

Breakthrough UK Ltd and The Equality and Human
Rights Commission

Hate Crime and Disabled People

A Survey of Practice Activity and
Approaches in the North West of England

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Dedication

This report is dedicated to the life and work of Ken Lumb for his role in pushing forward the disabled people's movement in the United Kingdom. He was founder member of the Greater Manchester Coalition of Disabled People and the Union of Physically Impaired Against Segregation.

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Foreword

Hate crime is now an established term in the fields of 'race hate', 'religious hatred' and has begun to be acknowledged in the outlawing and cultural proscription against hate motivated crime against lesbians, gay men, bisexuals, and transgender people and their communities (LGB and T). Disabled people, as so often is the case, are late in being afforded statutory recognition in hate crime. This can be explained in terms of wider constructions of disability as very diverse and more pernicious and muddled constructions of disabled people as vulnerable. This latter has ironically weakened rather than strengthened the impetus to introducing hate crime provisions for disabled people.

The absence of hate crime protection cannot however be attributed to the absence of hate motivated incident. There is now ample evidence of hate crime being evident in the lives of many disabled people and pervasive in the lives of people with mental health problems and learning disabilities (Higgins, 2006; Mind, 2007). The recent publication '*Getting Away with Murder*' (Disability Now, UKDPC & Scope, 2008) pulls together an alarming catalogue of hate crime against disabled people ranging from bullying and verbal abuse through to actual bodily harm, torture and murder. Although the term hate crime is contentious the evidence presented makes clear that disabled people are being targeted for abuse because of their perceived difference and/or vulnerability. The most serious offences correlate highly with some of the most vulnerable people in society. It is shocking that in the 21st century such incidents happen, some in broad daylight, in the mainstream of society and witnessed by members of the public. The above report presents details of 17 known deaths due to what the authors and many members of the victims' families view as hate crime. Sadly too few cases of aggravated Disability Hate Crime have been successful in the British courts (BBC, 2007 <http://news.bbc.co.uk/1/hi/uk/7123039.stm>)

Hate crime against disabled people has, since 2003, received official recognition in the United Kingdom. New legislative developments have been made to strengthen the sentencing provisions attached to primary offences which are seen to be motivated by hate. However, unlike race hate and religious hatred no discrete new crimes have been created, but simply the scope to add to the tariff attached to an offence where hate has formed part

of the motivation for the crime and can be evidenced from judicial procedure. The case law to date established that the threshold for establishing hate crime, its occurrence, is very high and at times legal judgements seem to fly in the face of intuition where serial bullying, harassment or harm have been reported.

The following report and the study upon which it is based, aims to play its part in furthering our understanding and response to hate crime by scoping the organisational roles, remit, and responses to Disability Hate Crime in the North West of England. The report aims to focus on the primary topic of Disability Hate Crime, but given the overlaps with LGB and T hate crimes, the latter will be included where they highlight similarities or differences in treatment. National developments will be highlighted to provide a broader context to the North West regional focus of this study. Arguably both disability and LGB and T hate crime have received less legal, criminal justice system, and public attention whilst being based on more limited legal remedies. Both however are beginning to receive greater recognition on all these fronts.

Definitions of Hate Crime

The Crown Prosecution Service (CPS) definition in the Guidance on Prosecuting Cases of Disability Hate Crime is:

‘Any incident which is perceived to be based upon prejudice towards or hatred of the victim because of their disability or so perceived by the victim or any other person’ (Crown Prosecution Service, 2007)

Other terms are in use, but less commonly so, for example the Equality and Human Rights Commission use the term ‘Motivated Crime’ to describe hate crime. This is an interesting linguistic shift which may have greater value in the future in going beyond the term ‘hate’ which is a very emotive term which in truth may not be a prerequisite of the often low key but often repeat forms of bullying and intimidation that disabled people experience. The term ‘Motivated Crime’ might also help counter notions of vulnerability being outside of hate-based constructions of crime.

The motivation to commit a crime may well deliberately take the form of targeting disabled people for their vulnerability. This needs further exploration. There is to date however no strong evidence of

planned group violence of the form detailed in the Stephen Lawrence Enquiry report and direct parallels with say race hate crime ought perhaps to be avoided where thresholds of aggravation require planning and coordination where that may not be a feature of Disability Hate Crime (See CPS Guidance, 2007: 6.5.5 on serious aggravating factors). However, the role of low-key attrition in Disability Hate Crime may well mirror or even exceed those behaviours attaching a range of hate crime. Clearly more research is needed here and broad a priori assumptions avoided.

In the USA, the equally interesting term Bias Crime attaches to what in the UK we dub hate crime (Centre for Criminal Justice Policy Research, 2000; Lawrence, 1999). The lesser used term 'Hate-Motivated Crime' also appears in the US literature (Craig, 2002).

Glossary of Key Terms and abbreviations

ACPO	Association of Police Officers
BME	Black and Minority Ethnic Groups
CDPP	Crime and Disorder Prevention Partnership
CJS	Criminal Justice System
CPS	Crown Prosecution Service
DIAG	Disability Independent Advisory Group
KINs	Key Individual Networks (KINs).
LGB and T	Lesbian, Gay, bi-sexual, and transgender individuals and communities.
VIA	Values into Action
PIP	People in Partnership

About this report

Report authors

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About the Equality and Human Rights Commission

The Equality and Human Rights Commission opened on 1 October 2007.

The new commission is working to eliminate discrimination, reduce inequality, protect human rights and to build good relations, ensuring that everyone has a fair chance to participate in society.

The Equality and Human Rights Commission is the result of a bringing together of the previously separate Equal Opportunities Commission, The Commission for Racial Equality, and The Disability Rights Commission

The new commission is building on their legacy to achieve change to benefit some of the most disadvantaged and voiceless people in our society.

The new commission brings together the work of the three previous equality commissions and also takes on responsibility for

the other aspects of equality: age, sexual orientation and religion or belief, as well as human rights.

About Breakthrough UK Ltd

Breakthrough UK Ltd is a social enterprise controlled by disabled people, it uses the social model of disability and its mission and aims are as follows:

To promote the rights, responsibilities and respect of disabled people.

Aims:

We have translated our **Mission** into a number of **Strategic Aims**, all of which are intended to 'support disabled people to play a full, economically active role in society':

Aim 1 - To work with individual disabled people to support them to be independent, to seek employment, and develop their careers.

Aim 2 - To work with employers, providers and other agencies involved in the labour market to promote best practice in all aspects of recruitment, retention, and progression.

Aim 3 - To tackle the barriers and discriminatory policies and practices which disadvantage disabled people in the economy, society, and the labour market.

Aim 4 - To ensure our organisation demonstrates excellent practice through good governance, strong management, and continuous improvement.

Aim 5 - To ensure Breakthrough UK Ltd policy and operational activities are recognised as leading edge at local, national and international levels.

Aim 6 - To explore, develop and promote the concept of Independent Living in a diverse cultural context.

Key Points from the study

- There is a misunderstanding about disability and why disabled people may be subject to hate crime or targeted crime.
- Statutory bodies need to gain a better understanding of the context of discrimination in which disabled people live and to develop their understanding of disability as a particular form of social oppression.
- Disabled people need to be included in all the functions of statutory bodies as advisors, consultants, employees, and any other key positions.
- There seems to be little if any preventative work in the area of hate crime against disabled people, transgender people, lesbians, gay men, and bisexuals.
- The definition of hate crime needs to be consistent. The false split between attacks which are instigated by perceptions of vulnerability rather than 'hostility' needs to be removed.
- Partnership working needs to move closer to disabled people, including bringing disabled people into all parts of organisations.
- Policies need to take account of transgender people experiencing a particular form of oppression; they should not be grouped with any other group.

Executive Summary

About this study

- This research was conducted in The North West of England with a particular focus on Greater Manchester and Merseyside. The report is based on 21 questionnaires and 4 interviews.
- Almost all of the organisations stated that dealing with hate crime was not a primary function, although some statutory bodies stated it as being a primary function.

- This study has explored barriers and what works in responding to and supporting people who report hate crime. Key areas of discussion were the differences in definition and policies, what barriers there are and what works for organisations in responding to and supporting individuals who report hate crime.

Policy context

- Disability Hate Crime has only recently been recognised in English law and has lagged behind legislation and guidance on hate crime around 'race' and religion, the symbolism of this might be viewed as important. Sexual Orientation Hate Crime receives more attention overall than Disability Hate Crime, but much less than Race Hate Crime.
- There has been no new offence category created relating to Disability Hate Crime and Sexual Orientation Hate Crime, merely a sentence provision to add to the tariff where primary offences (assault, public order offences) are proved to be aggravated by hatred towards a disability or someone's sexual orientation.
- Section 146 of the Criminal Justice Act 2003 provides for the addition of this aggravation based on Disability and Sexual Orientation Hate Crime. The provisions have been underused particularly in cases of serious primary offences, for example murder, torture, or manslaughter
- Police and CPS approaches post the 2003 Criminal Justice Act amendments aim to make: reporting easier, support better coordinated and consistent sentencing, prosecution more straightforward, liaison with wider support groups (e.g. Victim Support) enhanced and ultimately a reduced level of Disability and Sexual Orientation Hate Crime.
- The contexts of hate crime, whilst exhibiting some overlap, are distributed differently, with more concentrated spatial risks associated with areas of high visibility of gay, and bisexual activity. Disabled people's lives are more dispersed spatially and there are less clear disability identified locations.
- Police and Community Support Officers' crime reduction activity.

- Although quite recent, there is little evidence that the above measures have made rapid inroads to reducing Disability or Sexual Orientation Hate Crime or making the experience of such crime and reporting less destructive.

Barriers to responding

- Key barriers remaining are inaccessible or hostile reporting contexts, tough legal thresholds, fear of further intimidation, and lack of emotional, personal, and financial support.
- Disability and homophobic hate crime is significantly under-reported. Efforts are now being made to increase the level and ease of reporting these hate crimes and targeting support on these groups.
- Disability Hate Crime may be under-reported because it is not recognised as such by the person who has been targeted, or organisations.
- Third sector organisations do not always have the resources to be involved in partnership working.
- Systems which are in place deter reporting. Some disabled people may be fearful of formal organisations.

Definitions of hate crime

- Disability Hate Crime is contested and its boundaries are blurred for some commentators, however most accept that forms of Disability Hate Crime do exist. Sexual Orientation Hate Crime is less clearly contested, but in both Disability and Sexual Orientation Hate Crime there is no equivalent to the influential Macpherson report in Race Hate Crimes to act as a galvanising force in combating Racism and Race Hate Crime.
- Disability Hate Crime does show overlapping phenomena with crimes related to 'race' and 'sexual identity', however there may well be important differences between the nature, experience and context of each of these forms of hate crime. The current rooting of Disability Hate Crimes in criminal justice guidance 'race' models may be unhelpful and needs further examination.

- Disability and Sexual Orientation Hate Crime are diverse and can take the form of bullying, intimidation, name-calling, vandalism, and physical assault. Disability and Sexual Orientation Hate Crime is often seen to take the form of repeat offences, for example repeat victimisation and bullying.
- Disability and Homophobic Hate Crime take place in institutional and 'high street' contexts. Schools are a context within which much bullying, name calling, and intolerance are exhibited. Disabled people continue to face unique institutional forms of hate crimes in residential and nursing home contexts. Some of these crimes may be very hard to identify and police, given the power relationships that pervade some of these contexts.
- Whilst there are similarities and links with other forms of hate crimes there are particular issues which set disability apart.
- The formal definition that hate crime is motivated by hostility and not instigated by perceived vulnerability, leaves those who have been targeted, because they are perceived to be easy targets, without the same legal recourse.
- The differing definitions indicate a gap between the Criminal Justice System and people who are likely to experience hate crime.
- For disabled people this is a false distinction. Attacks which are instigated because of perceived vulnerability are just as serious.
- It seems that where organisations have policies in relation to hate crime they tend to be based on Racist, Anti-Lesbian, Gay, and Bisexual Hate Crime, and anti transgender hate crime. Few organisations had written policies on Disability Hate Crime.

Definitions of disability

- A definition which confuses disability with long term health conditions and impairments is used by statutory bodies. This definition does not take account of current and past discrimination against disabled people. Nor can such a definition facilitate the removal of institutionalised disability.
- A definition which takes account of the way in which people with long term health conditions and impairments are discriminated

against is the social model of disability. This is gaining increasing recognition in some government guidance, for example the *Life Chances* report (PMSU, 2005). This definition of disability provides a way of looking beyond the individual for causes of discrimination and hate or targeted crime.

Diversity of disabled people

- Some people who would be covered by the Disability Discrimination Act are also in other groups that are subject to hate crime. Disabled people are in all black and minority ethnic groups, all faiths, of all ages, and may be lesbian, gay, bisexual, or transgender. For those people with HIV there may be an association with homophobia and racism and there are links with stigma and hostility.
- Transgender people experience a particular form of oppression. Transgender people, either before or after surgery, are not comfortable with their original gender. So the issues for transgender people need to be considered specifically, rather than as part of any other equality strand.

Partnership working

- The issue of partnership working is considered important by most of the organisations that responded to this study. Statutory bodies need to get closer to disabled people, this may mean going to places where disabled people are, rather than simply inviting disabled people to business meetings.
- Disabled people are not part of the policy making procedure. Statutory bodies need to ensure that they take on board the perspective of disabled people, including disabled people working within the structures of the Criminal Justice System and through improved partnership working.
- Some respondents stressed the importance of having a specialist in Disability Hate Crime. Such an approach is double edged since it is often the case that where there is a specialist in disability issues then they are expected to do everything concerning disabled people while the rest of the organisation abdicates itself of responsibility.

Policy Implications

- Misunderstandings about disability and why disabled people may be subject to hate crime or targeted crime needs further research.
- There seems to be little if any preventative work in this area of hate crime against disabled people, transgender people, lesbians, gay men, and bisexuals.
- The definition of hate crime needs to be consistent. The false dichotomy between attacks which are instigated by perceptions of vulnerability rather than 'hostility' needs to be removed.
- Partnership working needs to move closer to disabled people, including bringing disabled people into all parts of the organisations.
- The experience of Disability Hate Crime may be better supported by approaches to and experiences of hate crime attaching to perceived sexual orientation (lesbian, gay, bisexual, and transgender). Even within the latter there are issues that need understanding as transgender identities are often subsumed under these headings and need critically reappraising in the context of hate crime.

The need to improve understanding

- An active review of the wider panoply of criminal justice system responses to hate crime is needed alongside a review of how different minority group insights might better inform each other. Legal strictures that crimes related to 'vulnerability' are not hate crimes urgently need addressing.
- Statutory bodies need to gain a better understanding of the context of discrimination in which disabled people live and to develop their understanding of disability as a particular form of social oppression. Learning about the social model of disability through a programme of Disability Equality Training (which covers history and current forms of discrimination) from an experienced trainer would facilitate understanding.

- Disabled people need to be included in all the functions of statutory bodies as advisors, consultants, employees and any other position. Such individuals need to be able to speak out about disabling barriers which may be systemic, attitudinal, cultural, or physical.
- Statutory bodies should commission disabled people with the relevant skills, knowledge, and experience and who are in regular contact with other disabled people, to facilitate workforce and policy development.
- Statutory bodies need to review their employment practices to ensure disabled people are not only present but are free to express the perspective of disabled people.
- Given the low base line of understanding of disability as a form of social oppression and the need to include issues of vulnerability in a definition of hate crime it may be advisable to employ a Quality Assurance Lead for disability.
- Policies need to take account of transgender people experiencing a particular form of oppression; they should not be grouped with lesbians, gay men, and bisexuals.

Conclusion

The issue of organisational response to Disability Hate Crime, Lesbian, Gay, Bisexual Hate Crime, and Transgender Hate Crime is under researched. Although there is a growing body of evidence of the experience of hate crime amongst these groups the literature search found little on organisational response. This small piece of exploratory research only starts to paint a picture of the way organisations respond and the indications of a gap between the rhetoric of statutory bodies and the reality for people subjected to attack because they are disabled people, lesbians, gay men, bisexual, or transgender.

1. Introduction

1.1. Background and context

Writings and evidence on Disability and Sexual Orientation Hate Crime is not extensive. Compared to work on 'race' hate crime, Disability Hate Crime and Sexual Orientation Hate Crime receive less attention; academically, legally, and publicly. Disability related hate crime receives the least attention in all these spheres. This reflects both the relative recency of recognition of disability and sexual orientation hate crime in the UK and the absence of key policy endeavours linked to specific hate motivated events, for example as evidenced in the Stephen Lawrence Enquiry and the Macpherson report. This event in part aided the impetus to greater understanding of the nature, pervasiveness, impact and possible interventions into hate crime. The rise of AIDS/HIV infections in the 1980s led to a number of 'high street' agencies that in time embraced hate crime and personal safety issues into their broader remit. In the arena of LGB and T policy and research, the targeted bombing of the Admiral Duncan public house in London in 1999 (www.diversity.org.uk) helped add purpose to hate crime responses for LGB and T populations. Indeed, the above can both be seen to have elements of planned hate crime, with motivation being channelled into premeditated and concerted acts of hatred. A single event which captures the public imagination involving hatred of disabled people has not thankfully transpired, whilst the disabled people's movement has not to date cohered in a major way around hate crime and disability. However, one could argue that the visibility of impairment and the shift away from institutional living for some may lead to more frequent and repeated hate crime activity. It could be argued that the patterns of hate crime, its manifestations and legal constructions have militated against a full and fair response to Disability and Sexual Orientation Hate Crime. Certainly the evidence presented below challenges any assumptions that the lesser and later response to Disability Hate Crime results from a relative absence of hate crime against disabled, and LGB and T populations.

1.2. The problem of Disability Hate Crime

Although no single recent event has occurred which symbolises Disability Hate Crime, the negative categorical construction of physical, behavioural, and intellectual difference remain the pretext

for a range of oppressions against disabled people. It would be wrong to ignore the concerted violence meted out to disabled people in recent history. Disabled people formed a key population deemed unworthy of life during the period of the Nazi 'final solution'. Alongside Jews, homosexuals, gypsies, and those described as 'degenerate', people with learning difficulties were a notable target population for the Nazi project, deemed 'useless eaters' (Oliver, 1990) and even their deaths were segregated as part of the T4 programme (Burleigh, 1994).

Sexual Orientation & Nazi Hate Crime

It might be easy to assume that the genocide that attached to the activities of the Third Reich and the 'final solution' attaches only to Jews, gypsies, and disabled people. Sexual orientation was, of course, another pretext for the oppression and at times extermination of individuals, based on profound prejudices against non-heterosexual relationships and orientations. (Carlson, 2001)

The large-scale institutionalisation of disabled people in long-stay institutions, although not motivated by hatred in its strictest sense, was clearly motivated by a categorical construction of disabled people's lives being less valued and at times unworthy of mainstream life. Quite simply disabled people were locked away. If one interprets disability hatred to include such wholesale process of incarceration then it is not a long leap to argue that this was also a crime as it was often against the wishes of disabled people and their families. However, hate crime has been constructed, refined and applied through a professional, legal lens which often fails to fully account for the broadest manifestations of hatred.

Contemporary evidence is clear that Disability Hate Crime is a significant phenomena. The recent report '*Getting Away with Murder*' (Disability Now, UKDPC, SCOPE, 2008) provides an horrific catalogue of the most serious acts against disabled people. The shocking thing about the report is the persistent assertion based on evidence that most crimes, even those resulting in murder are not attributed to Disability Hate Crime. This seems anomalous and will be explored further below. For now, it is enough to draw on the findings of the wider report on the likely extent of Disability Hate Crime.

In terms of official evidence, the UK government does not collect discrete data on disability-related hate crime. This is in part due to the absence of a specific offence badged as Disability Hate Crime. However, Home Office (2006/7) figures using 'long-term condition' categories does point to an increased risk of crimes and also a raised fear of crime amongst disabled people. If we accept (and it is problematic) the link between long-term sickness and 'disablement' we can see that burglary for example is more than twice as likely to happen to disabled than non-disabled people. However caution should be exercised as, strictly speaking, people classified as long-term sick may live in areas of higher crime, have experienced social drift due to sickness and loss of income, and may have less money to engage in the 'target hardening' required in crime prevention. This if it is the case would be significant in itself as pointing to the broader risk factors in disabled people's lives in certain community and housing contexts.

In the absence of reliable and definitionally sound research findings from official sources, much the best source of evidence comes from third sector campaigning organisations. Mencap's *Living in Fear* published in 2000 found that bullying was pervasive in the lives of people with learning difficulties, with almost 90% of respondents stating they had been bullied in the previous 12 months, many in public contexts (Mencap, 2000). A staggering 23% reported that they had been assaulted. Crown Prosecution Service guidance is very clear that the spirit of the law embraces bullying, abuse, name-calling alongside assault and other more serious primary offences. Bullying itself of course is not seen as a crime unless accompanied by a primary offence-assault, vandalism, affray and/or property offences.

Research by Shamash and Hodgkins (Disability Information Training Opportunity, 2007) found that of the 45 research respondents, nearly 25% had experienced name calling or bullying, almost 10% reported having been assaulted in some form. Research by Mind, the mental health organisation entitled 'Another Assault' (2007) found that people with a mental health problem were 11 times more likely to be victimised than non-disabled people (Mind, 2007). Mind compared its findings on mental health and victimisation with British Crime Survey (BCS) findings and claims major discrepancies between the two sources of evidence as follows in the following excerpt:

Table 1 Comparing Findings from Mind and BCS

	Mind Survey	BCS Data
Victimised in last 2 years	71%	24.4%
Physically Assaulted	22%	3.6%
Sexually Assaulted	10%	<1% (too small to record as %)

If the above evidence from Mind is robust, there must be major factors militating against disabled people reporting crime and/or reluctance to prosecute in areas where mental health is misunderstood and where witness reliability might be unjustly challenged (Mind, 2007). The Disability Rights Commission in Scotland worked with Capability Scotland to look at the extent and experience of 'Hate Crime Against Disabled People' (DRC & Capability Scotland, 2004).

Using a pan-disability approach to capture the breadth of experiences, they found that 73% of respondents who had reported being frightened or attacked had been the victim of intimidation or verbal abuse. A total of 35% of these respondents had reported physical attacks. A survey of people with learning disabilities in Scotland (Higgins, 2006) established that as many as 20% of respondents had experienced attacks in one report week. These are extraordinary and shocking figures.

Sexual Orientation and Hate Crime

Sexual Orientation Hate Crime is not new. The Campaign for Homosexual Equality conducted a study between 1977 and 1980 which recorded 250 homophobic incidents in the reporting period, including 15% which resulted in the disablement or death of the victim (N= 37). More recent figures for Sexual Orientation Hate Crime present an equally concerning picture. Data from the Northern Ireland Police Service (PSNI) from 2000 suggest that of the 186 people surveyed, 82% had experienced harassment in the previous 2.5 years. 55% had experienced homophobic violence. The most common form of harassment was verbal abuse (71%). Of note 40% of respondents had no knowledge of organisations representing the rights of gay, lesbian, and bisexual people. Only 42% of those who had experienced homophobic harassment had reported the incident (Jarman and Tennant, 2003).

An English study by McManus and Rivers (2001) drew on evidence that suggests victims of homophobia are circa 3 times more likely to self-harm, to suffer depression, anxiety, and at its extremes that gay men are 15 times more likely to take their lives following long-term harassment or violence that resulted from perceptions of their sexual orientation.

A study by Stonewall Cymru (Wales) and Cardiff university found that 1 in 3 respondents had reported being a victim of physical violence or bullying. Over 50% of those aged between 18 and 25 had been bullied or assaulted physically. 25% reported having been dismissed from their jobs due to their sexuality (Robinson and Williams, 2003)

1.3. Disability Hate Crime in a Legal Context

Although interpreted broadly in terms of a policy understanding of hate crime and disabled people, the strict interpretation of hate crime is provided by section 146 of the Criminal Justice Act of 2003. This section makes provision for additional sentencing powers and use of the tariff for penalties where hate crime has been established against disabled people. As noted earlier this does not create a primary offence of hate crime against disabled people unlike sections 29 and 32 of the Crime and Disorder Act 1998 relating to racial or religious hatred. More simply a sentencing provision is provided for aggravation of a primary offence, for example where common assault has been linked to an action motivated by hate crime towards a disabled person. Section 146:

..imposed a duty upon courts to increase the sentence for any offence aggravated by hostility based on the victim's disability (or presumed disability)

Here, the establishing of aggravation due to disability related hostility must be treated as more serious than an incident where such factors are absent. Such offender has to have either:

- a) Demonstrated disability related hostilityor
- b) Be seen to have displayed hostility based wholly or partly on a motivation particular to a persons disability (sic)

The above a and b are alternatives, with only one of these requirements needing to be met to satisfy the legislation that Disability Hate Crime has been established in law, for example where hostility has been established through words or actions there is no requirement for hate crime to be established through motivation.

It is perhaps odd that having established the powers that attach to hate disability crime responses, that blanket exceptions come in to play where crimes are seen to be motivated not by hatred but by the perceived 'vulnerability' of a disabled person. Whilst safeguards are clearly required, it seems concerning that vulnerability should weaken disabled people's right to legal redress, where their categorical status is seen to be weaken rather than strengthen such rights:

However not all crimes against disabled people are Disability Hate Crimes. Some crimes are committed because the offender regards the disabled person as being vulnerable and not because the offender dislikes or hates disabled people. (CPS Guidance, 2007:9)

Sexual Orientation and Hate Crime

Homophobia is an unfounded fear of same-sex partnerships, sexual orientation, lifestyles, and behaviour. Homophobic crime is hostility towards a person/s because of their perceived sexual orientation. The consequences of homophobic hate crime go beyond the immediate harm done and extend to longer term psychological, relationship, and identity problems. (Derived from McManus and Rivers, 2001)

Alongside protection afforded in the Criminal Justice Act 2003, homophobic crimes are also protected by the provisions of section 104 of the Local Government Act 2000 which makes clear that section 28 of the 1988 Local Government Act does not prevent council educational activity aimed at reducing homosexual bullying. Section 17 of the Crime and Disorder Act (1998) establishes that those agencies to which the Act applies must reflect on all their activities and how they might increase or diminish homosexual violence. Crime Reduction and Community Safety Partnerships clearly have a central role here in implementing section 17.

The Crime and Disorder (Prescribed Descriptions) Order 1998 placed a duty on local authorities and the police to consult with LGB communities in their planning and deliberations.

Recent Nacro guidance to Community Safety Partnerships also noted the need to police those public areas where known sexual activity takes place (PSEs). Here there is a risk that in expediting public order offence protocols they fail to acknowledge or respond to homophobic attacks or verbal abuse. (Nacro, 2001)

1.4. Action on hate crime

The following will present an outline picture of the key efforts taking place to respond to and/or reduce hate crime. We can break down these actions into the following:

- Hate crime reduction-proactive campaigns, education, reports, media activity, target-hardening, targeted policing, and deterrence.
- Hate crime management, liaison and services which typically involve police, CPS, the legal profession, third sector support, and conceivably also cross-organisational, cross-group liaison.
- Hate crime reporting better options for reporting hate crime is a key feature of recent statutory activity nationally and locally.

National and regional (The North West of England) initiatives and supports will be detailed below. Any crossover into LGB and T hate crime will be noted as initiatives often respond to a range of hate crime activity.

1.5. Hate crime reduction

Much effort seems to be underway in the field of hate crime reduction. However, many of the schemes (public and third sector) are funded via 'soft' money and new crime related initiatives may be seen to steal the momentum from hate crime reduction activity. There is little permanent core funding for work in this area.

At a macro-policy level the emphasis placed in the Crime and Disorder Act (1998) on crime reduction and the establishment of Crime and Disorder Reduction Partnerships (CRDP) can be seen to provide a framework into which local hate crime reduction strategies and initiatives can be formulated and applied. In terms of proactive policing, the Association of Chief Police Officers' (ACPO) manual 'Hate Crime: Delivering a Quality Service - Good Practice and Tactical Guidance', also sets the tone for tackling hate crime seriously in all its manifestations and at all stages. Although not made explicit in the report this would clearly have to include hate crime prevention. A key role is also spelt out in the ACPO hate crime guidance (ibid) that:

'There may be attendant risks to the safety and well being of victims and witnesses. An important risk factor is the identification of potential further victimisation'

The handling of current investigations has a bearing on the crime reduction potential of possible follow-on events in the lives of disabled people. Professionals in the criminal justice system have a pivotal role in crime diminution. The ACPO report does make clear however the benefits of:

'reinforcing the message to the general public that hate crimes will not be tolerated by the police' (2005: section 12.1.1)

At a policy level within the Department of Health, the 'Safeguarding Adults with Learning Disabilities: Information for Partnership Boards' provides insights to aid hate crime minimisation and appropriate protection protocols (Department of Health, 2007). Crime and Disorder Guidance 1998 makes clear the role of Community Safety and Crime Reduction Partnerships in embedding positive preventive and responsive policies to reduce Sexual Orientation Hate Crime.

1.6. Hate Crime Reduction: National Initiatives

More explicitly 'up-front' efforts to raise awareness of hate crime are in evidence. Mid-Suffolk District Council are expanding their work on racial harassment to also embrace Disablist and Homophobic Hate Crime. Coventry Crime and Disorder Reduction Partnership have established a Disability Hate Crime sub-group to

ensure that initiatives and campaigns against hate crime include awareness of disabled people and the risk of hate crime. Waltham Forest, a London Borough, has funded a third sector organisation to support its Hate Crime Project Board and Safety Net Partnership Board across the fullest range of hate crimes. This initiative brings together a number of council functions, the voluntary sector and disabled people's organisations in part to raise awareness of Disability Hate Crime.

1.6.1. Disability Projects and Initiatives

People in Partnership (PIP) have developed a 'keep safe' pack for people with learning disabilities to raise their awareness of hate crime risks. In Coventry, the West Midlands Police, Crown Prosecution Service and Victim Support are working together in part to raise awareness of hate crime 'hotspots' which is likely to provide greater insights, mapping and hopefully prevention of hate crime. There are however no available evaluations on hand to say what is effective in hate crime reduction.

A consortium of learning disability groups have joined together to form the Learning Together Project which involves the organisations Better Days, Coast 2 Coast and Inclusion North to undertake peer training for people with learning disabilities to train others about hate crime. Values into Action (VIA) has established hate crime workshops to raise awareness of risks run by and on behalf of people with learning disabilities. They have also devised the publications '*Let's Keep Safe*' (2001) and '*Let's Report It*' (2001).

Valuing Medway People Partnership Board stages 'Keep Safe' events for a range of stakeholders including disabled people, prosecutors, police, transport, health, and social care providers. Film is used as a medium to present the experiences of people with learning disabilities and hate crime.

1.6.2. Lesbian, Gay, Bi sexual, and Transgender, and Sexual Orientation

Overall there are more national activities to combat homophobic hostility and hate crime. There is also a wider range of activities including educational, campaigning, HIV & AIDs related work, LGB and T police liaison activity, information exchanges, bespoke reporting and investigation systems, drop-in services and social networking forums. Compared to disability related activity, LGB

and T projects, programmes and initiatives are generally more established and more rooted in wider gay & lesbian rights agendas and organisation. Disability Hate Crime remains on the far reaches of disability politics.

In terms of the more noteworthy activities we can identify a number of key themes:

1.6.3. Police Liaison

Merseyside Police have established a gay and lesbian drop-in service to better connect the concerns of local LGB and T populations with police approaches to hate crime. Lancashire police have initiated a 'blue phone' scheme to enhance the reporting of Homophobic Hate Crime. This aims to increase both the number and quality of experience of hate crime reporting. Lancashire Police have also appointed a Police Community Support Officer to the role of LGB and T liaison to connect fully with LGB and T communities in gay and lesbian social contexts and help mainstream LGB and T issues into key statutory and third sector events. A national initiative was launched entitled TRUE VISION aimed at enhancing the reporting of Homophobic Hate Crime through third party contexts. Greater Manchester Police Authority (GMPA) has established an LGB and T independent advisory group of individuals wanting to influence the enhanced policing and liaison around Homophobic Hate Crime.

1.6.4. Education

Nationally, the Education Action Challenging Homophobia (EACH) organisation has established a phone helpline for younger people experiencing Homophobic Hate Crime. The service is free and confidential and offers advice, signposting, and support. Stonewall, the national LGB and T organisation has partnered Education For All in producing a school toolkit to combat homophobic bullying. The toolkit is aimed at teachers and uses DVD and text-based materials to make teachers aware of the approach to gay and lesbian pupils and how best to work in an enabling way. Manchester City Council has developed Children's Service Sexuality Guidance linked closely to the Every Child Matters (2004) framework.

1.6.5. Solidarity Activities

Kirklees Community Safety Partnership holds a yearly 'Out and About' festival to celebrate gay, lesbian, bisexual, and transgender

communities and identity. The festival aims to change attitudes and build solidarity with heterosexual communities. The Lesbian Information Service has established a clearing house of information across a range of issues including Lesbian Hate Crime. OutNorthWest, the gay and lesbian organisation has set up a similar clearing house of information in the form of a magazine for both gay and lesbian audiences in the North West of England. OUTeverywhere has founded a 'Silence is not Golden' initiative which supports the victims of hate crime via web and phone based services.

1.7. Hate Crime Reduction: North West Hate Crime Activities

There is evidence of pan-issue hate crime reduction activity in The North West of England. Wigan Council has staged an annual Hate Crime Week to raise awareness in the issues of hate crime in the Wigan area. Greater Manchester Police (GMP) work with Manchester City Council Housing Services, the LGB and T Safe Group and the Health Authority and Trusts liaison group to better coordinate hate crime reduction. Relatedly, Greater Manchester Police's Independent Advisory Group (IAG) has hate crime within its planning remit. IAGs aid local authorities response to and embed diversity issues into their wider policy and programme activity. Greater Manchester Police's Learning and Development branch have been providing hate crime training for magistrates to raise awareness of the issues involved and the best legal response to hate crime. The Big Lottery Fund has funded a Respect for all Counselling Service run by People First Manchester. Trafford Council has appointed an officer to lead on Community and Partnership working which includes hate crime in its brief.

Liverpool, as the other major population centre in The North West of England also has a recent history of responding to national initiatives in a local context. Liverpool City Council established a Hate Crime Policy Review from September 2006 and also appointed an investigation manager as part of its Community Safety office. Merseyside police have been active in sharing ideas on Hate Crime by staging major events, for example, the joint work with Sefton Equalities Partnership entitled 'It's not a crime to be different' and a recent conference strand on hate crime: 'National Disabled Police Association Conference 2008 'Disability Hate Crime'. Remaining in Liverpool, People First Bootle were awarded

monies by the Valuing People Steering Group to spread the word on hate crime against people with learning disabilities. Further afield, Cumbria Police have appointed a Hate Crime Officer to lead on this topic and work with other interested agencies.

Outside police and local authorities, the North West Regional Development Agency has formulated the North West Equality and Diversity Strategy Implementation Plan 2006-9. A key objective is to reduce the incidence of hate crime working alongside the Government Office of the North West (GONW). Of note this forum appears to have closer links with the North West TUC, North West Public Health Team and the North West Faith Network. These latter organisations receive little mention in police and local authority initiatives.

1.8. Hate crime reporting, management and liaison

Although a diverse set of issues are encapsulated in this heading, the issues are closely related and it makes sense to review these together.

1.8.1. Reporting National Picture

The accurate and up-to-date reporting of hate crime is a central concern of disabled people and organisations close to issues of hate crime. As John Armstrong, Acting Superintendent, Cheshire Police recently noted, circa 90% of hate crimes (all groups) go unnoticed (CPS, 2007). It is important to reflect on those measures in place to capture the extent of hate crime. Whilst thinking about reporting as a specific response to a perceived hate crime event, we ought also to reflect that reporting can take the form of more macro-level reporting processes. For example, the Home Office Practice Guide 'Learning Disability Hate Crime' makes clear the wider role of disabled people's organisations and Community Safety Partnerships in registering the combined levels and experiences of hate crime, noting:

Advocacy groups, Learning Disability Partnership Boards, and Community Safety Partnerships must work together to produce a single report that explores the experience of hate crime...advocacy groups might provide more qualitative information telling real life stories, whilst Community Safety Partnerships may be able to offer more facts and figures' (2008: 4)

In reality, reporting refers to the process of crime reporting that follows a given (perceived) hate crime incident or incident of crime not yet connected to motivations of hate. Generally Disability Hate Crime reporting takes place in the context of wider reporting services and protocols in most local authorities; hence some of the following refers to pan-issue, pan-group hate crime reporting centres.

Examples of innovative hate crime reporting are: Leicestershire County Council's multi-agency Hate Crime Incident Monitoring (HIMP) has established a network of reporting centres across Leicestershire, including drop in centres in schools. The data deposited at these reporting centres is collated together. Leicestershire County Council are also trying to formulate an easy words format form for hate crime reporting. The Greenwich Association of Disabled People has established a 'third party' reporting centre alongside a Disability Hate Crime advocacy project.

Whilst there are still some issues as to the exact impact of reporting and the response of the criminal justice system, there have however been more reports made during the lifetime of the project. Still in London, the Metropolitan Police have introduced a scrutiny group that scrutinises all cases identified as 'hate crimes'. This they do in close working with the capital's Disability Independent Advisory Group (DIAG). Access is also being addressed, with 2 police stations in each London borough now being physically accessible. As noted above, Values into Action (VIA) developed 'Let's Report It' booklets to encourage people with learning disabilities to report incidents of hate crime.

People in Partnership (PIP) Hertfordshire has developed a PIP pack, a resource to help people with learning disabilities know their rights, personal safety tips, reporting forms and 'signposts' to appropriate support services.

Kirklees Safer Communities Partnership (KSCP) in Yorkshire has established a number of accessible reporting centres where trained staff help take reports on Disability Hate Crime. KSCP also liaises with police, housing, and counselling services in aiming to provide a 'joined-up' service for disabled victims of hate crime.

Kingston upon Thames council have established a Learning Disability Parliament which has in part been active in liaising with the police and community groups to look at enhancing contact points with these organisations around hate crime. In Portsmouth, disabled people at a local centre have been trained by the Hampshire Police to take first line details of hate crime incidents and initiate support procedures.

Third party reporting centres have been established across the UK, but their effectiveness in responding to hate crime requires systematic evaluation. Coventry City Council established a number of hate crime (cross-issue) reporting centres across Warwickshire and attached a clear rationale for reporting hate crime as the following extract makes clear:

By sharing information, a range of actions take place to identify and deal with the perpetrator and to support victims or witnesses (excerpted):

- Police investigation to collate evidence
- Extra CCTV to identify perpetrators
- Tenancy enforcement against perpetrators
- Advice and information for victims

(Coventry Partnership, 2007)

1.8.2. Reporting-North West Picture

Tameside council have introduced self reporting systems for reporting hate crimes with the aim of apprehending the fullest extent of hate crime in the Tameside area and help plan the local response to hate crime. Across Cheshire, 49 hate crime reporting centres for example in Chester, Warrington, Birchwood, Halton, Great Sankey and in a variety of organisations (Centres for Independent Living, schools, voluntary sector projects, mainstream disability organisations) have been established to build a fuller picture of hate crime across Cheshire. As Cheshire Police note:

‘...these centres will be a venue where a member of the public can report hate crime in a non-policing environments. We have a large number of voluntary partner and statutory agencies that have agreed to become centres’ (2007).

‘Tackling Hate Crime Together in the North West’ was an event held in 2007 which brought together the Merseyside Disability

Federation, Liverpool City Council and the Crown Prosecution Service (CPS) to make more people raise awareness of Disability Hate Crime and how crimes against disabled people can now attract heavier sentences. A key feature of the event was the need to increase Disability Hate Crime reporting and the role of police and criminal justice agencies working with the wider community to increase reporting. Third party reporting centres were explained and have since been rolled out across Merseyside (Merseyside Disability Federation, 2007).

Of note, the new reporting centres can receive reports from victims or independent third parties. Information will (if signed consent is received) be passed on to both investigating officers and other professionals working in the field of hate crime and community relations. Police spokespersons note that reports are treated no less seriously for being first lodged in non-police environments. Victims do not normally have to provide their details. A question does arise as to what exact response victims and/or their representatives might want or expect by lodging the complaint via a reporting centre (compared to a direct contacting of the police).

Perhaps the most worrying evidence on third party reporting centres comes from a The North West of England force area report (2008). Two police division evaluations within the force area established that many of the third party reporting centres established in the area were no longer functional. Whilst a small number of remaining centres were still in place, there was little support or systematic networking with the local Hate Crime Panel. In one divisional area (division 'S') of the 32 reporting centres established in the wake of the Macpherson report 1999 (and Crime and Disorder Act 1998) some 37% were no longer operating. Of those that were, 98% no longer had the same centre coordinator in 2007 as they had in 2000 and those centre staff that responded to the evaluation all were unaware of 'Form 730D', the principal multi agency report form. All felt they required further training in their role. Overall the evaluations established that the reporting centre system needed an overhaul and that senior management buy-in is required to embed hate crime work in the force area.

In Lancashire an electronic card system has been introduced which highlights to police officers victims of crime that may need additional support in the criminal justice system.

1.8.3. Hate Crime Management and Liaison

As local interpretations by the CPS and police in the management of hate crime incidents are drawn down from national guidance, the following section will treat national and local/regional policy and practice in together. This is not to argue that 'street level' interpretation is not taking place, but simply that local and regional statements are not ordinarily available. The latter is significant as one could argue that minimum standards around hate crime investigation might be made public in these contexts-of the 'what you can expect from us' variety.

The appropriate modes of response to Disability Hate Crime are formulated and laid out in the following key sources:

- Disability Hate Crime Policy for Prosecuting Cases of Hate Crime (CPS, 2007)
- Hate Crime: Delivering a Quality Service-Good Practice and Tactical Guidance (Home Office and ACPO, 2005)
- Guidance on Prosecuting Disability Hate Crime (CPS, 2007)
- Code of Practice for Victims of Crime (CPS, 2006)
- Code for Crown Prosecutors (2004)

The above offer a very comprehensive set of guidance which for brevity will be explored on the following key themes, risk intervention, proving aggravation, and victim support.

1.8.4 Risk Intervention

This features strongly in the Home Office & ACPO Good Practice and Tactical Guidance. This reflects a concern to reduce risk per se in Disability Hate Crime, but once an allegation has been made to diminish risk of further hate crime incidents. The RARA risk reduction method is adopted in this guidance; RARA being the removal, avoidance, reduction, and acceptance of risk. This model broadly aims to both respond to the primary instance of alleged hate crime whilst managing further risks from repeat intimidation. For example even where criminal law proceedings are unlikely, the possible use of ASBOs, revoking of tenancy agreements and appropriate crime prevention plans can all aid the reduction of follow-on risks of hate crime.

The CPS policy for prosecuting hate crime makes clear its commitment to supporting disabled people through a hate crime

case, whilst providing support in lessening risks to victims of hate crime:

‘Even if incidents have been reported, disabled people may be reluctant to give evidence even if the perpetrator is prosecuted, or may need particular support and help to do so. We will do everything we can to make giving evidence in court possible...’ (CPS, 2007: 13)

The ‘victim personal statement’ that should be taken in all cases of alleged Disability Hate Crime should include concerns about risks of further intimidation, about personal safety, and bail conditions for alleged perpetrators of hate crime (CPS, 2007: 21). Even if a victim wishes to withdraw a complaint, the CPS can, if evidence is available and the offence sufficiently serious, proceed with the case. Issues of risk to the victim are considered in coming to a decision on this.

1.8.5. Proving aggravation based on disability related hate

This is something of a thorny legal issue given the stipulations in section 146 of the Criminal Justice Act 2003 that acts perpetrated due to a person’s perceived ‘vulnerability’ will not satisfy the test of hate crime. What then counts in law as hate crime in practice?

Firstly, there are no offences created by section 146 as the Guidance notes:

‘There are no specific crimes involving hostility based on disability like those involving racial or religious hatred under sections 29 and 32 of the Crime and Disorder Act. However, section 146 has added hostility based on disability to the list of statutory aggravated factors’ (CPS, 2007: sec 2.7)

Strictly speaking the term hostility not hatred is used in the guidance to establish a term that reflects an offence aggravated by hatred. Unhelpfully there is no definition of ‘hostility’ in the Act or its guidance. Case law helps establish notions of hostility where certain acts are deemed hostile: for example - swearing and offensive terms. Hostility has usually to have been exhibited immediately before or after an alleged primary offence (Parry v Director of Public Prosecution) so that a juridical link can be made between a primary action and evidence of aggravation due to hostility. Exhibited hostility could be in the form of an utterance or

behaviour towards a disabled person, but the CPS has to establish that these are not the results of more generalised manifestations of hostility to wider constituencies nor as stated above that hostility is based on perceived vulnerability.

There is not time to explore this here, but there seems to be some real problems here in both proving hostility based on disability and also in disentangling the notions of perceived disability and vulnerability. The results of these severe and one might say presumptuous legal tests is a low level of success rate in establishing aggravation and thus Disability Hate Crime. This will receive more attention in the section below: *evaluating current practice*.

1.8.6. Victim support

The experiences of victims of alleged hate crime, once a complaint has been made, receives much attention in official policies and guidance. It is in this area that a range of statutory and voluntary sector supports exist to aid disabled people through the legal process and beyond. Much support however is generic and not specific to a given category of victim (LGB and T, BME, disabled). The need to support victims is made clear in the following statement from the CPS, the agency at the heart of the prosecution and wider criminal justice process:

‘The CPS is fully committed to taking all practicable steps to help victims through the often difficult experience of becoming involved in the criminal justice system. Initiatives such as *No Witness, No Justice* special measures, meetings between the CPS and vulnerable and intimidated witnesses, reporting restrictions, and witness support preparation... are all designed to increase confidence of victims in the criminal justice system’

There is not the space here to explore all these issues, perhaps the most significant in the field of disability and learning disabilities is the proviso for special measures.

1.8.7. Special Measures

Special measures were introduced in the Youth Justice and Criminal Evidence Act 1999 and afford children under 17 and adults (over 17) who may be deemed ‘vulnerable’ to receive special measures. Chief amongst these is perhaps the scope to

have an intermediary to represent an individual in court. This would afford a form of advocacy where the court environment might otherwise prove too daunting. Other measures include use of video and 'live' TV links to avoid face to face contact with an accused individual and the use of communication aids (signing, lip speaking, sign boards, speech output, and hearing loops). These latter ought of course to be made available under the Disability Discrimination Acts of 1995 and 2005 and the term 'special measures' may hopefully be erased by the modernisation of the criminal justice system in time with a possible shift towards say the term enabling procedures or simply reasonably adjusted criminal justice and court procedures.

It is noteworthy that the CPS policy on prosecuting Disability Hate Crime is very 'professional' in tone, noting that intermediaries have to be approved by the court and gives the examples of speech and language therapists, social workers, and psychologists. This may be well intentioned but it could be argued smacks of a more paternalist age. Can one assume that professionals are any better intermediaries than lay persons who know an individual well? There are clearly issues of needing to reduce bias into cases, but given the adversarial nature of UK court proceedings such a concern seems rather to weaken a disabled person's position than strengthen it.

1.8.8. Evaluating progress in responding to hate crime-reporting and under-reporting

Under-reporting is not simply a phenomenon rooted in disabled people's personal reticence in reporting for fear their story will not be believed. However, the very limited prosecutions in alleged hate crime cases may exacerbate these behaviours. Under-reporting is systemic to the criminal justice system in that the British Crime Survey has not collated data on hate crime. The Home Office have committed from 2009 to recording more fully numbers of hate-motivated crimes and has asked all police forces in England, Wales, and, Northern Ireland to record hate crime in consistent ways. This is to be welcomed. Arguably, this needs to be matched by more harsh sentences and a greater connection between reported and sanctioned hate crime. All too often allegations of often serious abuse and hatred are worn down by the judicial process. As of 2008, some five years after the passing of the 2003 Criminal Justice Act, there remains an acknowledgement of under-reporting (ACPO, 2008) which needs to be changed.

One issue that is being slowly addressed is that of the poor accessibility of police stations as reporting centres to date. One report found circa 25% of disabled adults questioned reported that police stations were hard to access (Ipsos & Disability Rights Commission, 2007). Although a number of non-police reporting centres have opened as detailed above, the exact efficacy of these centres and the quality of their liaison with police and investigations is as yet unknown.

The UK Disabled People's Council has welcomed the above changes but argues that criminal justice professionals are in need of training to support the accurate and unhindered reporting of hate crime (Disability Now, UKDPC & Scope, 2008: 55). Liz Sayce, the CEO at RADAR has also argued that to systemically improve reporting, greater trust has to be developed with disability organisations in each force area. Sayce also argues for a re-evaluation of the relationship between hate and vulnerability in hate crime reporting (ibid). One might argue for a re-evaluation in law if the anomalies of justice (compared to LGB and T and BME cases) which militate against hate crime recognition in the lives of disabled people.

Research conducted by the Disabled Women's Network in Canada points to one factor in under-reporting relating to people with hidden impairments who may be being targeted by those who are aware of an impairment but where disabled people fear that the criminal justice system will not comprehend their impairment. (Sherry, 2003).

Overall, the picture on reporting is a depressing one, with dramatic under-reporting and a sense that even if reported, many disabled people feel they are not taken seriously as Alice Maynard the Chair of the disability charity Scope (Scope et al 2008), notes in a recent report:

“Despite the horrific crimes documented in this report, Disability Hate Crime remains largely invisible. Its existence is frequently denied and disabled people who report it are routinely ignored or are dismissed as unreliable witnesses. As a result those who commit Disability Hate Crimes often go unpunished and public awareness of these incidents remains low.”

The following is excerpted from the BBC disability website OUCH and sadly all too typical of an approach that many disabled people feel makes reporting pointless and misplaced:

I was harassed by local children which was witnessed by a tradesman who confirmed to the police their antisocial behaviour and what vile things they had said. A policewoman came round and told me that there was nothing she could do, even though I had reported numerous previous incidences...(Ouch, 12 Nov 2008)

1.8.9. The Criminal Justice Process

Despite the efforts being made that are noted above, the overall picture is a very concerning one, as a BBC radio broadcast recently established, despite these efforts only 2 cases of serious aggravated hate crime have been established since the implementation of the Criminal Justice Act (2003) in 2005. The test of Disability Hate Crime motivated by hatred is clearly a very difficult one to establish, whilst the exclusion of acts linked to disabled people's perceived vulnerability is clearly too blanket an approach to apply to other minorities and would no doubt attract negative comments. There is a very strong case for reviewing the law as it stands to establish the validity and limits of the 'vulnerability' exclusion and to revisit the current definition of hatred as hostility.

Limits to the support systems in the criminal justice system are also well documented, with the recent (pan-issue) report by Victim Support (2006) listing the following rational in supporting victims in cases of hate crime:

- Matching support to victim group (disability is overlooked even here)
- More support for children
- Home visits
- Intensive emotional support
- Financial and practical advice

(Victim Support, 2006: 9)

The report also notes the need for specialist hate crime units to become mainstreamed to avoid ghettoisation and for the CPS to liaise better with other agencies involved with hate crime. The ring-fencing of hate crime support activities is also a major issue as one

North West Police area has recently moved the existing hate crime related funding to the 'new priority' of knife crime. As concern with hate crime ebbs and flows with Home Office funding priorities, the longer term funding basis for hate crime related police, CPS, third sector liaison is an important prerequisite for and an enduring impact on Disability Hate Crime.

2. How organisations respond to Disability Hate Crime Findings

2.1. Method outline

This research was conducted in The North West of England with a particular focus on Greater Manchester and Merseyside. A questionnaire was designed to find out from organisations how they define hate crime and what their response is to hate crime. An e-mail notice and questionnaire was sent to all contacts on Breakthrough UK Ltd's mailing list. Targeted e-mails were sent to third party reporting centres in Merseyside and Greater Manchester, housing associations, officials known to be working on hate crime, disabled people's organisations, and other third sector bodies. Follow up messages were sent and in some cases direct contact was made. In all around 500 questionnaires were distributed. The questionnaire was also available on the website of Breakthrough UK Ltd.

The project was time limited and the deadline was extended in order to allow more time for responses.

The widest interpretation of who disabled people are was used. It includes people with long term health conditions, people with physical and/or sensory impairments, deaf people, people with HIV, and people with learning difficulties – often these conditions or impairments are not apparent to other people.

2. 2. Respondent Profiles

Although several hundred electronic questionnaires were distributed and follow up messages sent, the response was disappointing. In total just 21 questionnaires were returned; of these:

4 were from housing associations in the same housing group of Registered Social Landlords in Greater Manchester.
8 statutory bodies, 1 police; 2 Local Authority Community safety; 1 Local Authority Housing Department; 1 Primary Care Trust / HIV; 2 Crown Prosecution Service. Of these 4 were in Greater Manchester, 3 in Merseyside and 1 in Lancashire.

9 non-statutory. Of these 6 were run by disabled people, (2 HIV, 2 people with learning difficulties, 2 all impairment groups); one was a diversity centre for the whole community; 1 transgender group; the other was a victim support agency. Of these 4 cover the Greater Manchester area, 1 Merseyside, 2 national, 2 The North West of England and North Wales.

Table 2 - Type of organisations

	Housing Associations	Statutory	Non-statutory
Housing	4	1	
Police		1	
Community safety		2	
Self organised gay men's group		1	
HIV service		1	2
Crown Prosecution		2	
People with learning difficulties			2
Organisation of disabled people			2
Diversity Centre for the whole community			1
Organisation of Transgender people			1
Victim support			1

Table 3 - Location of Organisations

	Housing Associations	Statutory bodies	Third Sector
Greater Manchester	4	4	4
Merseyside		3	1
Lancashire		1	
National			2
North West			1
North West and Wales			1

Interviews took place with 2 disabled people’s organisations, 1 community safety organisation, 1 transgender organisation, and 1 (follow up of questionnaire) victim support organisation.

This number of responses is too small to make any generalisations about organisational response to Disability, Lesbian, Gay and Bisexual (LGB) or Transgender Hate Crime. However there is enough material to gain some insight into the way in which organisations respond to reports of Disability Hate Crime. Organisations were asked if they specialised in working with particular groups that may be subject to hate crime. Not all organisations completed this section and of those that did more than one box may have been ticked.

Of the Housing Associations, 2 said they do not specialise in working with any particular group and 1 said they specialised in working with BME groups; the 4th did not answer the question. Of the 9 statutory bodies, 3 said they specialise in all BME groups; 1 with specific BME group; 3 LGB (they may also include transgender people); 1 said older people; 3 said all disabled people; one said they dealt with one specific group of disabled people; and 4 said they did not specialise as they work with all groups.

Of the non statutory groups 1 worked only with transgender people; 1 with older people; 2 with all disabled people; 4 with specific group of disabled people; and 2 all groups of people.

Table 4 – Specialism of organisations

Specialism	Housing Associations	Statutory bodies	Third Sector
All BME	1	3	
Specific BME			
Trans-gender			1
LGB & T		3	
Older people		1	1
All disabled people		3	2
Specific group of disabled people		1	
All groups / no specialism	2	4	4

(Please note organisations ticked more than one box.)

Almost all of the organisations stated that dealing with hate crime was not a primary function; only the CPS, Victim Support and a Local Authority Community Safety Officer stated it as being a primary function. The Housing Associations and all the non-statutory organisations stated that dealing with Disability Hate Crime was a secondary function to their main purpose.

2. 3. Roles and Functions

Organisations can have different roles or functions, some of which are laid down by law or government regulations. 7 statutory bodies identified this in their role and only a health organisation stated they did not have statutory responsibilities. Although the housing associations did not respond to this question it is recognised that they do have statutory duties in relation to hate crime. 5 non statutory, 8 statutory organisations said they were involved with awareness raising, 3 non statutory, 6 statutory involved in prevention work, one non-statutory, 4 statutory work with perpetrators; 5 non statutory, 4 statutory do advocacy work.

The Housing Associations did not complete the section about roles and functions, although it is expected that they carry out prevention work and working with perpetrators as a minimum.

Table 5 – Roles and functions of organisations

Role and function	Housing Associations	Statutory bodies	Third Sector
Statutory	4	9	
Awareness of hate crime		8	5
Prevention work		6	3
Perpetrators		4	1
Advocacy		4	5

Please note organisation ticked more than one box

This indicates a range of activity, but there are signs that there is little work with the perpetrators.

3. Definitions and Policies

Definitions and policies seem to be closely linked being closely linked in the received responses.

2.1. Definitions of Hate Crime

Organisations use different definitions of hate crime, where the definitions come from also vary. Most bodies use the CPS definition (page 2 of this report), or use a similar wording. Whilst it may be expected that statutory organisations use this definition some non-statutory organisations also use it. In this study it is only disabled people's own organisations that are not using this definition. A disabled people's organisation with a history of analysis and use of the social model of disability and whose members have a range of impairments commented:

‘Although we have not agreed our own formal definition of Disability Hate Crime, we recognise it takes many forms, from name calling to murder. For many disabled people it makes no difference if our attackers think we are abominations who are unworthy of life, think that killing us is an act of kindness, or simply think they will get away with it because we are disabled people. The motives may be different but the fear is the same and the reason seems to be the same, we are different.

Currently we do not have definitions for any other forms of hate crime, but [name of organisation] would welcome the opportunity to work with the EHRC to look at the similarities and differences of how different groups experience hate crime. This could assist those groups, and the powers that be, to respond better to the affects and motives of hate crime.’ (Disabled people's organisation, 8)

A similar view was given by a disability equality consultancy run by disabled people:

‘We do not agree with most standard definitions of hate crime because they don't really reflect the experience of disabled people, where it's often difficult to detect an open element of 'hate' against us, but where there is abuse and harassment related to a disability. We have not yet

formed our own preferred definition.’ (Disability equality consultancy, 5)

People with learning difficulties do not use the exact CPS definition but recognise that they may be attacked because they are disabled people. One group is a third party reporting centre and noted:

‘[Disability Hate Crime is] when they know who to pick on and they pick on us because they think we will not fight back. They do it for the fun of it because of the way we are. We are not strong. People gang up on us. Some people with learning difficulties are frightened of getting on the bus. School kids call us names. Kids don’t understand the situation a person is in.

It becomes a hate crime when we heard them say they did it because we are disabled people. They do it when they are playing on us being disabled people.]’ (Group of people with learning difficulties, 20)

Another group of people with learning difficulties recognised the need to involve the police:

It is something you go to the police about
We hate it
Crime on the street
Bad behaviour
People don’t like to be near hate crime (Group of people with learning difficulties, 6)

A North West membership organisation which specialises in working with people with HIV takes the view that people with HIV do not fit neatly under the heading of disability:

‘people living with/affected by HIV – because of the strength and ubiquity of HIV-related stigma we often highlight this specifically rather than subsume it within the broader category of Disability Hate Crime; also it is often unclear why the hate crime is directed at individuals with HIV – most fit more than one of these groups so abuse may have several roots – sexuality, ethnicity, immigration status, being an asylum seeker, etc., as well as HIV;’ (HIV organisation, 3)

This organisation goes on to add:

‘We treat all these as manifestations of hate crime; anything which disrespects people with HIV tends to be seen by us as a hate crime. So dentists refusing to take people living with HIV onto their lists (mystery shopping reveals there are vacancies for patients if you don’t say you have HIV), and only ever seeing HIVpositive patients at the last appointment. These may not, legally speaking, be hate crimes, but we interpret discrimination apparently based on HIV stigma as a hate crime. We may have to invoke other laws (DDA) however.’ (HIV organisation, 3)

Conversely a national group for people with HIV noted that the CPS does not recognise hate crime in relation to HIV, people with HIV should be recognised as disabled people and attacks on them should be recognised as Disability Hate Crime commenting:

‘However victims of HIV-related hate crime are not protected in this way. This is because, according to the CPS and Ministry of Justice, HIV is not included in the definition of disability in the Criminal Justice Act 2003 (‘a physical or mental impairment’) (CJA 2003). This is despite the fact that HIV is recognised as a disability under the Disability Discrimination Act 2005. HIV sadly remains a stigmatised condition and NAT is aware of several incidences of HIV-related hate crime. NAT is therefore campaigning to ensure that people living with HIV receive the same protections as other disabled people. We believe that HIV, as a permanent impairment of the immune systems, is a disability as defined by the Criminal Justice Act 2003 and are currently asking the CPS to reassess their position.’ (National HIV organisation, 12)

These differing views of definition in relation to HIV indicate a failure of the current CPS definition to take account of people with HIV. There are issues in addition to the medical condition relating to stigma, prejudice and discrimination that link with other groups – in particular gay men, and race. As usual prejudice and discrimination bear little relation to reality, since white straight people are at least as likely to have HIV and may be the fastest growing group of people with HIV.

The issue of vulnerability was not specified here, but the concerns of people with HIV are not quite the same as people with learning difficulties in that the former talk about stigma whilst the latter seem to be alluding to their vulnerability. Overall the differing views of those using the CPS definition and 6 organisations quoted indicate a gap between statutory recognition and the experience and perspective of those that may be subject to hate crime.

2.2. Policies relating to Disability Hate Crime

It seems that where there are policies in relation to hate crime they tend to be based on Racist Hate Crime, LGB, and Transgender Hate Crime. Few have written policies, but there may still be a policy understanding:

We have not written down what we think about hate crime and what we will do about it. But we know that hate crime is wrong and we want something done about it to stop it happening. It is not harassment or abuse and it is not OK to call us names. People should respect other people - "They do not know how it feels inside.", (People with Learning Difficulties, 20)

For some organisations a policy is not a written document it is about understanding the issues and responding to them.

3. Barriers to responding to or supporting people who have been subject to Disability Hate Crime

Organisations have a range of perceived or real barriers to supporting people who report hate crime, most organisations reported the same sorts of barriers across all groups.

3.1. Resources

Unsurprisingly *resources* are mentioned as a barrier to responding to or supporting individuals:

Resources and perhaps being able to meet the expectations of the person or household reporting hate crime. (Housing Association, 19)

And:

We do not have enough money to have someone in the office to speak to anyone who may want to talk about something that has happened to them. We need more staff cover. (People with learning difficulties, 20)

3.2. Under-reporting

The transgender third sector organisation noted the significance of fear for those who have been targeted alongside their not knowing the significance of identifying it as a hate crime:

People frightened to report hate crime. Also people not saying this is a hate crime when reporting, (Transgender organisation 10)

This link between fear and under-reporting is also noted by this CPS respondent:

Victims and witnesses who do not attend Court unexpectedly; refusal of witnesses to provide details of what happened or to give witness statements – for fear of reprisals?, e.g. the offender is their carer? Perhaps fear that they won't be believed because, e.g. they have a learning disability? Reluctance to report such incidents to the police in the first place?

Victim support also questions whether victims and police actually recognise Disability Hate Crime:

Greater Manchester Police have a category for Disability Hate Crime, but according to their statistics there were a total of 29 Disability Hate Crimes recorded in 2005/6, 38 in 2006/7, and 64 in 2007/8. This will include hate crimes against people who are physically disabled as well as those who have a learning disability or a mental health problem. This seems really low, and part of the challenge is to make victims aware that what they are experiencing is a crime. (Victim Support, 23)

This view is echoed by this Disabled People's organisation which is disappointed that law enforcement agencies do not seem to have a good grasp of Disability Hate Crime:

The main problem is that police officers don't understand the difference between different sorts of hate crime. Race Hate Crime can be easier to identify but Disability Hate Crime isn't. There is little discussion and training on it. We sit on our CPS area hate crime scrutiny panel, and this reveals that there is a very low level of reporting and pretty much nonexistent prosecutions. (Disabled People's Consultancy,5)

Part of making sure that all cases that are reported are recognised, it may be that some people are not believed when they report a hate crime:

If someone comes to tell us about something that has happened to them we ask if they want to report it. We always believe them and never tell them to "take no notice" (Group of people with leaning difficulties, 20)

There seems to be an issue that under reporting could be linked to lack of understanding of the roles and responsibilities of organisations:

a lack of understanding of what the role of the CPS and in particular, the measures we are putting in place to enable the most vulnerable victims and witnesses to give their evidence as well as the perception that we are not as easily accessible as the Police and Courts. (CPS,14)

Or under reporting might be due to an organisation not being recognised as somewhere to give a report. One Housing

Association is a third party reporting centre for race and LGB, and Transgender Hate Crime, and is active in this area. But they are *not a third party reporting centre* for Disability Hate Crime and there may be an issue of under-reporting because of this:

Do not recall receiving any Disability Hate Crime reports. Close relationship with the police & other agencies would assist us. (Housing Association, 19)

Under reporting may not be simply about individuals not telling anyone about what has happened to them. Organisations need to ensure that they understand that some people are fearful of matters being made worse by a system that is meant to help. Or it may be that events have not been recognised as a hate crime or people are not believed. People may not know where to go to report what has happened.

3.3. Systemic barriers

This group of people with learning difficulties are a reporting centre but find the paper work is not helpful:

The form we fill in needs to be easier. (People with learning difficulties, 20)

This organisation also noted the importance of partnership working, especially with the police:

We need to work more with the police (People with learning difficulties, 20)

One organisation is not aware of any barriers:

We are not aware of any barriers yet. The council has a disability partnership which meets regularly. We work with local organisations and designated officers who work with disabled people. (Local authority, 11)

Barriers may be real or perceived, and perspectives of organisations may vary according to their role and purpose.

4. What Works

4.1. Understanding the issues of Hate Crime

Understanding of Disability Hate Crime needs to extend beyond the understanding of crime in public space since Disability Hate Crime can be closely linked to domestic situations and those who are thought to be 'caring':

This is an important piece of work that for far too long has been ignored, dismissed and under reported. Given that Disability Hate Crime has only recently received legal recognition, there needs to be more effort and resources by local and central government to monitor formal and informal reporting of hate crime incidents. We often think of hate crime taking place at night on dimly lit streets, and committed by strangers, however, for many disabled people Disability Hate Crime can take place in their homes and in institutions - perpetrated by partners, family members, or care/support staff (Disabled people's organisation, 8)

Having a good understanding of the issues is a positive response and support that can be offered. This may come through *training* on the issue:

Through diversity training and understanding the impact on victims (Housing association¹⁶)

Helps them to support people who report Race Hate Crime and in relation to LGB and Transgender Hate Crime they note that:

An awareness that if we needed to we could tap into specialist support and voluntary agencies across the local authorities. (Housing association, ¹⁶)

However this housing association did not respond in relation to Disability Hate Crime.

Understanding of the issues can come from a combination of personal experience and training, but also less conventional methods of gaining understanding were expressed by this group of people with learning difficulties:

We have had good training from the police.

We have had work shops and have a drama group, this gets us ready to support anyone who comes to tell us about a hate crime.

We know what it is like because it has happened to many of us – members have been called names and attacked. One member was kidnapped from outside his house and left on a road island and he could not get back home. (Group of people with learning difficulties, 20)

This organisation for people with HIV also recognises the importance of passion which could indicate a particular way of understanding the issues:

A passion for change and justice (HIV organisation, 3)

It may be that this kind of passion comes from personal experience for oneself or a loved one.

4.2. Recognition of hate crime

Also *recognising* that an incident is a hate crime is important if appropriate support is to be offered:

Clear staff awareness of hate crime and what they should look out for in deciding if an incident could be a hate crime. This is achieved through training and having specialist community safety staff in post. (Housing association, 19)

4.3. Specialist Support

Lack of expertise of staff in how to respond to people who may have experienced hate crime can be a barrier:

The number of cases may mean that the expertise across frontline staff is not as refined as it could have been because of lack of experience. (Housing association, 16)

This lack of expertise may be linked to a lack of specialist provision:

also some police forces do not have hate crime units (ie North Wales) (Transgender organisation, 10)

There is a view that having a specialist would help in providing support:

Employing community safety specialist officers (Housing Association 19)

Or where specialist provision is available this is recognised by the CPS as being helpful in responding to or supporting people who report hate crime. This is explained in one CPS response:

Dedicated Witness Care Units (WCUs) have been set up in Greater Manchester to provide practical help and moral support to victims and witnesses. The Units provide:

-Witness Care Officers who act as a single point of contact for a victim or witness throughout the life of a case from the point of charge through any court proceedings that may follow. They will help individuals through the criminal justice process and coordinate support and services.

-a full 'needs assessment' to identify exactly what help victims and witnesses require to ensure they can attend court. This could include practical difficulties such as provision of child care, transport, help with language difficulties, medical problems and areas of concern, including possible intimidation

-continuous review of victim and witness needs throughout the case by the CPS and police

-greater communication and contact with witnesses about cases including the case outcome or trial result

By providing better information, reassurance and support victims and witnesses will be more confident and willing to attend court, which in turn should reduce ineffective trials, help to bring offenders to justice and improve public confidence in the criminal justice system. (CPS, 14)

This was supported by another CPS in another part of the North West:

Witness care units; application for special measures, where appropriate; proactive approach to prosecuting and a determination to progress such cases through the courts quickly by providing a premium service in such cases.

Witness support; use of pre trial witness interviews; e.g. use of intermediaries or other aids to communication to assist the victim to give best evidence (CPS, 15)

Hate crime centres in communities may be more appropriate for people who do not feel comfortable in official locations such as police stations:

In all aspects (all types of hate crime) divisional hate crime policy quality service. Trained hate crime reporting centres in places where people feel comfortable to report (Police 2)

Specialist support in the right settings may encourage people to report incidents of Disability Hate Crime.

4.4. Partnership Working

4.4.1 Involvement with Crime and Disorder Prevention Partnerships

It may be that groups of disabled people are also not well represented in Crime and Disorder Prevention Partnerships (CDPP) of the 6 organisations not using the CPS definition the two organisations of people with learning difficulties, the organisation of disabled people, and the National HIV organisation had not heard of CSPP. The North West HIV organisation noted that they are:

Aware, but not enough knowledge to answer this without checking details of how they work/what they do. (HIV organisation,3)

The National Disabled People's Consultancy (5 DF) sits on Crime and Disorder Prevention Partnership in the South East of England, but does not use the CPS definition.

Of those non-statutory organisations that use a CPS definition all three sit on the CDPP (Community diversity organisation, transgender organisations, and Victim Support).

Of the statutory bodies only the gay men's self organised group said they use their own definition, but did not say what this is. Only two of the housing association offered a definition and they are both part of the CDPP.

4.4.2. Involvement with Key Individual Networks

These are ward level networks for community leaders or other residents to have direct contact with the police, in this study there seems to be a divide between organisations that know about CDPP and those that know about Key Individual Networks (KINs). Of the 7 statutory organisations 4 indicated that they are aware of KINs and 2 of those host KINs. None of the housing associations responded to this question.

Of the non-statutory bodies only the 2 that are also involved in CDPP knew about KINs.

The transgender group was the most active in liaison with the police, commenting that they are:

heavily involved with policing issues, being members of the Merseyside Independent Advisory Group (MIAG). Police policy writing, police training and being a member of critical incident groups. Police officers attend our monthly meetings. Members report Hate crimes to us so we can do secondary reporting. We are also members of Wirral, Liverpool LGB&T forums and Merseyside Police Authority LGB&T forum.
(Transgender organisation, 10)

The National Disabled People's Consultancy commented that they might get involved but:

depends on time requirement, I suspect we should be involved as disability equality issues may not be very well dealt with at present (Disabled People's Consultancy, 5)

The Manchester disabled people's organisation and the organisations of people with Learning Difficulties thought they might be able to get involved in they were resourced to do so. This is linked with capacity since these organisations are called upon to be involved with various groups and consultations and are struggling to meet the demand. Statutory bodies whilst perhaps over stretched do at least receive funding and staff are paid to attend meetings.

The importance of partnership working is also recognised in relation to the success of being able to respond to and support people who report hate crime, this may include statutory bodies:

We liaise with the local disability support and information service and designated officers. (Local authority, 11)

4.4.3. Working together on policies and practice

Also partnership working can be helpful in developing policies:

In conjunction with other agencies, regulatory guidance and best practice. (HA 19)

This Local Authority worked in partnership in order to develop its policies:

In partnership with agencies across Lancashire and led by Lancashire County Council and Lancashire police (Local Authority, 11)

Partnership needs to be beyond statutory bodies:

It is only by groups and individuals getting involved with policing via independent advisory groups and community forums, that things can change. In line with local consultative mechanisms many years ago. One useful initiative was by Manchester Housing which involved Equality Officers in the development of its Neighbour Nuisance Policy in the early 1990's and in subsequent briefing sessions for all Housing Managers on what Homophobic Hate Crime was, the importance of dealing with it and the new procedures, including witness statements. The policy of re-housing victims of hate crime was changed around then to focus on ensuring that legal measures, like injunctions and ASBO's, were used against perpetrators to combat hate crime. (Transgender organisation, 10)

The CPS also recognises the importance of partnership working in developing policies:

Following extensive consultation with relevant community groups and organisations concerned with the issues involved, (CPS,15)

This third sector organisation did not specifically mention statutory bodies at all:

Shared understanding between service users, volunteers, staff, trustees. Collaboration with other campaigning HIV (and other) organisations (HIV organisation, 3)

Organisations may be reliant on others in order to proceed beyond their own area of intervention. This Housing Association noted that continuity is required across all agencies because *other agencies* may not be playing their part in responding to or supporting people who have been subject to Disability Hate Crime:

Perhaps the response of other agencies. (Housing Association 19)

This organisation has worked in partnership with statutory and non-statutory organisations to improving strategic approaches:

4.5. Focussing on strategy

Some organisations directly support individuals who may have been subjected to hate crime, however one organisation has made the decision that this approach is not having enough effect and that focussing on strategy is more effective than attempting to work in a reactive way with individuals:

We are instead now focusing more attention on tackling the problem strategically instead of just looking to support individuals, because we have had no real success in getting any complaints launched and we don't expect this to change much anytime soon with the continuing high levels of public HIV stigma. (HIV organisation, 3)

They added examples of working in partnership to progress strategic approaches:

- raising cases and the structural problem with the Crown Prosecution Services Hate Crimes panels/equalities and disabilities staff: we expect to have one criminal case reviewed by the CPS community sector Disability Hate Crime panel (see *HIV Hate on Canal Street* in part D)
- producing with/for the Association of Chief Police Officers [ACPO] a review of the policing of reckless HIV transmission allegations, to develop best practice across England. Many police investigations into reckless HIV transmission are provoked by HIV hate/stigma, or are exacerbated by police stigma (the Sarah Porter case is notorious for the police heavy handed and HIV-hounding response).

- working and campaigning with other HIV organisations especially NAT www.nat.org.uk , Terrence Higgins Trust www.tht.org.uk , and African HIV Policy Network <http://www.ahpn.org> ((HIV organisation, 3)

4.6 Using systems that are already in place

Some organisations find that systems that are in place are helpful in responding to and supporting individuals:

General procedural guidance covering hate crime and related anti social behaviour exists that can be adapted to different types of hate crime. (Housing association, 19)

Victim support has a national framework for race hate crime, however there is less structure in relation to Disability Hate Crime:

We do not have a national framework or guidelines for people who are the victims of Disability Hate Crimes. Training is provided on an ad hoc basis. However, we do our best to support disabled victims of crime, and will provide information in appropriate formats. Most of our offices are accessible; if they are not we will meet the victim either at home or in another suitable venue. Our service is victim-centred and will be driven by the needs of the victim. (Victim Support, 23)

The systems which are already in place go some way to supporting individuals, but there is little in the way of preventing hate crime.

5. Lessons Learnt

The issue of organisational response to Disability Hate Crime, Lesbian, Gay and Bisexual Hate Crime, and Transgender Hate Crime is under researched. Although there is a growing body of evidence of the experience of hate crime amongst these groups the literature search found little on organisational response. This small piece of exploratory research only starts to paint a picture of the way organisations respond and the indications of a gap between statutory bodies and the people subjected to attack because they are disabled people, lesbians, gay men, bisexual, or transgender.

Definitions and understanding of what Disability Hate Crime is, feature as a key issue in this study. Whilst there are similarities and links with other forms of hate crimes there are particular issues which set it apart. The definition that hate crime is motivated by hostility, and not instigated by perceived vulnerability, leaves victims without the same legal recourse. For disabled people this is a false distinction, attacks which are instigated because of perceived vulnerability are just as serious. Misunderstandings about a definition of disability lead to a misunderstanding of Disability Hate Crime. A definition which confuses disability with long term health conditions and impairments does not take account of current and past discrimination against disabled people. Nor can such a definition facilitate the removal of institutionalised disablism. A definition which takes account of long term health conditions and the way in which people with such conditions are discriminated against is the social model of disability. This is gaining increasing recognition in some government guidance, for example:

The Department of Health subscribes to the social model of disability; that disability is defined as the disadvantage experienced by an individual as a result of barriers (attitudinal, physical etc) that impact on people with impairments and/or ill health. (DH, 2009, webpage)

This definition of disability provides a way of looking beyond the individual for causes of discrimination and hate or targeted crime. That the status of an offence which is instigated by perceived vulnerability of the victim rather than the offender being motivated by hostility does not seem justifiable. This may have some impact

on the different definitions used by statutory bodies and disabled people themselves. The Ministry of Justice does seem to consider some disabled people to be vulnerable:

Contacting the Police and potentially going to court may be daunting for many people particularly for vulnerable groups such as those with mental health problems and learning disabilities. (Ministry of Justice, 2008: 31)

Some people who would be covered by the Disability Discrimination Act are also in other groups who are subject to hate crime. Disabled people are in all black and minority ethnic groups, all faiths, of all ages, and may be lesbian, gay, bisexual, or transgender. For those people with HIV there is an association with homophobia and racism, and there are links with stigma and hostility. Transgender people experience a particular form of oppression, lesbians, gay men, and bisexuals are generally comfortable with their original gender. For transgender, either before or after surgery, they are not comfortable with their original gender which makes their issues specific, so it is vital that their issues should not be treated as part of the issues of any other equality strand.

The matter of partnership working is considered important by most of the organisations that responded to this study. Statutory bodies need to get closer to disabled people, this may mean going to places where disabled people are, rather than simply inviting disabled people to business meetings. Some respondents stressed the importance of having a specialist in Disability Hate Crime. Such an approach is double edged since it is often the case that where there is a specialist in disability issues, then they, are expected to take responsibility for everything to do with disabled people whilst the rest of the organisation abdicates itself of responsibility.

6. Conclusions and Implications for Policy and Practice

This study has explored barriers and what works in responding to and supporting people who report hate crime. Key areas of discussion were the differences in definition and policies, what barriers there are and what works for organisations in responding to and supporting individuals who report Disability Hate Crime. Misunderstandings about disability and why disabled people may be subject to hate crime or targeted crime needs further research. Statutory bodies need to gain a better understanding of the context of discrimination in which disabled people live. Learning about the social model of disability through a programme of Disability Equality Training (which covers history and current forms of discrimination) from an experienced trainer would facilitate understanding.

Misunderstandings about disability also continue because disabled people themselves are not part of the policy making procedure. Statutory bodies need to ensure that they take on board the perspective of disabled people, including disabled people working within the structures of the Criminal Justice System, and through improved partnership working.

The differing definitions indicate a gap between the Criminal Justice System and people who are likely to experience hate crime. In particular the issue of vulnerability needs to be addressed, that disabled people may be targeted because of perceived vulnerability rather than a motivation of hatred should not lead to a reduction in response from the Criminal Justice System.

There seems to be little if any preventative work in this area of hate crime against disabled people, transgender people, lesbians, gay men, and bisexuals.

Policy Points for Action by Statutory Bodies

The definition of hate crime needs to be consistent, the false dichotomy between attacks which are instigated by perceptions of vulnerability rather than 'hostility' needs to be removed. Partnership working needs to move closer to disabled people, including bringing disabled people into all parts of the organisations. The best way to involve disabled people is to

employ them, statutory bodies need to review their employment practices to ensure disabled people are not only present but are free to express the perspective of disabled people.

Consideration needs to be given to ensure disabled people are included in all the functions of statutory bodies such as the Ministry of Justice and the Crown Prosecution Service as advisors, consultants, employees, and any other position. Such individuals need to be able to speak out about disabling barriers which may be systemic, attitudinal, cultural, or physical.

Statutory bodies need to develop their understanding of disability as a particular form of social oppression and should be commissioning disabled people with the relevant skills and experience to facilitate workforce and policy development. Given the low base line of understanding of disability as a form of social oppression and the need to include issues of vulnerability in a definition of hate crime it may be advisable to employ a Quality Assurance Lead for disability. This role would not be the same as an Equality Officer – who generally would be responsible for monitoring performance indicators, or an Access Officer who advises on accessible environments and technical matters including communications. However this role would need to ensure quality and good customer care, throughout the organisation. Such a specialist would preferably be a disabled person with links in disabled peoples networks, with a thorough understanding of disability as a form of social oppression and the access requirements of individuals across all conditions and impairments, and experience or using the social model of disability in practice. Policies need to take account of transgender people experiencing a particular form of oppression; their issues should not be considered as part of any other group.

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