

NASS POLICY BULLETIN 81

RACIST INCIDENTS

1 Scope

1.1 To give guidance to NASS staff about preventing racist incidents and harassment that involve NASS-accommodated and/or NASS-supported asylum seekers.

1.2 To give guidance to NASS staff about responding to reports of racist incidents and harassment that involve NASS-accommodated and/or NASS-supported asylum seekers.

1.3 To give guidance to NASS accommodation providers, one-stop services and the voluntary sector providing emergency accommodation regarding their policies and procedures relating to racist incidents and racial harassment.

1.4 This document replaces the references to racial harassment previously found in NASS Policy Bulletin 18.

2 Definitions

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

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

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

2.3 The purpose of this definition is not to prejudge the question of whether a perpetrator's motive was racist or not: that may have to be proved if, for instance, the perpetrator is to be charged with a racially aggravated offence. The purpose of the definition is rather to ensure that investigations take full account of the possibility of a racist dimension to the incident and that statistics of such incidents are collected on a uniform basis.

2.4 Recommendation 13 of the Stephen Lawrence Report was:

"That the term *"racist incident"* must be understood to include crimes and non-crimes in policing terms. Both must be reported, recorded and investigated with equal commitment."

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

(Paragraphs 2.1-2.4 are taken from the Home Office's *Code of Practice on reporting and recording racist incidents in response to recommendation 15 of the Stephen Lawrence Inquiry Report*, available at <http://www.homeoffice.gov.uk/docs/coderi.html>)

3 Principles

3.1 NASS will use the definition of a racist incident recommended by the Stephen Lawrence Inquiry Report.

3.2 NASS is committed to recording and investigating all racist incidents, both crimes and non-crimes.

3.3 NASS is committed to participation, through either direct or surrogate representation, in local multi-agency forums established to co-ordinate action to prevent and tackle racist incidents in their area. Surrogate representation may involve an enabling authority, a one-stop service or an accommodation provider.

3.4 NASS is committed to offering effective support and protection to the victims and witnesses of racist incidents, and to the households of victims and witnesses, where these individuals are supported by NASS.

3.5 NASS is committed to considering the full range of civil legal remedies against perpetrators of racial harassment, and to playing its part in their appropriate implementation.

3.6 NASS recognises that asylum seekers are unlikely to report racist incidents unless they believe that NASS is competent to tackle racist behaviour effectively and is committed to using its powers and resources to do so.

4 Prevention

4.1 The one-stop service must advertise that it has information available about how to deal with racial harassment and racist incidents.

4.2 Asylum seekers subject to the induction process will receive information about how to deal with racial harassment and racist incidents.

4.3 Accommodation providers must be aware of *Tackling Racial Harassment: code of practice for social landlords*. It has been endorsed by the Chartered Institute of Housing, the Local Government Association and the National Housing Federation, and is published by the Office of the Deputy

Prime Minister. It is available at http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_603873.hcsp

4.4 Accommodation providers must have a policy on and procedure for dealing with harassment. This may either be a comprehensive policy and procedure, or a separate policy and procedure specific to racial harassment, and should conform to the requirements of this policy bulletin and be agreed as such by the Home Office. Accommodation providers' policies and procedures must cover:

- multi-agency working;
- prevention and publicity;
- encouraging reporting;
- supporting victims and witnesses;
- action against perpetrators.

Details of this policy and procedure must be displayed prominently in the accommodation provider's offices, and information made available in individual properties.

4.5 Accommodation providers' occupancy agreements place an obligation on residents not to commit acts of racial harassment or anti-social behaviour. Accommodation providers must bring these obligations to the attention of each resident, alongside other important parts of the agreement, when they let the accommodation.

4.6 Accommodation providers must keep under review their property portfolios with regard to the vulnerability to racist incidents of people living in particular premises or in particular areas. These may be termed "vulnerable premises." Accommodation providers must consult with NASS about allocations to such "vulnerable premises" and not let these premises to households who may be foreseen to be at risk from harassment. The reasons why they may be at risk can include:

- their country of origin;
- their religion;
- their appearance;
- disability;
- that the household includes young children or single women.

4.7 The accommodation provider must consult with their NASS contract manager about the withdrawal of "vulnerable premises" from the accommodation contract and their replacement with agreed alternative properties. NASS contract managers and accommodation providers must involve NASS regional staff and other members of the local multi-agency forum in any decisions to stop using particular premises for the accommodation of asylum seekers as a result of safety and community cohesion concerns.

5 Recording reports of racist incidents

5.1 NASS regional staff will receive reports, conduct investigations and keep records of racist incidents. All reports of a racist incident must be passed on immediately to the NASS office for the region in which the incident occurred.

5.2 NASS regional staff will accept reports of racist incidents from third parties. These third parties can include the police, voluntary sector agencies, solicitors, doctors, community organisations, religious groups and others, as well as NASS-funded organisations: accommodation providers, one-stop services and enabling authorities.

5.3 In consultation with local multi-agency forums, NASS regional staff, accommodation providers and one-stop services must agree a standard format for recording reports of racist incidents. This should adhere as closely as possible to the minimum data content outlined in the Home Office's *Code of Practice on reporting and recording racist incidents in response to recommendation 15 of the Stephen Lawrence Inquiry Report*.

5.4 NASS regional offices will record all racist incidents against asylum seekers that are reported to them. The purposes of recording are:

- to ensure that victims and witnesses can be offered support;
- to monitor racist incidents at the local and national level;
- to gather intelligence that can be used to plan prevention measures and to focus resources.

5.5 Accommodation providers must arrange for an interpreter to assist a resident in reporting a racist incident, if required.

5.6 NASS regional offices will promote within asylum seeker communities NASS's policies and procedures on handling racist incidents. This is recommended against a background of many racist incidents committed against asylum seekers going unreported. A rising level of reports should not necessarily be perceived to be significant of a rising level of harassment. It could reflect an improving confidence by asylum seekers that something can be done to tackle racial harassment and racist incidents.

5.7 NASS regional offices will collect information about the outcomes of cases, the action taken and the timing of this action, as well as statistics on the number of reported racist incidents. NASS will collate this information and periodically produce an analysis of national statistics.

6 Disclosure of information on racist incidents

6.1 The victims of racist incidents must be encouraged to report to the police or to agree for their report to another agency to be passed to the police. The NASS regional office that received the report will assist the police investigation as directed and liaise with the police over any necessary response to the incident.

6.2 If a victim of a racist incident does not consent for their report to be passed to the police in full – including the identities of victims and perpetrators – then an anonymous report omitting any information that could identify anyone involved must be passed on for monitoring purposes.

6.3 Whenever NASS regional staff receive a direct report of a racist incident, the person making the report will be asked to consent to the disclosure of the report to other agencies for the purpose of investigating that incident and preventing other incidents. The other agencies are named in the Crime and Disorder Act 1998:

- a chief constable;
- a police authority;
- a local authority;
- a probation committee;
- a health authority;
- a person acting on behalf of one of these agencies.

The person reporting may choose for the report to be disclosed to certain agencies but not to others. While victims and witnesses must not be coerced or put under pressure to consent to disclosure, they should be advised of the advantages of disclosure for victims and potential victims as it enables problems to be addressed. Where consent is withheld, anonymous reports should be passed to the agencies above, and always to the local authority.

6.4 If the one-stop service receives a report of a racist incident where the victim is an asylum seeker, they must pass this report in full to the NASS regional office, so long as they have the consent of the person making the report. If permission is not granted for the report in full to be disclosed, an anonymous report must be passed to the NASS regional office for monitoring purposes.

6.5 Accommodation providers and the voluntary sector providing emergency accommodation must encourage residents to report all racist incidents to the provider or a third party. They should follow the approach described in paragraph 6.3 above. If the victim and/or other complainant consent to disclosure, a full report must be passed to NASS regional staff and the police. Where consent is withheld, an anonymous report must be passed to NASS regional staff.

6.6 If an accommodation provider has grounds to suspect a resident of perpetrating racial harassment, the provider must consult with NASS regional staff about how to investigate the incident(s) and what action to take. Mediation, warnings, other civil remedies such as injunctions or the withdrawal

of NASS support should be considered if the results of a full investigation by NASS indicate that this is appropriate.

6.7 If an accommodation provider has grounds to suspect a resident of racially aggravated offences or serious harassment, the provider must report this to the police. If the accommodation provider's suspicion is based solely or mainly upon a report from a victim, they must obtain the consent of the victim for passing on this report to a NASS investigator and/or the police. Where consent is withheld, an anonymous report must be passed on.

6.8 NASS regional staff must follow multi-agency protocols for the exchange and disclosure of information and for more detailed guidance should refer to the Home Office's *Code of Practice on reporting and recording racist incidents in response to recommendation 15 of the Stephen Lawrence Inquiry Report*.

7 Responding to reports of racist incidents

7.1 "The agency that has the first contact with the victim or witness reporting a racist incident should respond in a sensitive way that shows an understanding of how victims of racist crime may feel. Training should be provided for those people who will make that first contact with victims."

(From *Code of Practice on reporting and recording racist incidents in response to recommendation 15 of the Stephen Lawrence Inquiry Report*.)

NASS regional offices, accommodation providers and one-stop services must ensure that those individuals in direct contact with victims of racist incidents have received appropriate training. The content of this training should be established by the local multi-agency forum and in consultation with the police.

7.2 NASS regional staff, accommodation providers and one-stop services must be sympathetic and supportive to victims of racist incidents. It is not their role to offer counselling, but as a minimum they must advise the victim how to contact, or with their permission refer them to, Victim Support's services, a community organisation, or their general practitioner. There may be other more specialist services available about which the recipient of the report can supply information.

(Details on Victim Support's services may be obtained at <http://www.victimsupport.org/>)

7.3 NASS regional staff, accommodation providers and one-stop services must offer support and protection to witnesses of racist incidents.

7.4 Where a NASS regional office is the direct recipient of a report of a racist incident, and the full report is not passed to the police, staff must ensure

that the person making the report is provided with regular updates on the progress of the case, and a final report on the outcomes of the incident.

8 Adequacy of NASS-supported accommodation (including sub-contracted and emergency accommodation)

8.1 The safety and security of the victims of racist incidents must be ensured. The accommodation provider, with the agreement of NASS, must urgently arrange safe temporary housing for a victim of a racist incident when they have grounds for concern for the victim's immediate safety if they remain at the same address.

8.2 The accommodation provider, with the agreement of NASS, must arrange a permanent transfer if there is no prospect of a victim's safe return to their former address. A permanent transfer must also be arranged where the victim has reported the incident to the police, or consented for their report to another agency to be passed in full to the police, and the police support a transfer.

8.3 If NASS regional staff receive a direct report of a racist incident where the victim is resident at a NASS accommodation provider's address, they will liaise with the accommodation provider about the victim's safety at that address. If either NASS regional staff or the accommodation provider has grounds for concern for the victim's immediate safety at their current address, then the provider, with the agreement of NASS, must urgently arrange safe temporary housing. If either NASS regional staff or the accommodation provider has grounds for concern for the victim's continued safety at their current address, then both must consult over the arrangement of a permanent transfer with the same or another provider.

8.4 Where no safe temporary housing or permanent transfer can be arranged, admittance to emergency accommodation must be arranged by the NASS regional staff until such time as safe permanent accommodation can be secured. Priority must be given, however, to finding suitable alternative dispersal accommodation for the victim and any dependants. Emergency accommodation should only be provided in the region where the asylum seeker had been living, except where this would not relieve grounds for concern for the victim's safety.

9 Adequacy of private accommodation for NASS-supported persons

9.1 NASS is required to consider whether it would be reasonable for a person to continue to occupy accommodation, when it has to determine whether accommodation is adequate. (Reg. 8(3)(a))

9.2 If an asylum seeker who is receiving subsistence-only support from NASS comes to apply for accommodation support from NASS on the grounds that their accommodation has become inadequate on account of racial

harassment, the NASS caseworker responsible for considering the application will review the evidence of the harassment. Where the NASS caseworker is satisfied that there is no possibility of the victim's safe return to their accommodation, or where the incident has been reported to the police and the police support the relocation of the victim, the caseworker should agree that the accommodation has become inadequate.

9.3 Such applications must be considered urgently by the NASS caseworker in order to protect the safety of the applicant. The applicant may be admitted to emergency accommodation while the application is being considered.

Links

Home Office, *Code of Practice on reporting and recording racist incidents in response to recommendation 15 of the Stephen Lawrence Inquiry Report*, available at <http://www.homeoffice.gov.uk/docs/coderi.html>.

Office of the Deputy Prime Minister, *148: Tackling racial harassment: code of practice for social landlords*, available at http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_603873.hcsp.

Association of Chief Police Officers, *Hate Crime Manual*, available at <http://www.acpo.police.uk/policies/index.html>.