



Political Affairs Digest

A daily summary of political events affecting the Jewish Community

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Home Affairs

House of Lords Grand Committee

Code of Practice on the Recording and Retention of Personal Data in relation to Non-Crime Hate Incidents

col 443GC **The Parliamentary Under-Secretary of State, Home Office (Lord Murray of Blidworth):** My Lords, I begin by acknowledging that non-crime hate incidents have attracted a significant amount of controversy, particularly in this place, due to concerns relating to free speech. ...

Let me first explain that the collection of non-crime hate incident information is a key legacy of the Macpherson inquiry into the murder of Stephen Lawrence. This information pertains to incidents which are not crimes and provides the police with the means to understand tensions within communities or cases involving particular individuals before they can escalate into serious harm. In this respect, this data is vital for helping the police build intelligence to understand where they must target resources to prevent serious crimes or harms which may later occur.

This Government are absolutely clear that vulnerable individuals and communities must continue to be protected. However, non-crime hate incidents must never be used to inhibit lawful debate, and we must also be very careful about what information is kept on an individual's record. This balance has unfortunately not always been struck, and this issue is precisely what the code is designed to address.

col 444GC Free speech is a cornerstone of our democracy. This code addresses concerns that those who express views which some consider offensive but are not against the law are at risk of becoming the subject of a non-crime hate incident report, and that this may result in their personal data being stored on a policing record. It addresses those concerns by introducing new safeguards to ensure that personal data may be included in a non-crime hate incident record only if the event is clearly motivated by intentional hostility and where there is a real risk of escalation causing significant harm or a criminal offence.

To be recorded as a non-crime hate incident or NCHI, the police must judge that any perception of hostility is valid; the complaint must not be irrational, trivial or malicious. This will ensure that the police record NCHIs only when it is absolutely necessary and proportionate to do so, and not simply because someone is offended. ...

We are confident that the content of the code fully reflects the Court of Appeal's judgment in the case of *Harry Miller v College of Policing*, which was handed down in December 2021. The court found that the recording of these incidents is lawful but must be subject to more robust safeguards to ensure that such recording is proportionate and protects free speech. ...

To reiterate, by taking these steps, we are protecting the vital changes that have been implemented by policing since the Stephen Lawrence inquiry. We continue to recognise the need to record intelligence that enables the police to intervene to prevent serious harms and future crimes, and we are determined to support the police in protecting the public. However, we have listened to the concerns raised in relation to the fact that this recording has at times gone too far, and we have acted on them. ...

col 445GC Lord Sandhurst (Conservative): ... until now, there has been no formal basis to ensure a proper system for selecting and recording what is to be logged, what personal data are to be kept, or when, if ever, the matter is to be reviewed. Nor was there any consistent basis as to when the subject would be given the opportunity, if at all, to respond. ... I understand that the number of reports which are now on record runs well into six figures—a very large number. Remember that the subjects have committed no crime, but in many cases their names have been recorded and remain recorded.

My first point is therefore that it is important that all police forces act promptly, as the code commends, to review all those reports currently on record to ensure that only those which meet the new requirements remain on record and that others are expunged without delay. ...

Secondly ... It is really important that this code is henceforth applied with common sense and due regard for the right to freedom of expression.

It is particularly important that the police in the field give full weight to the clear provision in the code that it is not every case which justifies recording the name and details of a particular subject, even if the incident is recorded. ...

col 446GC Lord Strathcarron (Conservative): ... The need for reform of non-crime hate incidents is clear on many levels, one of which is that an estimated quarter of a million of these have been recorded, which works out at about 70 a day. One can only imagine the amount of non-crime police time this has used up. It is worth remembering that nothing illegal has been done during all this police time. The police have taken it upon themselves to monitor our thoughts and opinions, and if they do not like what they find they record against us. ... I suspect what really brought everyone to horrified attention were the NCHIs recorded against four young schoolboys in Wakefield, one of them autistic, for accidentally dropping and scuffing a Koran, even though the head teacher found that there was no evidence of any malicious intent. The publicity around this case also brought to light the fact that NCHIs, unlike actual crimes, will not automatically be deleted from the young boys' records when they reach the age of 18.

Not content with issuing non-crime hate incidents against the schoolboys, we then saw the chief constable appearing to promote the idea of blasphemy law and the public humiliation of the autistic boy's mother. This is where we find ourselves when we start to police hurt feelings and not crime. ...

col 447GC The Home Office provides clear definitions of what constitutes a hate incident, including the requirement that there must be evidence of hostility and not just a vague and often anonymous impression that there has been some hostility. It also focuses on criminality, emphasising that not all incidents that may be perceived as offensive or hurtful should automatically be recorded. Importantly, it also clarifies how the data should be integrated into UK GDPR. To support all these clarifications, it provides 11 case studies as examples of how the new code would work in practice, predicting, as far as possible, real-life experiences that might be faced by officers. ...

As I said, so far, so good, but then comes the College of Policing's interpretation of what the Home Office intended. In the Home Office's code, these 11 examples recommended

that in 63% of cases the police are explicitly advised not to record the hate incidents. In its interpretation, the college provides just eight examples and if their advice is followed, only 12.5% would not be recorded. ...

col 448GC The Earl of Leicester (Conservative): ... To add further to what my noble friend was saying, seven of the eight scenarios in the College of Policing's new guidance, its authorised professional practice, were found in the old guidance, which the Court of Appeal, in the Miller case, subsequently found to be unconstitutional because it had a chilling effect on freedom of speech. ...

I have a point to add on training. Following a freedom of information request to police forces in England and Wales on how many had conducted training on free speech, 78% of the police forces that responded said that they had done no training on Article 10 of the European Convention on Human Rights or on the free speech protections in our own common law. Conversely, 56% of the responding police forces said that equality, diversity and inclusion training was inextricably embedded in their training. ...

Training in freedom of speech is a real issue for the Home Office to address because it is really important that police officers understand how important it is to uphold the foundational values of freedom of expression in the democratic and liberal society in which we live. ...

col 449GC Lord Jackson of Peterborough (Conservative): ... These are non-statutory guidelines. I can say, quite brusquely, that if the College of Policing does not take on board the comments from the Home Secretary, Ministers, Peers and Members of Parliament we may need to legislate and move it out of the non-statutory field. ...

Briefly, it is important that police at all levels understand that they have a duty to comply with Article 10 of the European Convention on Human Rights in respect of freedom of speech. ...

col 450GC The Miller case was much needed in exposing the extrajudicial policy of perceived offence, but it still worries me that the cultural paradigm shift that we have seen in the police, which is reflected in the College of Policing's hate crime operational guidance, is all about the perception of hurt feelings rather than the reality of criminal conduct.

While the NCHI does not create a criminal offence, it can be disclosed in an enhanced criminal records check and therefore has the potential to prevent a person gaining employment. ...

Lord Bourne of Aberystwyth (Conservative): ... it is important that these statistics are available to the police and to ensure that we have good communal relations. At the time of the terrorist attacks in Manchester, London and elsewhere it was extremely important that these statistics were available. I would not want ... a message to go out today that this is to scrap the process of looking at non-crime hate incidents. It is important that we build up a picture and that we say ... that it is recognised how important this is as the basis for acting. ...

col 451GC Of course, freedom of speech is important, as is the point about not characterising people as criminals. ...

Baroness Brinton (Liberal Democrat): My Lords, in the Explanatory Memorandum, the Government say that they have consulted, although not formally, with "key policing stakeholders" but ... the Secondary Legislation Committee says in its 35th report that it asked the Home Office whether they had consulted more widely, "for example, free speech advocates, those representing victims or data protection interest groups—and, if not, why was this not considered appropriate".

col 452GC The Government's response worries me. They said: "Given the democratic scrutiny that the code will be subject to and the comprehensive policing input received, the Government did not consult more widely". ...

The problem with harassment ... is that it escalates, often in a worsening pattern of behaviour. The early decision on whether or not to record is now weighed with the freedom

of speech issue only. Part III of paragraph 31, on page 15 of the code, says: “All recording authorities have a duty to balance the right to free expression ... and/or a real risk that a future criminal offence may be committed against individuals or groups with a particular characteristic(s). All efforts should be made to avoid a chilling effect on free speech (including, but not limited to, lawful debate, humour, satire and personally held views)”.

My concern is with the phrase “all efforts”. The focus of that entire paragraph is free speech. Can the Minister assure me that the issues around an already visible pattern of behaviour—some criminal, some not—in a matter that might be, or progress to be, a crime of, say, affray, assault or harassment, are being considered only in terms of the narrow issue of crime/non-crime hate incidents and in relation to freedom of speech?

col 453GC ... example J says: “An individual who uses a wheelchair reports to the police that a man approached her during a house party and threatened her in circumstances that could amount to a crime under section 4 of the Public Order Act 1986. In doing so, the man also made derogatory comments about her disability. A police officer is of the view that this incident would have been recorded as a disability hate crime had this occurred in a public place given the demonstrable threat and hostility that was evident”.

The response to the scenario then focuses entirely on the Public Order Act not being enforceable in a private dwelling, therefore making the incident a non-crime hate incident, but says that, because of the threatening language and the possibility of future escalation, it should be processed and recorded.

I am horrified by this example. Assuming that threatening behaviour that could have amounted to a crime occurred, this is not just a Public Order Act offence. It could also be affray, assault or harassment, all of which are crimes. ... My concern would be about what just happened to me. Someone saying, “Sorry, madam, it just happened in the wrong place”, is not going to make me feel safer. ...

col 454GC Lord Ponsonby of Shulbrede (Labour): ... The code puts a lot of weight on using common sense, but I do not believe we should rely on that phrase too much to ensure its fair and uniform application at an operational level. What is common sense to an experienced officer may not be to a new recruit having to apply these rules for the first time. It also opens the code up to being abused. ...

I also want to comment on the language of the Government on this matter. The Secretary of State published an article last month stating that the very concept of non-crime hate incidents is “largely Orwellian and wrongheaded”, and that they “distract the police from their core duties”. ...

col 455GC We should remember, just after the 30th anniversary of the murder of Stephen Lawrence, why the comprehensive recording of hate incidents was introduced in the first place. It was to help protect against more serious hate crimes down the line and stop what happened to Stephen from ever happening again. ...

col 456GC Lord Murray of Blidworth: ... NCHIs are vital for building community confidence and ensuring that significant harm and future criminal offences can be averted. The key thing is to ensure that this recording is properly regulated and that personal data is recorded only when it is necessary and proportionate to do so. ...

I also want to be clear that we will not ask forces to delete all existing records because valuable police intelligence would be lost and, fundamentally, it would not be a proportionate use of police resources to undertake a review of all existing records. However, where these records exist and if in any context they are reviewed—for example, during general policing inquiries for the purposes of an enhanced DBS certificate or when a person makes a subject access request—the code makes it clear that particular care should be taken to review the record before considering disclosure. ...

The Home Office is working very closely with the College of Policing to ensure that its authorised professional practice accurately reflects the contents of the new code. ...

To be clear, the college will publish operational guidance documents for the police on how to deal with the many different types of crimes and incidents, which will be known collectively as the authorised professional practice. It will be considered the official source of professional practice for policing. As it is vital to forces and will cover a number of technical matters, it is important for the college to determine how best to operationalise the content set out in the code. However, we are clear that the college's guidance must be consistent with the provisions and principles in the code before the Committee today, which will have statutory effect once it is approved by Parliament. ...

col 457GC This code does not prohibit disclosure of non-crime hate incident personal data as police information on an enhanced criminal record certificate issued by the Disclosure and Barring Service—the DBS. This is for two main reasons. First, NCHIs are simply one form of police intelligence that sits alongside many others—missing persons data, anti-social behaviour, unproven allegations of sexual assault and so on. They exist in line with the police's common law powers to prevent crime. There are circumstances where police non-conviction information of various kinds will be considered for disclosure in enhanced DBS checks used in relation to roles which involve close working with vulnerable adults or children. ...

Secondly, the rules surrounding disclosure of this type of data are already governed by statutory disclosure guidance produced by the Home Office. Non-crime hate incident intelligence is not an exceptional form of police intelligence; it is simply a type of non-crime incident data, collected by the police to prevent crime, hence why it is covered in the same statutory guidance. ...

col 458GC DBS records suggest that, in any event, it is rare for non-crime police information of any sort to appear on an enhanced criminal records certificate supplied to a potential employer. This type of information featured in only 0.1% of the 3.9 million enhanced checks issued by the DBS between April 2019 and March 2020. ...

During the debate, my noble friend Lord Bourne and a number of other noble Lords raised a question about consultation. ... the Government consulted relevant policing stakeholders, including the College of Policing, the National Police Chiefs' Council and senior police officers. ...

col 459GC I turn to the remarks made by the noble Baroness, Lady Brinton. We were all shocked and saddened by the offending to which she was exposed that she described to the Committee. It is the Government's view that the code takes particular care in relation to vulnerable individuals. The examples it gives are designed to be examples of non-criminal offences. The matters which were described by the noble Baroness were criminal offences, and the police will follow other guidance if an actual crime has occurred. ...

The scope of the code is limited to non-crime hate instances. ...

To read the full transcript see

<https://hansard.parliament.uk/lords/2023-04-26/debates/69571C08-CC48-438F-B481-C2C41B12647C/CodeOfPracticeOnTheRecordingAndRetentionOfPersonalDataInRelationToNon-CrimeHateIncidents>

To read the Non-Crime Hate Incidents: Draft Code of Practice on the Recording and Retention of Personal Data see

<https://www.gov.uk/government/publications/non-crime-hate-incidents-draft-code-of-practice/non-crime-hate-incidents-draft-code-of-practice-on-the-recording-and-retention-of-personal-data-accessible>

The Court of Appeal judgement referred to above can be read at

<https://www.judiciary.uk/judgments/miller-v-the-college-of-policing/>

The College of Policing guidance referred to above can be read at

<https://www.college.police.uk/app/major-investigation-and-public-protection/hate-crime/responding-hate#recording-non-crime-incidents-perceived-by-the-reporting-person-to-be-motivated-by-hostility>

The Secondary Legislation Committee report referred to above can be read at <https://committees.parliament.uk/publications/34660/documents/191322/default/>

The Secretary of State's article referred to above can be read at <https://www.thetimes.co.uk/article/suella-braveman-orwellian-non-crime-hate-incidents-distract-police-bfqg5mf9k>

Charity Commission

Inquiry opened into North London religious charity over failure to submit annual accounting documents

The regulator of charities in England and Wales has opened a statutory inquiry into [Keren Shmuel](#) following the charity's repeated failure to file its annual accounting documents on time.

Keren Shmuel was established in 1996 for the advancement of the Jewish religion and religious education, which it achieves through grant-making.

The charity drew the regulator's scrutiny in January 2017 when its annual return and accounts for the financial years ending 2014 and 2015 were still outstanding. Despite a final warning and deadline from the Commission, the required information was not submitted ...

... the trustees have twice since failed to meet their legal obligations to file the charity's annual accounting documents on time, for the financial years ending 2019 and 2021. This is continuing evidence of the trustees' misconduct and/or mismanagement ...

To read the full press release see

<https://www.gov.uk/government/news/inquiry-opened-into-north-london-religious-charity-over-failure-to-submit-annual-accounting-documents>

TOP

Israel

House of Commons Written Answers

West Bank: British Nationals Abroad

Kenny MacAskill (Alba) [181344] To ask the Secretary of State for Foreign, Commonwealth and Development Affairs, what estimate he has made of the number of Israeli settlers in the West Bank who hold British citizenship.

David Rutley: The Foreign Secretary has made no such assessment. The UK's position on settlements is clear. They are illegal under international law, present an obstacle to peace, and threaten the physical viability of a two-state solution. We want to see a contiguous West Bank, including East Jerusalem, as part of a viable and sovereign Palestinian state, based on 1967 lines. We urge Israel to halt its settlement expansion.

<https://questions-statements.parliament.uk/written-questions/detail/2023-04-18/181344>

Israel: Christianity

Mike Kane (Labour) [181282] To ask the Secretary of State for Foreign, Commonwealth and Development Affairs, whether he has discussed recent attacks against (a) Christian

communities and (b) Christian holy sites in Jerusalem, including the assault on the Church of Gethsemane on 19 March 2023, with his Israeli counterpart.

David Rutley: The UK is a strong supporter of Freedom of Religion or Belief (FoRB) and calls for places of worship to be respected. We condemn the violence at the Church of Gethsemane on 19 March. Israel must ensure those responsible for attacks on Christians are held to account. We value the Hashemite Kingdom of Jordan's important role as custodian of the holy sites in Jerusalem. The Foreign Secretary emphasised the importance of all parties respecting the historic Status Quo arrangements at Jerusalem's holy sites during Israeli Foreign Minister Cohen's recent visit to London and in my statement on 7 April.

<https://questions-statements.parliament.uk/written-questions/detail/2023-04-18/181282>

Israel: Palestinians

Fleur Anderson (Labour) [182077] To ask the Secretary of State for Foreign, Commonwealth and Development Affairs, what diplomatic steps he is taking to support de-escalation of violence against Palestinian and Israeli civilians.

David Rutley: We continue to closely monitor the security situation in Israel and the Occupied Palestinian Territories (OPTs). The Foreign Secretary issued a press statement on April 7 condemning violence at Jerusalem's holy sites. In a meeting with Israeli Foreign Minister Eli Cohen on 21 March he re-stated the UK's opposition to settlements, demolitions, and evictions. This followed a phone call with Palestinian Authority Foreign Minister Malki on 7 March in which he made clear his expectation that the Palestinian Authority will call on Palestinians to refrain from violence. British diplomats in Tel Aviv and Jerusalem raise these issues with the government of Israel and the Palestinian Authority, respectively, on a regular basis, and we regularly raise these issues in international fora.

<https://questions-statements.parliament.uk/written-questions/detail/2023-04-20/182077>

The press statement referred to above can be read at

<https://www.gov.uk/government/news/calls-for-de-escalation-at-jerusalem-holy-sites-foreign-secretary-statement>

Israel: Nuclear Weapons

Kenny MacAskill (Alba) [182071] To ask the Secretary of State for Foreign, Commonwealth and Development Affairs, what recent assessment his Department has made of whether Israel possesses nuclear weapons.

David Rutley: Israel has not declared a nuclear weapons programme. The UK Government has called on Israel to join the Nuclear Non-Proliferation Treaty as a non-nuclear weapon state and to upgrade its arrangement to a full scope comprehensive safeguards agreement with the International Atomic Energy Agency.

<https://questions-statements.parliament.uk/written-questions/detail/2023-04-20/182071>

British Embassy Tel Aviv

The United Kingdom wishes the State of Israel a Happy 75th Birthday

The UK and Israel share extremely close ties as seen through the developing economic and technological relationship between the two nations.

The UK is proud to be linked to Israel's thriving technology industry – from cybersecurity, fintech, and healthcare, to energy and climate tech. UK companies have established partnerships and collaborations with Israeli companies in the tech sector. Over 400 Israeli technology firms have set up offices and operations in the UK – more than in any other European country. ...

The UK is one of Israel's most important trading partners, with trade between the two countries reaching over £7 billion annually in 2022. The current UK-Israel Trade and Partnership Agreement was one of the UK's first trade continuity agreements signed after Britain left the European Union, and ensures tariff-free trade on 99% of the value of goods traded between the two countries. The UK is currently negotiating an upgraded, ambitious Free Trade Agreement ...

For the past 75 years, the UK has been clear about Israel's right to exist and is unequivocal in supporting Israeli security and right to self-defence, in the face of threats from its neighbours, particularly Iran. The UK has often stood at the UN defending Israel against unwarranted and disproportionate criticism.

The UK has consistently supported the establishment of a two-state solution, with Israel and a future Palestinian state living side by side in peace and security. This policy is a fulfilment of the Balfour Declaration but also results from a sincere belief that lasting security for Israel – preserving its Jewish and democratic character – requires a solution that offers equal rights and dignity for both Israelis and Palestinians. ...

Last month the UK and Israel signed the 2030 roadmap for UK-Israel bilateral relations. The roadmap sets out our ambitions for cooperation over the next decade, as part of an innovative and forward-looking strategic partnership. ...

UK's Foreign Secretary, James Cleverly, said: The strong ties between the UK and Israel over the past 75 years is a testament to the strength of our close and historic relationship. The UK and Israel stand together, defiant in the face of the malign influence of Iran in the region, and against the wider scourge of antisemitism.

I am happy to celebrate the significant milestone of Israel's 75th birthday. Yom Ha'atzmaut Sameach! ...

To read the full press release see

<https://www.gov.uk/government/news/the-united-kingdom-wishes-the-state-of-israel-a-happy-75th-birthday>

European Commission

Yom HaAtzmaut message from President of the European Commission Ursula von der Leyen (video)

<https://twitter.com/EUinIsrael/status/1651088583644594177>

TOP

Foreign Affairs

House of Commons Written Answer

Persecution of Christians across the Globe Independent Review

Matthew Offord (Conservative) [181471] To ask the Secretary of State for Foreign, Commonwealth and Development Affairs, what steps his Department is taking to ensure that the Truro Review is implemented in full.

Andrew Mitchell: We welcome the findings of the Independent Review of our work to take forward the Truro recommendations. We continue to ensure that progress made is embedded and that Freedom of Religion or Belief (FoRB) is central to our wider human rights work. Since the Truro Review, we have hosted the International Ministerial conference on FoRB, working with the PM's Special Envoy for FoRB, and announced £500,000 of new funding to support FoRB defenders and to provide legal expertise to countries where FoRB is under pressure. We continue to work

with UN, G7, and other multilateral fora to promote FoRB and Ministers and officials regularly raise specific cases of concern.

<https://questions-statements.parliament.uk/written-questions/detail/2023-04-18/181471>

The Truro Review, referred to above, can be read at

<https://christianpersecutionreview.org.uk/storage/2019/07/final-report-and-recommendations.pdf>

TOP

Relevant Legislation ** new or updated today

UK Parliament

Bill of Rights Bill

<https://bills.parliament.uk/bills/3227>

Education (Non-religious Philosophical Convictions) Bill

<https://bills.parliament.uk/bills/3186>

Higher Education (Freedom of Speech) Bill

<https://bills.parliament.uk/bills/2862>

Holocaust Memorial Bill

<https://bills.parliament.uk/bills/3421>

Marriage Act 1949 (Amendment) Bill

<https://bills.parliament.uk/bills/3325>

**** Online Safety Bill**

<https://bills.parliament.uk/bills/3137>

Notice of amendments

<https://bills.parliament.uk/publications/50864/documents/3342>

Palestine Statehood (Recognition) Bill

<https://bills.parliament.uk/bills/3217>

Private Burial Grounds and Cemeteries Bill

<https://bills.parliament.uk/bills/3188>

Same Sex Marriage (Church of England)

<https://bills.parliament.uk/bills/3438>

Schools Bill

<https://bills.parliament.uk/bills/3156>

Universal Credit (Removal of Two Child Limit) Bill

<https://bills.parliament.uk/bills/3163>

Universal Jurisdiction (Extension)

<https://bills.parliament.uk/bills/3454>

Scottish Parliament

Charities (Regulation and Administration) (Scotland) Bill

<https://www.parliament.scot/bills-and-laws/bills/charities-regulation-and-administration-scotland-bill>

Gender Recognition Reform (Scotland) Bill

<https://www.parliament.scot/bills-and-laws/bills/gender-recognition-reform-scotland-bill>

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Consultations

** new or updated today

Prospective Scheme of Delegation for the Charity Commission for Northern Ireland (closing date 15 May 2023)

<https://www.communities-ni.gov.uk/consultations/consultation-prospective-scheme-delegation-charity-commission-northern-ireland>

Supporting earlier resolution of private family law arrangements (closing date 15 June 2023)

<https://consult.justice.gov.uk/digital-communications/private-family-law-consultation/>

Review of the Race Relations (NI) Order 1997 (closing date 18 June 2023)

<https://www.executiveoffice-ni.gov.uk/consultations/consultation-review-race-relations-ni-order-1997>

TOP

The Scottish Council of Jewish Communities (SCoJeC) is Scottish Charitable Incorporated Organisation SC029438