stigmatisation by mainstream media.*

We pledge our solidarity with the people of Leicester and will work with all who are able to support and help us in maintaining Leicester as a safe and secure place for everyone to live in and thrive in' – adopted Leicester City Council Motion on Hate.

1.4 Leicester City Council is a core member of the Safer Leicester Partnership (SLP) and as such fully adopts the annual and 3 year SLP Plan priorities. For the 2021/22 annual SLP plan, Hate Crime features as a priority listed within a Strategic Priority covering Community Cohesion. The SLP Executive will therefore monitor and respond accordingly to reports of and trends in Hate Crime.

1.5 In its commitment to tackling Hate Crime Leicester City Council also endeavours to act as a key organisation in the delivery of a Leicester, Leicestershire, Rutland (LLR) Hate Crime Strategy. The LLR Hate Crime Strategy is a 3 year plan setting out the prioritisation of how Hate Crime will be tackled. A 2021-23 LLR Hate Crime Strategy has been adopted and this includes the strategic priorities as:

- Raising awareness of hate crime
- Improving our Response, Identifying and Responding to Emerging Issues

- Re-assuring and Strengthening Communities and Educating Communities

1.6 With the above in mind, through this policy our aim is to:-

- a) Building awareness of hate crime
- b) Increasing confidence to report hate crime
- c) Agencies progressing appropriate responses to reports of hate incidents and hate crime

2. Definitions of Hate

- 2.1 Hate incidents and hate crimes are acts of violence or hostility directed at people because of who they are or who someone thinks they are. For example, verbal abuse directed towards someone because of their actual or perceived disability, race, religion, sexual orientation or transgender identity.
- 2.2 People can also be targeted with hate because of their perceived relationship to others, due to the actual or assumed disability, race, religion, sexual orientation or transgender identity of these others.
- 2.3 The police and Crown Prosecution Service (CPS) have agreed a common definition of hate incidents. Something is a hate incident if the victim or anyone else perceives was motivated by hostility or prejudice based on one or more of the following things:
 - disability or perceived disability
 - race or perceived race
 - religion or perceived religion
 - transgender identity or perceived transgender identity
 - sexual orientation or perceived sexual orientation
- 2.4 This means that if you perceive something is a hate incident it should be recorded as such by the person you are reporting it to.
- 2.5 Anyone can be the victim of a hate incident. For example, someone could be targeted because of an incorrect perception they follow a particular religion, or because they have a family member with a disability.
- 2.6 Other personal characteristics
Leicester City Council recognises and will investigate incidents based on someone's appearance, including alternative subcultures. It may also consider misogyny and misandry as forms of hate incidents.
- 2.7 Hate incidents can take many forms. Below are some examples, but not exhaustive:
 - verbal abuse like name-calling and offensive jokes
 - harassment
 - bullying or intimidation
 - threats of violence
 - hoax calls, abusive phone or text messages, hate mail
 - online abuse on social media which may infringe the rights, or privacy, of other staff
 - displaying or circulating discriminatory literature or posters
 - harm or damage to things such as your home, pet, vehicle
 - graffiti

- throwing rubbish into a garden
 - malicious complaints for example over parking, smells or noise
- 2.8 The above examples may be classed as a crime by the police if they are conducted with physical assault or the act is regular and constant, and becomes stalking or harassment.
- 2.9 Hate Crime
- When hate incidents become criminal offences they are known as hate crimes. A criminal offence is something which breaks the law.
- 2.10 Any criminal offence can be a hate crime if it is perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person's:
- race or perceived race
 - religion or perceived religion
 - sexual orientation or perceived sexual orientation
 - disability or perceived disability
 - transgender identity or perceived transgender identity.
- 2.11 Incidents which are based on other personal characteristics, such as age and belonging to an alternative subculture, are not considered to be hate crimes under the law. You can still report these, but they will not be prosecuted specifically as hate crimes by the police and the Crown Prosecution Service.
- 2.12 Harassment
- There are three types of harassment which are unlawful under the Equality Act 2010:
- Harassment related to a relevant protected characteristic
 - Less favourable treatment of a student because they submit to or reject sexual harassment or harassment related to sex
 - Sexual harassment
- 2.13 Harassment related to a protected characteristic is when unwanted behaviour related to a relevant protected characteristic occurs, which has the purpose or effect of violating the person's dignity or creating an intimidating, hostile, humiliating or offensive environment.
- 2.14 Unwanted behaviour could include, but is not limited to:
- spoken or written abuse
 - offensive emails
 - tweets or comments on websites and social media
 - images and graffiti
 - physical gestures
 - facial expressions
 - banter that is offensive to you
- 2.15 Anything that is unwelcome to you is unwanted. You don't need to have previously objected to it. The unwanted behaviour must have the purpose or effect of violating your dignity, or creating a degrading, humiliating, hostile, intimidating or offensive environment for you.
- 2.16 To be unlawful, the treatment must have happened in one of the situations that are covered by the Equality Act 2010. For example, in the workplace or when you are receiving goods or services.

3. Reporting of Hate Crime

- 3.1 As part of its commitment to tackling Hate Crime across LLR, Leicester City Council is a core partner in the local hate crime reporting and awareness raising campaign and online portal. The local hate crime campaign is hosted on the 'Stamp It Out' website: <http://www.stamp-it-out.co.uk/>
- 3.2 Leicester residents are advised to use the reporting hate crime webpage for Stamp It Out where a selection of reporting methods are outlined (<http://www.stamp-it-out.co.uk/how-to-report/>), these being:
- **True Vision** - [True Vision](#) is a national scheme to help victims report hate crime online.
 - **Report a hate crime to the police:**
 - By phone** – Call 101 - The national, non-emergency telephone number is staffed 24/7 to give support and advice.
 - **Online** - You can make a [hate crime report](#) on the Leicestershire [police website](#)
 - **In person** - If you'd prefer to speak to someone in person, you can visit a police station with a front enquiry office and speak to a trained member of staff in confidence.
- 3.3 Leicester City Council will endeavour to support Hate Crime reporting awareness communications and utilise events such as the annual National Hate Crime Awareness Week (NHCAW) to increase public understanding of how to report.
- 3.4 As part of its corporate action plan Leicester City Council will also look to utilise its customer facing building spaces as locations to raise awareness of hate crime. This will be reviewed at least annually as part of the council's hate crime action plan (see section 6).

4. National picture of Hate Crime (England and Wales) – from Home Office 2021 Hate Crime annual report

- 4.1 Police forces have made significant improvements in how they record crime since 2014. They have also improved their identification of what constitutes a hate crime. In year ending March 2021, three per cent of all offences recorded by the police were identified as being hate crimes. This proportion has gradually increased from one per cent in year ending March 2013.
- 4.2 There were 124,091 hate crimes recorded by the police in England and Wales in year ending March 2021, this was an increase of nine per cent compared with year ending March 2020.
- 4.3 Religious hate crimes fell by 18 per cent (from 6,856 to 5,627) which was the second consecutive fall in these offences and down from a peak in year ending March 2019 (when there were 7,202 offences).
- 4.4 There were increases in other categories of hate crime including in sexual orientation (up 7%), disability (9%) and transgender identity (3%) over the last year. However, these percentage changes were lower than seen in recent years.
- 4.5 It is thought that growing awareness of hate crime is likely to have led to improved identification of such offences. Although these improvements are thought to be the main drivers for the increases seen, there appear to have been short-term genuine rises in hate crime following certain trigger events. Increases in hate crime were seen around the EU Referendum in June 2016 and the terrorist attacks in 2017. There was also an increase in

public order hate crimes during the summer of 2020 following the widespread Black Lives Matter protests and far-right counter-protests.

5. The Legal Framework

- 5.1 There is a range of legislation that can apply to hate crime and incidents. This section gives an *outline* of some the main provisions that provide a framework for taking action against perpetrators and protecting victims.
- 5.2 Users of this policy should be aware that, although the information in this section is correct at time of publication, law can, and does, change. Having a basic understanding of the law may help you support a victim to consider options for action in an informed way. It is advisable to seek advice from the Police or Leicester City Council's Community Safety Team in relation to specific cases.

6. Criminal Law

6.1 Crime and Disorder Act 1998 (as amended)

This Act created a number of specific offences of racially aggravated crime, based on offences of wounding, assault, damage, harassment and threatening/abusive behaviour.

Section 28(4) of the CDA, 'racial group' means a group of persons defined by reference to race, colour, nationality (including citizenship), or ethnic or national origins."

The Act was amended by the Anti-terrorism Crime and Security Act 2001. It extended the scope of the Crime and Disorder Act by creating new specific religiously aggravated offences and applying the same sentencing duty to all other offences where there is evidence of religious aggravation.

To prove that an offence is racially or religiously aggravated, the prosecution has to prove the "basic" offence followed by racial or religious aggravation, as defined by section 28 Crime and Disorder Act 1998. An offence will be racially or religiously aggravated if:

- (a) at the time of committing the offence or immediately before or after doing so the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group, or
- (b) the offence is motivated wholly or partly by hostility towards members of a racial or religious group.

A racial group means any group of people defined by reference to their race, colour, nationality, (including citizenship), ethnic or national origins.

It is not necessary for the Defendant to belong to a different racial group.

The offences do not require particular words to be used: the necessary hostility could be demonstrated in other ways, such as the wearing of swastikas or the singing of certain songs. But it will normally be proved by the use of some well-known terms of abuse.

The Assaults on Emergency Workers (Offences) Act **2018** came into force on 13 November 2018. The Act creates a statutory aggravating factor where an offence is said to have been committed against an "emergency worker acting in the exercise of their function as such a worker". Before the introduction of the 2018 Act, any assault e.g on a police constable

during the execution of their duty was charged under s.89 of the Police Act 1996. Under the 2018 Act where an emergency worker is subject to a racially/religiously aggravated assault, a sentence uplift would also be sought under section 2(6) 2018 Act to reflect the statutory aggravating factor of the victim being an emergency worker.

6.2 Public Order Act 1986

Section 4 deals with threatening, abusive and insulting Conduct. It provides that:

A person is guilty of an offence if he -

- (a) uses towards another person threatening, abusive or insulting words or behaviour, or
- (b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting, with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be provoked.

An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is distributed or displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

- (3) A constable may arrest without warrant anyone he reasonably suspects is committing an offence under this subsection.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 (Currently £5,000) on the standard scale or both.

Section 4(A)(1) of the 1986 Act deals with the offence of causing harassment, alarm or distress; a person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, s/he –

“uses threatening, abusive or insulting words or behaviour or disorderly behaviour; or displays any writing, sign or visible representation which is threatening abusive or insulting, thereby causing that or another person harassment, alarm or distress”.

Section 5 makes it a criminal offence to use threatening, abusive, insulting words or behaviour or disorderly behaviour within the hearing or sight of a person likely to be caused harassment, alarm or distress by that behaviour. There must be a victim present at the scene for this offence to be made out.

Disorderly, threatening, abusive or insulting words or behaviour:

- (a) causing a disturbance in a residential area;
- (b) persistently shouting abuse or obscenities at passers-by;
- (c) rowdy behaviour in a street late at night;
- (d) using slogans or language that causes distress.
- (e) threats or abuse directed at individuals carrying out public service duties;

- (f) throwing missiles;
- (g) minor violence or threats of violence;
- (h) incidents between neighbours that do not justify a charge of assault;
- (i) an individual who is picked on by a gang where the behaviour does not justify an assault charge.

The offender must first be warned by the police about the behavior and can only be arrested if the behavior is repeated.

Part 3A of the Public Order Act 1986 ('the 1986 Act') was amended in 2010 so as to create offences of intentionally stirring up hatred on the grounds of sexual orientation. The offence deals with conduct (either words or behaviour) or material which is threatening in nature, and which is intended to stir up hatred against a group of people who are defined by reference to sexual orientation. The term 'hatred on the grounds of sexual orientation' is defined in the new section 29AB of the 1986 Act and is expressly limited to orientation towards persons of the same sex, the opposite sex or both. It does not extend to orientation based on, for example, a preference for particular sexual acts or preferences. The offence is committed if a person uses threatening words or behaviour, or displays any written material, which is threatening, if he intends thereby to stir up hatred on the grounds of sexual orientation. Possession, publication or distribution of inflammatory material is also an offence. The offence can be committed in a public or private place, but not within a dwelling, unless the offending words and behaviour were heard outside the dwelling, and were intended to be heard.

6.3 Malicious Communications Act 1988

The MCA prevents the sending of communications (including online messages or letters) that convey a threat, a grossly offensive or indecent message, or false information, if the intention of the sender is to cause distress or anxiety to the reader or recipient. The offence covers communications that are offensive, obscene, menacing or false. There is no legal requirement for the communication in question to reach the subject or intended recipient; it is the act of publishing or sending the communication and the intention to cause distress that counts. An offence under the MCA is listed by the CPS as one of the offences most likely to be committed by the sending of communications via social media. The offence is punishable by up to six months in prison or a fine.

6.4 Section 3 Football Offences Act 1991 (as amended)

This offence is committed when a group of people, or one person acting alone, chants something of a racist nature at a designated football match. "Racist" means the same as "racist". To prove this offence, the prosecution has to show that the chanting, which means the repeated uttering of words or sounds, was threatening, abusive or insulting to another person because of that person's colour, race, nationality (including citizenship) or ethnic or national origin. It is not necessary to prove that the chanting was directed at a particular individual or group, although it will often be directed at a player or players from Black and minority ethnic communities. The offence only applies to a "designated" match as specified in the Football (Offences) (Designation of Football Matches) Order 2004. If convicted, the accused person can be fined (level 3), and, in addition to any other penalty, banned from attending football matches both in this country and abroad.

6.5 Section 127, Communications Act 2003

Section 127 of the CA provides that the use of public electronic communications equipment to send a message that is false, grossly offensive, or of an indecent, obscene or menacing character, will be punishable by either an imprisonment term not exceeding six months, or an unlimited fine, or both. It is also an offence to send a communication through a public network intended to cause annoyance, inconvenience or needless anxiety to the recipient. The sender must intend the unpleasant effect of the message, but there is no need for the message to have been received by the intended recipient. No one needs to have seen it or been offended by it at all for the offence to have been committed.

6.6 Gender Recognition Act 2004 (GRA 2004) – This provides for the legal recognition of the trans person in their acquired gender and the opportunity to acquire a new birth certificate for their new gender. The GRA 2004 also protects those who have received or who are in the process of receiving a Gender Recognition Certificate from having this information revealed without their consent. Under section 22 GRA 2004, it is an offence for a person who has acquired "protected information" in an "official capacity" to disclose the information to any other person UNLESS circumstances set out in statute. That "protected information" includes information regarding the application process itself, whether it has been applied for, started or concluded OR, if a Gender Recognition Certificate has been granted, the gender status of the individual before his or her acquired gender. Schedule 21, paragraph 5(2)(g), provides for a starting point of 30 years (rather than 15 years) for the minimum term for a life sentence for murder aggravated on the grounds of the victim's sexual orientation or transgender identity.

6.7 Racial and Religious Hatred Act 2006:

On 1 October 2007 the Racial and Religious Hatred Act 2006 came into force. The Act amends the Public Order Act 1986 ("the 1986 Act") by creating new offences of stirring up hatred against persons on religious grounds and amends section 24A of the Police and Criminal Evidence Act (PACE) 1984 so that the powers of citizens' arrest do not apply to the offences of stirring up religious or racial hatred.

The new offences apply to the use of words or behaviour or display of written material, publishing or distributing written material, the public performance of a play, distributing, showing or playing a recording, broadcasting or including a programme in a programme service and the possession of written materials with a view to display, publication, distribution or inclusion in a programme service or the possession of recordings with a view to distribution, showing, playing or inclusion in a programme service.

For each offence the words, behaviour, written material, recordings or programmes must be threatening and intended to stir up religious hatred. Religious hatred is defined as hatred against a group of persons defined by reference to religious belief or lack of religious belief. The new criminal offence carries a fine or a prison sentence of up to seven years if convicted.

6.8 Protection from Harassment Act 1997:

There are two offences that arise under this statute which may be relevant to the sanctioning of hate motivated harassment:

The offence of **harassment**: this arises under section 2 of the Protection from Harassment Act 1997. The Prosecution must prove:

1. That the Defendant had pursued *a course of conduct* on at least two separate occasions;
2. That the Defendant's course of conduct amounted to *harassment of another* - what constitutes 'harassment' tends to be a matter of common-sense e.g the repetition of racist or homophobic remarks could amount to harassment;
3. That the Defendant knew or ought to have known that the course of conduct amounted to harassment.

The offence of putting people in **fear of violence** arises under section 4 of the Protection from Harassment Act 1997. To secure a conviction the Prosecution would need to prove that the Defendant had pursued a course of conduct on at least two occasions; that the course of conduct had caused another to fear that violence will be used against him and that the Defendant knew or ought to know that his course of conduct will cause the other to fear violence on each occasion. The criminal court dealing with an offence under this Act may grant a Restraining Order as part of the package of punishment, preventing the Defendant from repeating his offending behaviour.

With effect from 15 March 2019, when the **Stalking Protection Act 2019** came into force, magistrates have power to grant, in response to an application by a local chief police officer, a civil stalking protection order in England and Wales to prevent offence of stalking under section 2A of the Protection from Harassment Act 1997, or the offence of stalking involving fear of violence or serious alarm and distress under section 4A of that Act. The order is designed for use particularly in cases where the stalking occurs outside of a domestic abuse context, or where the perpetrator is not a current or former intimate partner of the victim. It might also be appropriate when the criminal threshold has not, or has not yet, been met (such as while a criminal case is being built), or the victim does not support a prosecution.

7. Civil Remedies:

7.1 Warnings Letters:

Before taking any legal enforcement action *perpetrators of anti-social behaviour, hate crime/incidents as well racial harassment should be warned* that they should stop the unacceptable behaviour. If they fail to stop legal action might follow. Warnings should be in writing. Warnings may be enough to deter perpetrators from committing further offences. Legal action is unlikely to succeed if warnings have not been given.

7.2 Acceptable Behaviour Contracts (ABC):

An *Acceptable Behaviour Contract* is a *written agreement* between a person who has been involved in antisocial behaviour and one or more local agencies whose role it is to prevent such behaviour. ABCs are most *commonly used for young people* but may also be used for adults.

7.3 Community Protection Notice (CPN):

The community protection notice (CPN) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible. A CPN is a notice that imposes requirements on the individual or body

issued with it e.g a requirement to stop doing specified things or/and a requirement to do specified things or/and a requirement to take reasonable steps to achieve specified results.

A CPN can be issued by Council officers, Police officers, Police community support officers (PCSOs) if designated, and Social landlords (if designated by the council), if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation: is having a detrimental effect on the quality of life of those in the locality; is persistent or continuing in nature; and is unreasonable.

A CPN can be issued against any person aged 16 or over or a body, including a business. A CPN can only be issued for behaviours that are persistent or continuing and unreasonable,

Also before a CPN can be issued, a written warning must be issued to the person committing anti-social behaviour.

Breach is a criminal offence. A fixed penalty notice can be issued of up to £100 if appropriate. A fine of up to level 4 (for individuals), or £20,000 for businesses. On conviction for an offence of failing to comply with a CPN, the prosecuting authority may ask the court to impose a remedial order and/or a forfeiture order. A remedial order may require the defendant to carry out specified work (this could set out the original CPN requirements) or to allow work to be carried out by, or on behalf of, a specified local authority.

Following conviction for an offence under section 45 of the 2014 Act, the court may also order the forfeiture of any item that was used in the commission of the offence. This could be spray paints, sound making equipment etc. Where items are forfeited, they can be destroyed or disposed of appropriately.

In some circumstances, the court may issue a warrant authorising the seizure of items that have been used in the commission of the offence of failing to comply with a CPN.

7.4 The Criminal Behaviour Order (CBO):

The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence (including hate crimes) in any criminal court.

The court will grant a CBO, if it is satisfied, beyond reasonable doubt, that the offender has engaged in behaviour that caused, or was likely to cause, harassment, alarm or distress to any person; and that the court considers making the order will help in preventing the offender from engaging in such behaviour. CBO will include the details of what the offender is not allowed to do (prohibitions) as well as what they must do (requirements).

The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court. The prosecution, usually the Crown Prosecution Service (CPS), but in some cases it could be a local council, may apply for the CBO after the offender has been convicted of a criminal offence. The prosecution can apply for a CBO at its own initiative or following a request from a council or the police. The CBO hearing will occur after, or at the same time as, the sentencing for the criminal conviction.

It is a criminal offence if an offender fails to comply, without reasonable excuse, with either the requirements or prohibitions in the CBO. The court has the power to impose serious penalties on conviction, including on summary conviction in the magistrates' court: a maximum of six months in prison or a fine or both OR on conviction on indictment in the Crown Court: a maximum of five years in prison or a fine or both.

Special measures are available in proceedings for CBOs in the case of witnesses who are under 18 and vulnerable and intimidated adult witnesses (sections 16 and 17, Youth Justice and Criminal Evidence Act 1999).

7.5 Civil Injunctions:

Under the Anti-social Behaviour, Crime and Policing Act 2014 (ASBCPA), a court may grant an injunction against a person aged 10 or over (“the respondent”) if the court is satisfied, on the balance of probabilities, that the respondent has engaged or threatens to engage in anti-social behaviour AND that the court considers it just and convenient to grant the injunction for the purpose of preventing the respondent from engaging in anti-social behaviour.

An injunction may be granted only on the application of a local authority, a housing provider, the chief officer of police for a police area, the chief constable of the British Transport Police Force, Transport for London, the Environment Agency etc.

An injunction may for the purpose of preventing the respondent from engaging in anti-social behaviour prohibit the respondent from doing anything described in the injunction and/or require the respondent to do anything described in the injunction.

An application for an injunction may be made without notice being given to the respondent.

Under the ASBCPA 2014, “anti-social behaviour” means—

- a. conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
- b. conduct capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises, or
- c. conduct capable of causing housing-related nuisance or annoyance to any person.

7.6 Exclusion Order and Power of Arrest:

An injunction under section 1 of the ASBCPA 2014 may have the effect of excluding the respondent from the place where he or she normally lives (“the premises”) only if the respondent is aged 18 or over, the injunction is granted on the application of a local authority, OR the chief officer for the police area that the premises are in, or if the premises are owned or managed by a housing provider, that housing provider, and the court thinks that the anti-social behaviour in which the respondent has engaged or threatens to engage consists of or includes the use or threatened use of violence against other persons, or there is a significant risk of harm to other persons from the respondent.

A court granting an injunction under section 1 of ASBCPA 2014, may attach a power of arrest to a prohibition or requirement of the injunction if the court thinks that the anti-social behaviour in which the respondent has engaged or threatens to engage consists of or includes the use or threatened use of violence against other persons, or there is a significant risk of harm to other persons from the respondent.

Where a power of arrest is attached to a provision of an injunction, a Police Constable may arrest the respondent without warrant if he or she has reasonable cause to suspect that the respondent is in breach of the provision.

Otherwise, where no power of arrest is attached to the injunction, if the person who applied for an injunction thinks that the respondent is in breach of any of its provisions, the person may apply for the issue of a warrant for the respondent's arrest.

The court has the power to remand a perpetrator in custody or on bail after they have been arrested for suspected breach of the injunction (with or without warrant).

7.7 Closure Powers:

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. The power comes in two stages: the closure notice and the closure order which are intrinsically linked. The closure notice can be used by the council or the police out of court. Following the issuing of a closure notice, an application must be made to the magistrates' court for a closure order, unless the closure notice has been cancelled.

A closure notice can be issued for 24 hours if the council or police officer (of at least the rank of inspector) is satisfied on reasonable grounds that the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public; or that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

A closure order can subsequently be issued if the court is satisfied that a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises; or that the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public; or that there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

A Closure Order: can close premises for up to six months and can restrict all access. Both the notice and the order can cover any land or any other place, whether enclosed or not including residential, business, non-business and licensed premises.

Before issuing a notice the police or council must ensure that they consult with anyone they think appropriate. This should include the victim, but could also include other members of the public that may be affected positively or negatively by the closure, community representatives, other organisations and bodies, the police or local council (where not the issuing organisation) or others that regularly use the premises.

An offence is committed when a person, without reasonable excuse, remains on or enters a premises in contravention of a closure notice or a closure order. Breaching a closure notice or temporary order is a criminal offence carrying a penalty of either imprisonment for a period of up to three months or an unlimited fine or both. Breaching a closure order is a criminal offence carrying a penalty of either imprisonment for a period of up to six months or an unlimited fine, or both. It is also a criminal offence to obstruct a police officer or local council employee who is serving a closure notice, cancellation notice or variation notice or entering the premises; or securing the premises. This offence carries a penalty of either imprisonment for a period of up to three months or an unlimited fine, or both.

7.8 Dispersal Power

The new dispersal power under the ASBCPA 2014, is available to uniformed police officers and designated PCSOs to deal with individuals engaging in anti-social behaviour, crime and

disorder not only when they have occurred or are occurring, but when they are likely to occur and in any locality. The new dispersal power replaces those available under section 27 of the Violent Crime Reduction Act 2006 and section 30 of the Anti-social Behaviour Act 2003.

Two conditions must be met for a direction to be given: namely that; the officer must have reasonable grounds to suspect that the behaviour of the person has contributed, or is likely to contribute, to: members of the public in the locality being harassed, alarmed or distressed; or crime and disorder occurring in the locality AND that the officer considers that giving a direction to the person is necessary for the purpose of removing or reducing the likelihood of anti-social behaviour, crime or disorder. The test includes behaviour that is likely to cause harassment, alarm or distress, allowing the dispersal to be used as a preventative measure.

The dispersal power is for use in public places, this includes places to which the public has access by virtue of express or implied permission.

Under the 2014 Act, there is no longer a requirement for the pre-designation of a “dispersal zone” in which the power can be used therefore it can be used in any locality immediately; the power is also available to disperse individuals without a requirement that two or more people be engaged in the offending behaviour. There is an additional power to confiscate items associated with the behaviour of the person being directed to disperse, for example alcohol, offensive material, noisy equipment or eggs and other missiles used for Halloween “tricks”. Also, the period of a person’s exclusion from a specified area has been extended to a maximum of 48 hours and there is no longer a requirement for the police officer or PCSO to definitively establish the person’s age as the new power is available if the person appears to be aged 10 or over

The power is preventative as it allows an officer to deal instantly with someone’s behaviour and nip the problem in the bud before it escalates. In authorising the dispersal power the inspector (or above) must have regard to Articles 10 and 11 of the European Convention on Human Rights that provide for the right for lawful freedom of expression and freedom of assembly.

Failure to comply with the direction is a summary only criminal offence which will be dealt with in the magistrates’ court or youth court for people under the age of 18. On conviction it carries a maximum penalty of a level 4 fine and/or three months imprisonment, although those people under the age of 18 cannot be imprisoned. Failure to surrender items is also a criminal offence with a maximum penalty of a level 2 fine.

7.9 Witness Support and Protection

A witness includes someone who gives, or is able to give hearsay evidence. It includes someone who has given evidence but may give further evidence.

Witness harassment or intimidation is a criminal offence under the Criminal Justice and Police Act 2001. Sections 39, 40 and 41 of the 2001 Act create two new offences intended to increase protection of witnesses in all proceedings including civil proceedings for an injunction or an anti-social behaviour order, civil tort proceedings etc.

Under the 2001 Act, it is an offence for a person to intimidate another person (the victim) where s/he knows or believes that the victim is, or may be a witness in any relevant proceedings, with the intention of perverting, obstructing or interfering with the course of justice. An offence is committed only where an act of intimidation occurs after proceedings

are commenced. The maximum penalty is five years of imprisonment or unlimited fine or both.

Intimidation includes threats against a person or against a person's finances or property. It is irrelevant whether the act of intimidation is carried out in the presence of the victim, whether it is done to the victim or through a third party. Obstructing, perverting or interfering with the course of justice need not be the predominant purpose of the act.

7.10 Section 40 of the Criminal Justice and Police Act 2001 makes it an offence for a person to do an act which harms, and is intended to harm another person, or, if intending to cause another person to fear harm, he threatens to do an act which would harm the other person. In order to commit the offence, the person doing or threatening to do the act must do so knowing or believing that another person has been a witness in relevant proceedings and he must do or threaten that act because of that knowledge or belief. The act must be committed after the commencement of proceedings, and within a year of that commencement. The penalty is up to five year imprisonment or an unlimited fine or both.

7.11 Protection from Harassment Act 1997 – under section 1 of the Protection from Harassment Act 1997 the term “harassment” applies to a course of conduct which harasses or alarms another or which causes that person distress. The criminal offence of harassment is set out in section 2. There is also a civil remedy against harassment provided in section 3 in the form of a restraining injunction.

Witnesses attendance may be dispensed with by the court powers to admit **hearsay evidence**. Where witnesses are not attending the Claimant will have to serve a Civil Evidence Act Notice.

7.12 Equalities Legislation

The Equality Act 2010 brings together and re-states all the following enactments (and a number of other related provisions):

1. the Equal Pay Act 1970
2. the Sex Discrimination Act 1975
3. the Race Relations Act 1976
4. the Disability Discrimination Act 1995
5. the Employment Equality (Religion or Belief) Regulations 2003
6. the Employment Equality (Sexual Orientation) Regulations 2003
7. the Employment Equality (Age) Regulations 2006
8. the Equality Act 2006, Part 2
9. the Equality Act (Sexual Orientation) Regulations 2007,
 - The Act extends the circumstances in which a person is protected against discrimination, harassment or victimisation because of a protected characteristic;
 - The Act extends the circumstances in which a person is protected against discrimination by allowing people to make a claim if they are directly discriminated against because of a combination of two relevant protected characteristics;
 - The Act creates a duty on listed public bodies when carrying out their functions and on other persons when carrying out public functions to have due regard when

carrying out their functions to: the need to eliminate conduct which the Act prohibits; the need to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and the need to foster good relations between people who share a relevant protected characteristic and people who do not.

- The practical effect is that listed public bodies will have to consider how their policies, programmes and service delivery will affect people with the protected characteristics;
- The Act allows an employer or service provider or other organisation to take positive action so as to enable existing or potential employees or customers to overcome or minimise a disadvantage arising from a protected characteristic;
- The key concepts on which the Act is based includes the characteristics which are protected (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation).

8. Delivery – Hate Crime Officer Working Group

- 8.1 For 2021 Leicester City Council has created an officer led Hate Crime Working Group to assist in the delivery of tackling Hate Crime. The aim of the task group is to identify the relevant functions and services of Leicester City Council that contribute towards raising awareness of Hate Crime or work towards reducing the impact of Hate Crime or incidences of hateful behaviour.
- 8.2 The Working Group will create and deliver a revised Leicester City Council Hate Crime Action Plan.
- 8.3 The responsibilities of the group are:
- a. To share information from across council services of incidences of hate or any forms of hateful behaviour.
 - b. To collectively contribute towards the development of and publishing of a Leicester City Council Hate Crime Policy.
 - c. To develop an action plan delivered across Leicester City Council service areas working towards delivery of the 4 'P' Overarching Objectives (Protect, Prevent, Pursue, Promote).
 - d. To use information from Leicester City Council service areas.
 - e. To coordinate delivery of Leicester City Council activities related to anti-hatred with similar initiatives being delivered by partner statutory agencies, community organisations, or local businesses.
 - f. To ensure the needs of victims and witnesses are considered in relation to this agenda.
 - g. To identify enforcement actions where the necessary evidence is available to support this.
 - h. To consider examples of national good practice related to reducing hateful behaviour and decide where learning can be adopted into local processes and procedures.
 - i. To identify additional areas / themes of Leicester City Council delivery where the Working Group may add value (i.e. Tackling Race Inequality Steering Group).

8.4 The objectives of the council officer group are:

PROTECT: To support local residents and communities to report Hate Crime issues

PREVENT: To support provision that builds understanding between local communities and that reduces the risk of hateful behaviour and Hate Crime

PURSUE: Where Hate Crime or hate incidents are identified, to undertake joint working with relevant partnership agencies to seek to challenge the behaviour or to support the relevant Criminal Justice outcome being sought

PROMOTE: To build community confidence that Hate Crime and hate incident information and enforcement activities are leading to proactive action and positive change

8.5 In its initial stages (during 2021/22) the council officer Hate Crime Working Group will be led by the Community Safety Team, this is in order for the resulting delivery plan to link with the Hate Crime related priorities of the Safer Leicester Partnership (SLP). There is scope for the group to be chaired by other respective services of Leicester City Council in following years if required whereby there may be other interlinked corporate objectives for the council. The chairing of the officer group will be reviewed on an annual basis.

8.6 A performance management framework with key indicators will be developed to support this policy and ensure programmes of work are measured and evaluated so that both impact and learning are captured.