

12/01/02/01

The Office of the First Minister and Deputy First Minister

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From: Gerry Madden
OFMDFM

Date: 26 March 2002

To: Ms G Preece
CJPB
Massey House

CAB GUIDANCE ON RACIALLY AND RELIGIOUSLY MOTIVATED ATTACKS

Please see the attached request from the Northern Ireland Association of Citizens Advice Bureaux. I should be grateful if you could update and return direct to Natalie Strain. I would also appreciate a copy.

I have written to Natalie Strain advising her that you are dealing with this.



GERRY MADDEN

ENC

Beverly

To note and B/F please for response from NIO
Suggest "Hate Crime" file EQA 001/02.

Sarah

see above - can we put
BF date of 2 wks on this.
Thanks Bev 27/3.

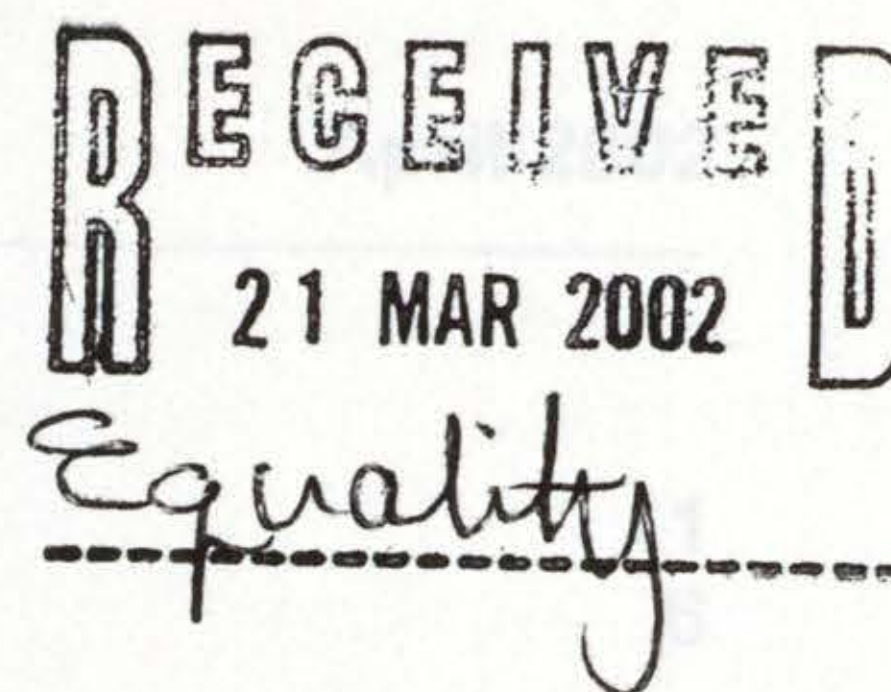
Northern Ireland Association of citizens advice bureaux

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Telephone no: (028) 9023 1120 Fax no: (028) 9023 6522
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19th March 2002

Mr Gerry Madden
Room E306
Castlebuildings
Stormont
Belfast
BT4 3SR



Dear Gerry

As per our telephone conversation please find enclosed an item on 'Racially and religiously motivated attacks'. This item has been sent to us from England and applies in England and Wales. We need to ensure that the information contained in this item is also correct for Northern Ireland and, if not, to make the necessary changes to the item so that it applies in Northern Ireland. We are constantly updating our information system and are aware that the fact that we do not hold a Northern Ireland equivalent item illustrates a gap in our Information System. The item will be used by bureaux all over Northern Ireland to advise clients and it is imperative that the information contained in them is as accurate and current as possible.

I would greatly appreciate it if you could check this item for me for Northern Ireland compliance and accuracy and make any changes that you see fit. If you feel that parts of the item are obsolete, please illustrate that you wish us to remove them and likewise, if you feel that something which should be included has not been, please write on the item the information which you feel is missing and where it should be included.

As you can see this item is written in a style which is easily accessible and assuming no knowledge. If you have any queries please do not hesitate to contact me.
Thank you in advance for your help.

Yours sincerely

Natalie Strain

Natalie Strain
Information & Policy Officer

Enc

NIACAB - many apologies for this
late draft, intended for April pack.

08 MAR 2002

Geoff

7.34.5.5. Racially and religiously motivated attacks

Extent England and Wales

April 2002

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What are racially and religiously motivated attacks

- 1 Racially motivated attacks and religiously motivated attacks are attacks which are carried out because of a person's racial or ethnic origin, or her/his religion or lack of religion. They include the following:-
 - a physical attack on an individual or family by another individual or group of people
 - an attack on an individual's or family's home or property, for example, breaking a window, throwing an object through a letter box or setting a car alight
 - verbal abuse or threats
 - written abuse, for example, a letter, pamphlet, e-mail or telephone text message, distributed either to members of a particular racial, ethnic or religious group, or to members of the writer's own racial, ethnic or religious group in an attempt to incite hatred of another group
 - a personalised or general abusive slogan painted on a wall or building
 - causing harassment, alarm or distress through using threatening, abusive or insulting words or behaviour.
- 2 A racially or religiously motivated attack will frequently be an offence under the Public Order Act 1986 - see para 3, or the Protection from Harassment Act 1997 - see para 4. In addition, many criminal offences can be 'racially or religiously aggravated' - see para 6.
- 3 It is an offence under the Public Order Act 1986 intentionally to cause harassment, alarm or distress through the use of threatening, abusive or insulting words, behaviour, signs, writing or other visible representation. The offence may be committed in a public or private place.



For more information about the Public Order Act 1986, see Butterworth Police Law.

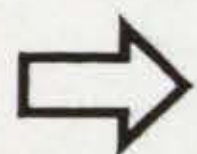


- 4 It is a criminal offence and/or a civil tort under the Protection from Harassment Act 1997 to cause harassment, alarm or distress by using threatening, abusive or insulting language or behaviour. Intent does not need to be proved. The offence may be committed in a public or private place. However, no offence is committed if both the perpetrator and the victim are inside a dwelling.



For more information about the Protection from Harassment Act 1997, see Butterworths Police Law.

- 5 A serious racially or religiously motivated attack may constitute a breach of the Human Rights Act 1998 if it can be argued that it constitutes 'degrading treatment', which violates Article 3 of the European Convention on Human Rights. Freedom from degrading treatment must be enjoyed by everybody, irrespective of racial, national or social origin, or any other status (Article 14). The client will need expert guidance to take action about a human rights issue.



For information about the Human Rights Act 1998, see 7.20.1.5. Using human rights law.



Racially and religiously aggravated criminal offences

- 6 If it can be shown that such a criminal offence is 'racially or religiously aggravated', the court can impose a more severe sentence.
 - 7 An offence is racially or religiously aggravated if, at the time it is committed:-
 - the offender demonstrates towards the victim hostility based on the victim's membership or presumed membership of a racial group, or membership, presumed membership or non-membership of a religious group; *or*
 - the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group.
- ⇒ For more information about racially or religiously aggravated criminal offences, see Anthony & Berryman's Magistrates' Court Guide, and Butterworths Police Law.
- 8 A **racial group** is a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins, and a **religious group** is a group of persons defined by reference to religious belief or lack of religious belief.
 - 9 There may be evidence of previous attacks in the area which would help to indicate that an attack was racially or religiously aggravated. There may also be a local organisation, for example, a community group or law centre, which can confirm that there is a history of such attacks in the area. The local Racial Equality Council is also likely to have information - see para 34. Evidence of a history of attacks in an area may help to prove to the Crown Prosecution Service or a court that an offence is racially or religiously aggravated.



Dealing with a racially or religiously motivated attack

- 10 Before advising a client to report a racially or religiously motivated attack to the police, it is advisable to discuss with her/him her/his immigration status. If the client is subject to immigration control, s/he may not wish to risk her/his immigration status being investigated.
- 11 If the client's first language is not English, s/he may feel it would help to have someone present at the bureau who can speak her/his language.
- 12 In order to advise and assist a client who has been the victim of an attack, it is helpful to obtain the following information:-
 - how s/he was attacked
 - whether s/he knows the identity of the attacker and where s/he lives or, alternatively, whether s/he can describe what the attacker looked like and/or what s/he was wearing
 - whether s/he has been attacked before and, if so, when
 - where the attack was made
 - when the attack was made (date and time of day/night)
 - the nature of any injuries sustained. It might be helpful to obtain medical evidence
 - whether anyone else was attacked
 - the names and addresses of any witnesses
 - whether the client has already reported the attack to anyone, for example, the police, and whether there has been any action taken as a result.
- 16 The local police should have policies covering the training of officers in identifying racially and religiously motivated attacks, co-operation with other agencies in the area and ensuring victims are followed up. The bureau could hold information about local policies in its local information system.
- 17 If a client wants an attack reported to the police, the bureau should assist with this. The client should be given as much support and encouragement as possible to contact the police, and to provide as much information as s/he can to support her/his claim that the attack was racially or religiously motivated.



Reporting the attack to the police



If the client has alleged that a racially or religiously motivated attack has been carried out by the police, it is *always* advisable to obtain legal advice.

- 13 The Home Office has published a 'Code of Practice on reporting and recording racist incidents in response to recommendation 15 of the Stephen Lawrence Inquiry Report'. The code applies to all statutory, voluntary and community groups (including bureaux), and provides guidelines for organisations to establish effective procedures for the reporting and recording of racist incidents. See Appendix for a summary of the code.
- 14 The code defines a racist incident as '...any incident which is perceived to be racist by the victim or any other person'. This means that if either the victim or any other person, for example, a witness, a police officer or a local authority official, perceives an attack as racially motivated, the police should record it as such, regardless of any dissenting views. The definition could be quoted to a police officer unwilling to accept that an attack was racially motivated. The Home Office definition does not currently take into account religiously motivated attacks.
- 15 The Association of Chief Police Officers (ACPO) defines a racial incident as 'any incident in which it appears to the reporting or investigating officer that the complaint involves an element of racial motivation or any incident which includes an allegation of racial motivation made by any person'. This definition is similar to the Home Office definition (see para 14), and could also be quoted if a police officer is unwilling to accept that an attack was racially motivated in origin. The ACPO definition does not currently take into account religiously motivated attacks.
- 16 The local police should have policies covering the training of officers in identifying racially and religiously motivated attacks, co-operation with other agencies in the area and ensuring victims are followed up. The bureau could hold information about local policies in its local information system.
- 17 If a client wants an attack reported to the police, the bureau should assist with this. The client should be given as much support and encouragement as possible to contact the police, and to provide as much information as s/he can to support her/his claim that the attack was racially or religiously motivated.



- 18 Wherever possible, the client should be offered support when interviewed by the police. The client can be interviewed by the police at the police station, or s/he could ask to be interviewed at her/his home or a mutually agreed neutral location, for example, the bureau. In any case, it may be appropriate for another person to attend with her/him, for example, a solicitor experienced in this type of work, a bureau adviser or a friend.
- 19 If the victim of an attack is a woman, she may find reporting it to the police to be particularly difficult for sexual, cultural or language reasons.
- 20 If the client's first language is not English, s/he may find it helpful to have an interpreter to ensure s/he is able fully to explain the incident. The client can ask the police to provide an interpreter. Alternatively, someone known to the client or a local organisation may be able to help.

24 If the police still fail to act, the bureau or the client could:

- write to the Chief Constable; and/or
- initiate a complaint



For information about police complaints, see 4.34.4.10. Complaints about the police; and/or

- contact a local councillor.

25 Whatever action the bureau or the client takes, the definitions of racial incidents given in paras 14 and 15 should be quoted.

Private prosecutions

26 If the attacker is known to the client, and the Crown Prosecution Service decides not to prosecute, the client might decide to bring a private prosecution against the attacker. The client will need to take legal advice before doing this.

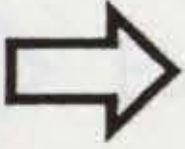


For information about private prosecutions, see 4.12.4.1. Private prosecutions

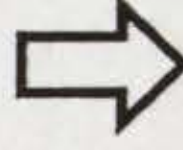


What to do if the police take no action

- 21 Following the report of a racially or religiously motivated attack, the police may have decided to take no action.
- 22 Alternatively, the police may have investigated the attack, but decided not to prosecute the perpetrator. In such a situation, the victim may believe that the police have not taken the attack seriously enough. This could happen, for example, if the police regard the attack as an offence of common assault (which will often not be prosecuted), whereas the client believes it should be treated as actual bodily harm (which would be more likely to result in a prosecution).
- 23 If the police have taken no action, or the client believes they have taken insufficient action, over a racially or religiously motivated attack, the bureau or the client could contact the police community liaison officer, police liaison committee or local authority police committee.
- 24 If the police still fail to act, the bureau or the client could:-
 - write to the Chief Constable; *and/or*
 - initiate a complaint

 For information about police complaints, see 4.34.4.10. Complaints about the police; *and/or*

 - contact a local councillor.
- 25 Whatever action the bureau or the client takes, the definitions of racial incidents given in paras 14 and 15 should be quoted.
- Private prosecutions**
- 26 If the attacker is known to the client, and the Crown Prosecution Service decides not to prosecute, the client might decide to bring a private prosecution against the attacker. The client will need to take legal advice before doing this.

 For information about private prosecutions, see 4.12.4.1. Private prosecutions.



Attacks at work

- 27 The client may have been attacked at work. If, in addition to being a racially or religiously motivated attack, an incident constitutes *race* (not *religious*) discrimination, the client may want to take further action.

⇒ For information about race discrimination at work, see 6.0.1.4. Identifying discrimination in employment.

Attacks at or near the home

- 28 The attack may have taken place at or near the home.

⇒ For information about racially and religiously motivated attacks and harassment in housing, see 11.8.50.5. Anti-social behaviour in housing.

- 29 If the client is an asylum seeker who has been dispersed to accommodation by the National Asylum Support Service (NASS), s/he may be able to complain about her/his dispersal location.

⇒ For more information about dispersal, see 3.8.2.4. Rights of asylum seekers.

Attacks at school

- 30 The attack may have taken place at or near a child's school. The school should have an established system for recording and dealing with such incidents, and should co-operate with the police and local education authority (LEA) to counter racially and religiously motivated incidents. The bureau may want to keep information about the policies and practices of schools in its area.



Organisations that can help

- 31 A client who has been the victim of a racially or religiously motivated attack may need to be referred for specialist advice. This may be provided by a local law centre, the local Racial Equality Council (REC) - see para 34, the local Victim Support scheme - see para 36, or another local organisation. The bureau should keep information about such organisations in its local information system.
- 32 In some cases, it might be appropriate to contact a national or regional specialist organisation.

⇒ For more information, see 7.32.3.1. Taking action about race discrimination.

- 33 If the client has suffered a personal injury as the result of a racially or religiously motivated attack, s/he may be eligible for compensation under the Criminal Injuries Compensation Scheme.

⇒ For more information, see 7.37.1.3. Criminal Injuries Compensation Scheme.

Racial Equality Councils (RECs)

- 34 The local Racial Equality Council (REC) can provide helpful information and advice about, for example, approaching the police, liaising with the local housing department, and recommending a solicitor or interpreter. The Commission for Racial Equality (CRE) can provide information about local RECs.

⇒ For more information about the CRE, see 7.32.3.1. Taking action about race discrimination.

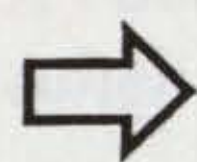


The Monitoring Group Freephone Emergency Helpline

- 35 The Monitoring Group provides a Freephone Emergency Helpline for victims of racial harassment and abuse. It is available 24 hours a day, and is staffed by volunteers recruited from black and ethnic minority communities, to ensure that they can communicate in the appropriate language. The Helpline number is: 0800 374 618.

Victim Support

- 36 Victim Support can provide advice and support for the victim of a racially or religiously motivated attack. A client could approach the local branch of Victim Support her/himself, or s/he might be referred by the bureau or the police. Information about local branches can be obtained from the national office of Victim Support.



For more information about Victim Support, see 7.37.1.3. Criminal Injuries Compensation Scheme.



Appendix: Summary of the Home Office Code of Practice on reporting and recording racist incidents in response to recommendation 15 of the Stephen Lawrence Inquiry Report

- 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.