

Getting Away With Murder

Disabled people's experiences of hate crime in the UK



This report is dedicated to everyone who has been a victim of a disability hate crime, and to the memory of:

| | | |
|----------------------------|----------------------------|-------------------------|
| Albert Adams | Frankie Hardwick | Brent Martin |
| Raymond Atherton | Shaowei He | Sean Miles |
| Kevin Davies | Barrie-John Horrell | Laura Milne |
| Christopher Foulkes | Steven Hoskin | Keith Philpott |
| Steven Gale | Rikki Judkins | Fiona Pilkington |
| Colin Greenwood | Christine Lakinski | William Ripsher |

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- Mark Lakinski, brother of Christine Lakinski

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As she lay dying: the last 16 minutes of my sister's life

By Mark Lakinski

My name is Mark Lakinski. I have a comfortable life, a nice family, nice home and a good job. I am also able-bodied. My sister, Christine, was disabled. This is how she died.

She died on her own doorstep after crawling on her hands and knees in pain across a cobbled street, not being able to call out for help, but only to groan and wish for it.

There were people there, just across the street, who were getting ready to celebrate a birthday, they knew her, at least by sight. These were her neighbours. They knew she was in trouble, they had been told that she was, and they could see it, quite plainly, for themselves.

However, Christine, my sister, was disabled and what happened next, I believe, was purely down to that fact.

After all disabled people are just good for a laugh and it doesn't really matter what happens to them now, does it?

Or at least that is how some of Christine's neighbours saw it.

As I have said, Christine died in great pain on her own doorstep, she had tried to make it home from her friend's house just around the corner. Her friend had given Christine some laminated flooring to use in her home. Christine became ill on her way home, stumbling into walls, struggling with her laminated flooring and at times crawling and

dragging it behind her, all in daylight in a terraced street in Hartlepool.

She did reach her doorstep and even tried to get her key into the door-lock, but she fell and hit her head hard against the concrete paving, after which she lay motionless.

At this point three men, not teenagers, came out of a house just across the street. They had been drinking and smoking skunk cannabis. One of them, a 27 year old man, had a towel around his waist after just coming out of the shower. It was his birthday. He was getting set for a good night out on the town with his friends and he was just getting started.

All three men walked up to Christine who was lying helplessly on her back on the pavement, with her eyes shut, bleeding from her head injury.

"I'll show you how to deal with her" said Birthday Boy and he then took centre stage for the next 16 minutes, applauded and egged on by the other two.

It started with a kick to Christine's feet which got no response from her, so a bucket of water was produced from Birthday Boy's house and thrown over Christine, who did in fact groan and move slightly at this.

The show was getting better by the minute, why not record it on a mobile phone and this was indeed done, but only after first deleting some of the phone's memory - it was too full.

After a few minutes everybody was ready again. Shaving foam was brought out and suitably sprayed over Christine amidst raucous laughter.

The final act was for Birthday Boy to pull back his towel and urinate all over Christine as she lay dying, all recorded on the mobile phone for later entertainment.

“This is YouTube material” somebody yelled in the background, hilarious laughter followed. Christine’s laminated flooring was piled on top of her and she was left where she lay, Birthday Boy and friends leaving without a second thought to hit the pubs and clubs of Hartlepool.

Somebody eventually called an ambulance and when this arrived Christine was declared dead and her body left once more, this time surrounded by blue and white police tape, as this was now a crime scene.

Everything that had happened was recorded on a mobile phone which the police used as evidence against Birthday Boy. He was picked up later that night in a night club and arrested. All the others present walked away Scot-free and have faced no police charges.

An autopsy showed Christine died of natural causes – pancreatitis – her pancreas had not formed properly at birth. Christine rarely touched alcohol, preferring a cup of tea and would only have one glass of wine just to please her friends.

No coroner’s court was held. I would have liked to know if Christine could have survived if the mobile phone was used to call an ambulance. I was told her illness was unsurvivable and Birthday Boy had not contributed to her death.

If an ambulance had been called when Christine had collapsed, she might have died with dignity and with pain relief in hospital and not on a dirty pavement, violated at the moment of her death by a braying bunch of louts who, I firmly believe, saw her as an easy target because she was disabled.

No mention of disability hate crime was ever brought up by officials dealing with this law case although Christine was visibly disabled. “Outraging public decency” was what Birthday Boy was charged with as this carried the maximum prison sentence.

Since Christine’s death I have been encouraged by people’s reaction to what happened to her. Before Birthday Boy got three years in prison he was out on bail. He was shunned in the street, barred out of shops and had to go into hiding in Hartlepool. People think what happened to Christine was despicable. More should be done in order for this not to happen to any other disabled person.

Vernon Coaker MP, Minister for Crime:

“I welcome this report and will carefully consider the findings.

“The Government takes all forms of hate crime seriously. The UK has one of the strongest legal frameworks in the world to protect people from discrimination or persecution on the grounds of their disability, faith or race.

“We are committed to tackling disability hate crime and our strategy continues to focus on prevention and intervention as well as bringing more perpetrators to justice. Our priorities include increasing better monitoring of files by police to identify disability hate crime incidents, better recording of incidents to establish how many are disability related and supporting victims and witnesses so that they are not discouraged from giving evidence.”

Sir Ken Macdonald QC, Director of Public Prosecutions:

“I welcome the publication of this report into disability hate crime. It will help all of us who work in the Criminal Justice System to better understand the experiences of disabled people and to keep under review the way that we deal with instances of disability hate crime. The Crown Prosecution Service is determined to play its part in reducing crimes against disabled people and in bringing offenders to justice. We recognise that disability hate crime, like all other forms of hate crime, strikes at the fundamental right of people to enjoy their lives free from discrimination and hatred. This is why we have introduced a policy that specifically addresses disability hate crime and have put in place an awareness campaign to ensure that all of our

lawyers proactively prosecute people who carry out such offences. We are also working closely with the police to make sure that cases of disability hate crime are correctly identified and monitored through the criminal justice system while offering support to victims and witnesses, so that they can give the best possible evidence in these cases.”

Alfred Hitchcock, Deputy Assistant Commissioner, who leads on hate crime for the Metropolitan Police Service (MPS):

“I support the publication of this report. It adds important new dimensions to an area which has not received sufficient attention in the past. Victims of crime with disabilities, whether they have been targeted because of their disability or for some other reason, are amongst the most vulnerable people that the MPS has contact with. It is therefore critical that their needs are addressed and the MPS works with statutory and voluntary organisations to ensure continued effective service delivery. It is recognised that disability hate crime is underreported to police, and therefore the work we are progressing to improve access, reporting processes, identification of such crimes and the needs of victims will give the MPS a much more detailed picture of what is happening in London and will enable us to respond accordingly. The use of Safer Neighbourhood Teams has increased the effectiveness of citizen focused policing. This together with awareness raising among MPS staff and enhanced training for specialist investigators will hold more perpetrators of disability hate crime to account and send a clear message that their actions will not be tolerated.”

Scott Westbrook, Chair, National Disabled Police Association (NDPA):

“I fully support the critical work that has gone into the production of this report by Scope, Disability Now magazine and the United Kingdom’s Disabled Peoples’ Council (UKDPC). The NDPA has strived to highlight the issue of disability hate crime, from the reporting to the police, the impact on its victims and families, the anomalies of the court process and the scars it leaves on all involved. For too long disability has been the poor relation of the diversity strands, and it is right that this long overdue report has been written. Scope, UKDPC, Disability Now, members of the criminal justice system and all stakeholders must continue to work together to ensure that crimes are accurately reported, that victims of hate crime who have a disability are encouraged to come forward and that the resulting message from the judiciary is that disability hate crime will not be tolerated. This must be reflected in the sentences passed. I once again welcome this report and will continue to work to ensure that the often overlooked and marginalised minority are heard and not ignored.”

Brendan Barber, Trades Union Congress (TUC) General Secretary:

“The TUC warmly welcomes this report. The same attitudes that encourage hate crime are also responsible for discrimination against disabled people trying to find or retain work, or to develop their careers.

“The way in which disability is discussed encourages a totally false perception that disabled people are somehow lesser human

beings. Unless there is a fundamental shift in the way that society deals with the barriers that exclude so many disabled people from full participation, or provides adequate support where this is needed, millions of disabled people will continue to be excluded and to face the kind of treatment revealed in this report.

“This year’s TUC disability conference held a special debate on disability hate crime, with the involvement of the CPS. We welcomed the progress being made towards recognition of the nature of disability hate crime, and are fully behind the recommendations made here.”

Stephen Brookes MBE, Chair, Disabled Members’ Council, National Union of Journalists (NUJ):

“In welcoming the creation of this critically important report, the NUJ recognises the important role journalists play in ensuring that victims of disability hate crime are not dissuaded from reporting hate crime by the additional burden of intrusive or demeaning publicity.

“The National Union of Journalists Disabled Members’ Council is committed to helping colleagues in the media, who are frequently under great editorial or managerial pressure, to understand, and avoid, the immense damage which can be caused by insensitive or inaccurate reporting of disability matters.

“I can say of my NUJ colleagues that we will work together with all the organisations, and particularly Disability Now, which have contributed to this valuable piece of work, to encourage responsible reporting of disability hate crime in any form, as part of the process of eradicating this heinous crime.”

Chapter one

7

The invisible crime

In 2000 a couple with learning difficulties were held hostage in their home over a weekend. They were both sexually assaulted, the man was forced to eat faeces, was cut 40 times and his partner was also attacked. Their children witnessed the attacks. The couple now have post-traumatic stress syndrome.

In March 2005 Keith Philpott, who had learning difficulties, was falsely accused of being a paedophile, tortured, disembowelled and stabbed to death in his own home.

In July 2007 Christine Lakinski, a disabled woman, collapsed in a doorway on her way home. As she lay dying a man threw a bucket of water over her, covered her in shaving foam and urinated on her. One of his friends filmed the incident on a mobile phone.

In May 2006 Raymond Atherton, a 40 year old man with learning difficulties, was severely beaten, had bleach poured over him and was thrown in the River Mersey, where his body was later found by police. His attackers were people he considered his friends.

Nicola Barnaby¹, who has chronic anxiety, endured seven years of physical and verbal abuse from tenants in her council flat. When she reported being pushed and called a 'mad schizo' the police did nothing to intervene.

In October 2006, a wheelchair-user, Craig Robins, sustained a brain-injury in an attack after he confronted people he thought were responsible for repeated vandalism to his adapted car.

Kevin Davies, who had epilepsy, was kidnapped and held captive in a garden shed for four months before he died in September 2006. He was fed scraps, brutally tortured and his money was stolen. Again, he considered his captors friends.

In April 2007 Colin Greenwood, a blind father with young children, was kicked to death by two teenagers. Before his murder Mr Greenwood had stopped using his white stick in public for fear of being targeted.

In August 2007 Brent Martin, a young man with learning difficulties, was viciously attacked and murdered for a five pound bet. Before his death his three attackers partially stripped him, chased him through the streets and subjected him to a sustained attack in four different locations.

These are not one-off incidents. Deaf and disabled people² in the UK are regularly mocked, taunted, robbed, assaulted and harassed. Their homes are attacked; their cars damaged and the places where they live, work and socialise are also targeted. In some cases these incidents develop into more sinister and serious crimes ending in kidnapping, rape, torture and murder.

¹ Not her real name

² For the purposes of this report the term 'disabled people' is used to refer to anyone with an impairment or long-term health condition, including Deaf people and others who do not necessarily identify as disabled people.

The motivation behind these crimes is not always clear but many bear the hallmarks of hate crimes. Disabled people frequently report that their disability was a factor in the crimes committed against them. Despite this, the overwhelming majority of these incidents, including those described above, are not investigated, prosecuted or sentenced as disability hate crimes.

This report examines the prevalence of hate crime against Deaf and disabled people in the UK and investigates the reasons behind its low profile and prosecution rate and the consequences of this for disabled people.

What is disability hate crime?

Disability hate crimes, like other forms of hate crime, are motivated by contempt, hatred or hostility towards a particular group of people, because of who they are. In the case of disabled people, hate crime is an extreme articulation of the prejudice and discrimination disabled people face on a day-to-day basis. This prejudice has been given the name 'disablism'. Scope defines disablism as:

Disablism *n.* discriminatory, oppressive or abusive behaviour arising from the belief that disabled people are inferior to others.

The Government defines hate crime as: "any incident, which constitutes a criminal offence, which is perceived by the victim or any other person as being motivated by prejudice and hate."

Hate crime can take many forms, including physical attack, the threat of attack, verbal

abuse, harassment, graffiti, bullying, vandalism, malicious complaints, kidnap, rape, torture and murder.

Hate crime is not the only manifestation of disablism, far from it. Disablism comes in many forms, but hate crime is without doubt the most shocking example of it. Many people find it difficult to believe that disabled people are attacked or harassed simply because they are disabled. Most people cannot imagine anyone hating a disabled person enough to want to frighten, hurt or murder them. However, as this report will show, the roots of disability hate crime lie in contempt rather than fear. Prejudice against disabled people is rooted in the view that disabled people are inferior; in some cases less than human. They are harassed, attacked, humiliated and even killed because their lives are considered less valuable than other people's lives.

Though there is clear evidence for the widespread existence of disablism and disability hate crime, this does not mean that it is always recognised, accepted or challenged by those with the power to do so.

Hate crime and the law

In April 2005 the Criminal Justice Act 2003 (CJA) became law. For the first time, disability hate crime was recognised by the criminal justice system. Although Section 146 of the CJA does not make hate crime a separate offence, it creates what is known as a 'sentencing provision'. It imposes a duty on the courts to increase the sentence for any offence aggravated by hostility towards the victim based on their disability

or sexual orientation. The victim, a third party, or the police, can raise hostility as an aggravating factor; although police and prosecutors stress that there must be evidence to support the perception. Once that possibility has been raised, the crime can be flagged as a potential hate crime and investigated as such.

Section 146 requires the court to state openly when a sentence has been increased because it was a disability hate crime. This has what is known as a 'declaratory effect' – it tells society that such crimes are wrong by naming them for what they are. It also allows courts to punish them accordingly – judges can then impose greater sentences for the perpetrators – or, in the case of murder, the life tariff.

The Government recently extended hate crime legislation to cover incitement to homophobic hate crime. It considered extending legislation to include disability hate crime too but ultimately decided that it was not necessary. In response to a letter to the United Kingdom's Disabled Peoples' Council (UKDPC) urging the Government to include incitement to disability hatred, the Minister for Justice, Maria Eagle MP, stated:

"We are creating an offence of using words or behaviour or possessing material which is threatening and which is intended to stir up hatred against a group defined on the basis of sexual orientation. We have had examples such as rape and reggae song lyrics, leaflets and websites of extreme

religious and political organisations, which are threatening to the group as a whole and which are intended to stir up hatred. This is where the gap in the law lies – the current law would not catch these lyrics, pamphlets and websites.

"From the evidence we have seen about disabled crime the problem is slightly different. It is about acts of harassment, assault, criminal damage and other acts which are currently criminal. It is about making sure those offences are properly reported and recorded, treated seriously, investigated and wherever possible brought to justice. Creation of a new offence of stirring up hatred would not necessarily help in any of those areas."

Encouragingly however, the Minister committed to keep the issue under review stating:

"I certainly would not rule out an extension of the offence of stirring up hatred in the future, and it is something we will continue to consider carefully."

The Disability Discrimination Act 2005 places a duty to promote disability equality on all public bodies, including the police, local authorities and schools, to take positive steps to prevent disability related harassment. Those public bodies with specific duties under the Disability Equality Duty are required to involve disabled people in the production of a written Disability Equality Scheme, which sets out how they intend to implement the duty.

Prevalence of disability hate crime

Disability hate crime is all but invisible in official Government statistics. At present all recorded hate crimes are classified as being motivated by racial or religious hatred because these are separate charges and as such are easier to monitor. Police recorded 5,619 hate crimes with an injury in 2006-2007. There were a further 4,350 without injury. In addition, police recorded 28,485 cases of racially or religiously motivated harassment, and a further 3,565 criminal damage offences with the same motivation (racist murders are not included in these statistics as this is a separate offence).

The lack of official Government data is compounded by the fact that any offence can be a hate crime. So, for instance, a theft motivated by hate would appear in the theft data but might also be identified by the local police force, via a secondary tag, as a hate crime. Until recently, however, such tags were not used consistently across the country. Only since April 2008 have all police forces been required to collect and report disability hate crime in a standardised way.

The same was true, until recently, of the Crown Prosecution Service (CPS). Until April 2007, the CPS did not collect disability hate crime prosecution data separately. But the CPS has struggled to collect reliable data and admitted earlier this year that a third of the cases that they had flagged as having a disability element were, in fact, incorrectly identified as such. Just 141 incidents

classified as having a disability element were successfully prosecuted in 2007/8, compared to 6,689 racial incidents and 778 homophobic incidents.

Despite the fact that there is a significant amount of non-governmental data on the prevalence of disability hate crime (see Chapter two for more details), at present, there is no official Government data on the prevalence of disability hate crime. Responding to a parliamentary question tabled by John Barrett MP in April 2008, Home Office Minister, Vernon Coaker MP, confirmed:

“The Home Office is responsible for the police recorded statistics. Statistics are collected on the number of racially or religiously aggravated offences but no information is available on those offences which are specifically ‘disability hate’ crimes.”

In Northern Ireland, where hate crime statistics are collected across all strands, most recorded incidents in 2007 were either sectarian or racist (1,097 and 852 respectively), with reported disability-related incidents lagging far behind (49).³

In fact, official figures do not indicate that disabled people are an at-risk group for crime generally. The latest statistics from the Crime in England and Wales series (2006-2007)⁴, which combines police reports of crime and the British Crime Survey, (an annual snapshot survey of crime) suggest that disabled people are no more likely to

³ Central Statistics Unit, Police Service Northern Ireland

⁴ Crime in England and Wales, 2006-2007, Home Office

be the recorded victims of crime than the general population. Indeed, the recorded statistics show that they are slightly less likely to have been a victim of violence (3.1% compared to 3.6% in the general population)⁵.

A closer reading of the data however, reveals a rather different story. Some of the statistical data does not include disability as a category, but does include 'long-term sick' instead. This group, which may well include many disabled people as there is no separate disability category, reveals that people classed as 'long-term sick' are significantly more likely to be victims of crime than other people.

| Offence | Long-term sick (%) | Not long-term sick (%) |
|---------------|--------------------|------------------------|
| Burglary | 5.1 | 2.5 |
| Vehicle theft | 9.4 | 7.5 |
| Vandalism | 9.6 | 7 |

Crime in England and Wales, 2006-2007, Home Office

Disabled people are more likely to believe that there was a lot more crime over the last two years (42% compared to just 33% in the general population)⁶. Fear of burglary, car and violent crime amongst disabled people is also higher than among the general population⁷ – as is the 'moderate' or 'high' impact of that fear on their general well-

being (affecting 42% of disabled people, compared to 37% of non-disabled people)⁸. This chimes with a 2007 Ipsos/Mori poll, commissioned by the Disability Rights Commission⁹, which found that one third of disabled adults did not feel safe in their locality, rising to nearly half of adults with a mental health condition. 2008 research by Scope reinforces this conclusion. Of 1,320 disabled people who were asked if they felt safe and secure at home or in their local community (during the day and at night), one in five said 'not very often', or 'never'¹⁰.

Another striking finding in the Government crime statistics is the confidence that disabled people place in the criminal justice system. When asked whether they had confidence in the system to bring those who commit crimes to justice, only 35% agreed – compared to 41% in the general population. When asked whether the system met the needs of victims, just 26% of disabled people agreed – compared to 33% of all adults. These figures show a lack of confidence in the justice system which can be compared to that expressed by the non-white population (of whom only 31% believe that victims will be well-treated, compared to 50% of white people)¹¹.

The fact that crimes against disabled people rarely show up in official Government

⁵ Crime in England and Wales, 2006-2007, Home Office, table 3.01

⁶ Crime in England and Wales, 2006-2007, Home Office, table 5.01

⁷ Crime in England and Wales, 2006-2007, Home Office, table 5.02

⁸ Crime in England and Wales, 2006-2007, Home Office, table 5.03

⁹ Ipsos/Mori poll, commissioned by the Disability Rights Commission, 2007

¹⁰ Scope Disablism Audit 2008

¹¹ Crime in England and Wales, 2006-2007, Home Office, table 5.05

statistics has implications for crime reduction strategies. VOICE UK, a leading charity that champions the rights of victims with learning difficulties and works together with two other charities, Respond and the Ann Craft Trust, argues that this deficit of data “hinders policy makers, criminal justice agencies and public authorities who wish to target such crime and abuse and measure their progress in doing so”.

Crucially, the British Crime Survey (BCS) under-represents the experience of disabled people. Every year BCS interviewers talk to a representative sample of Britons about their experience of crime. VOICE UK, in a recent submission to the Parliamentary Joint Committee on Human Rights¹², says that BCS interviewers have no disability awareness training nor is there an easy read version of the BCS (although these are both under review and this may change). The BCS, at present, does not have a question about disability hate crime, although that should change next year, and there are a number of accessibility issues around the interview techniques it uses. More serious personal crimes, such as sexual assaults and domestic violence, are recorded on a self-completion basis on a laptop, which presents access issues for many disabled people. BCS interviewers do not currently visit group residences, such as care homes, hospitals and supported living environments – all places where a significant number of disabled people live or spend a considerable

proportion of their time. Consequently, disabled people’s experiences of crime are likely to be under-represented by the BCS.

Reporting disability hate crime

Reporting of disability hate crime is also an issue. It is generally agreed that around 60% of all crimes affecting the general population are unreported. Disabled people are even less likely to report crimes against them (particularly those with learning difficulties or those experiencing mental distress).

There are several reasons why disabled people do not report crime, or are not believed when they do so. A poll carried out for the Disability Rights Commission between December 2006 and February 2007¹³ found that around one quarter of disabled adults interviewed found it difficult to access police services. Progress has been made in some police force areas, though not all have embraced their duties under the Disability Discrimination Act and considerable access barriers remain.

Some police stations, housed in old buildings, are not accessible to wheelchair users, while many police stations struggle to find interpreters when Deaf people want to report a crime. Pressure on resources means that there is still an expectation in many areas that people will come to a police station to report a crime, rather than be visited at home or work by a police officer.

¹² Submission to the Joint Committee on Human Rights Inquiry into the Human Rights of Adults with Learning Disabilities, from VOICE UK, Respond and the Ann Craft Trust, 2007

¹³ Ipsos/Mori poll, Disability Rights Commission, 2007

Police officers get little or no training in communicating with disabled and Deaf people, and public information about hate crime is rarely in accessible formats. Where there are third party/non-police reporting sites, very few have made themselves accessible – for example by providing a minicom or text phone for Deaf people and people with speech impairments to report hate crime.

Anecdotally, disabled people have reported being asked intimate questions about their impairment, such as whether they have continence problems, when they attempt to report crime. This type of invasive and unnecessary questioning further exacerbates disabled people's reluctance to report crimes.

Under-reporting is further compounded by the fact that disability hate crimes are still not well understood by disabled people themselves. Though many of the innovative hate crime projects (discussed in Chapter six) are helping to raise awareness of hate crime amongst the disabled community, many disabled people still find it difficult to recognise when they have been a victim of a disability hate crime. This has a tangible impact on the number of such crimes that are reported to the police.

More fundamentally however, there is also a great reluctance to believe that disabled people can be, and indeed are, victims of hate crime. This compares with a historical disbelief that children can be targeted by abusers, or that women can be victims of

domestic violence and rape. Scope, Disability Now and the United Kingdom's Disabled Peoples' Council (UKDPC) believe that reluctance to admit the existence of hate crime against disabled people, and failure to recognise it when it occurs, is one of the principal reasons why so few cases involving disabled victims are correctly flagged and investigated as disability hate crimes.

Access to justice

Successful outcomes of CPS trials (which includes cautions, convictions and guilty pleas) were reached in 83% of racial incidents, 78.2% of homophobic incidents and 77% of disablist incidents in 2007/8. The CPS was unable to provide details of how often, in these cases, Section 146 of the CJA was applied. The CPS points out, correctly, that it performed better in prosecuting disablist incidents than those involving domestic violence (where only 68.9% of cases were prosecuted successfully), but the small number of cases, just 141 in total in the last year, suggests that many cases never reach the criminal courts.

In 2007/8 42 disability-related cases never reached trial. One of the key reasons for this was the view that the victim was considered to be an unreliable witness. This is a common charge against disabled people and frequently results in disabled people being denied justice for crimes committed against them. Research by the Home Office¹⁴ has found that 25% of witnesses may count as vulnerable or intimidated, but in reality only

¹⁴ Home Office online report – are special measures for vulnerable and intimidated witnesses working?, January 2006

three to six per cent are recognised as such. Police currently receive, on average, just two hours of training on supporting ‘vulnerable witnesses’. Tellingly, 31% of all those prosecuted for disability hate crimes were acquitted, compared to just 13.2% of people prosecuted for all crimes¹⁵.

Disability awareness training for police and prosecutors also remains patchy and inadequate. Such training would enhance the understanding of disabled people’s access needs by criminal justice professionals. As the situation stands, however, many disabled people say that they are simply not believed when they report crimes^{16 17}. And many criminal justice professionals are reluctant to prosecute cases with disabled witnesses, who may require extra support or whom they believe will be seen as unreliable by the court.

This was illustrated most starkly by a recent case, in which a Scottish woman with learning difficulties was allegedly raped several times by a number of attackers over a seven year period. Her attackers have not been charged as she has been deemed an ‘unreliable witness’. The Mental Welfare Commission for Scotland¹⁸, which reviewed her case, concluded:

“No-one has been prosecuted for the alleged offences against Ms A. Those who pose a known risk to her safety remain at large within her community, while Ms A continues to endure a protective regime that effectively deprives her of much of her liberty.”

Ms A’s case is not an isolated one, nor is it restricted to Scotland. The Government’s action plan on sexual violence in England and Wales, whilst acknowledging that disabled people are at a highly elevated risk of sexual violence, contains no concrete proposals on how to curb the risk or how to support disabled people through the justice system in such situations.

Research by Lancaster University¹⁹ concluded that ‘the accuracy and completeness of eyewitness testimony given by people with learning disabilities can be significantly improved if suitable questioning strategies are adopted’. VOICE UK, in a recent parliamentary submission²⁰, concluded that if additional support was not given to adults with learning difficulties in police interviews and in court, ‘their evidence may be misinterpreted or not understood and so the chance of achieving justice is reduced’.

¹⁵ Crown Prosecution Service data, personal communication, 2008

¹⁶ Mencap, *Living in Fear*, 2000

¹⁷ Mind, *Another Assault*, 2007

¹⁸ Mental Welfare Commission, *Justice Denied*, 2008

¹⁹ Lancaster University, *Witnesses with Learning Disabilities in Court: Full Report of Research Activities and Results*, Department of Health, Lancaster University

²⁰ VOICE UK, Respond, the Ann Craft Trust, *Submission to the Joint Committee on Human Rights Inquiry into the Human Rights of Adults with Learning Disabilities*, July 2007

Some members of the judiciary are particularly resistant to special measures for victims and witnesses, and there is an on-going debate about whether older and disabled people should be allowed to give evidence anonymously or whether that could give rise to miscarriages of justice.

Having more disabled professionals within the criminal justice system, serving as police, prosecutors, and judges, would also help to enhance the confidence of disabled people in the system. But many disabled police officers have struggled to win promotion and a number have won discrimination cases against police forces. Disabled barristers face barriers in court too. But without their involvement, the criminal justice system will continue to exhibit 'institutional disablism'.

Scott Westbrook, Chair of the National Disabled Police Association (NDPA) believes that the criminal justice system does continue to display such behaviour and that professionals in it need to take the lead in showing that "disability legislation is used appropriately, prosecute accordingly and change practices to allow full access to justice for all."

He added: "I would obviously support police officers and lawyers with disabilities to come forward to build confidence in the system. However, I understand their reluctance to disclose a disability as we face employment barriers. Whilst this is the case, the system will always appear out of balance and be viewed with justifiable scepticism by disabled people."

Sentencing

Sentencing inequalities are another example of the consequences of the criminal justice system's failure to fully understand disability hate crime. Comparisons with sentencing for crimes against other minority groups reveal that those motivated by religious, racial and homophobic hatred are more likely to be recognised as such and are therefore punished more harshly than crimes against disabled people.

Disability hate crimes are frequently described by judges and investigating officers as 'motiveless'. This is in contrast to other forms of hate crime where judges tend to state explicitly in court when hostility or hate were motives for the offences. This sends a strong message to society that such crimes are unacceptable. Two cases illustrate this last point. In 2005, Paul Taylor, 20, and Michael Barton, 17, were sentenced for murdering black teenager Antony Walker. They received sentences of 23 years and eight months and 17 years and eight months respectively. Mr Justice Leveson, handing down the sentence, said: "There is no difference between people of different races, each trying to live out their lives in peace. In spite of your youth, deterrent sentences are vital."

In June 2006 two men – Thomas Pickford, 26, and Scott Walker, 33 – were sentenced for the vicious homophobic murder of Jody Dobrowski. Their 28 year sentences were increased, under section 146 of the Criminal Justice Act, to reflect the way in which the killing was aggravated by homophobia. It

was the first time that an aggravated sentence (because of evidence of homophobic bias) had been passed in a murder or manslaughter case. Judge Brian Barker said in court that the pair had only one intention when they went to the Common: 'homophobic thuggery'. Gay rights groups paid tribute to the judge because of the way he recognised the crime for what it was – and sentenced accordingly.

The Sentencing Advisory Panel and the Sentencing Guidelines Council²¹ issue advice to judges on length of sentence for all crimes. For murder, the middle starting point is 12 years and the lower starting point is eight to nine years. The higher starting point is 15-16 years where the victim is in a particularly vulnerable position or for murders involving gratuitous violence or sadism. The minimum term could be significantly higher for those involving several aggravating factors.

Of 17 people who carried out horrific attacks on eight disabled victims, just four were given sentences of over 20 years (and one was subsequently reduced on appeal). By contrast, when Disability Now looked at five of the most horrific racist murders of the last few years, 10 of the 13 people responsible were sentenced to over 20 years (and five of them for 25 years or more).

Racially motivated murders:

- 1. Kriss Donald murder, Glasgow, 2004**
Imran Shahid, 29, Zeeshan Shahid, 28 and Mohammed Mushtaq, 27, were found guilty of racially motivated murder and sentenced to 25, 22 and 23 years respectively.

- 2. Anthony Walker murder, Liverpool, 2005:**
Paul Taylor, 20, and Michael Barton, 17, received sentences of at least 24 years and at least 18 years respectively in December 2005.
- 3. Isiah Young-Sam murder, Birmingham, 2005:**
Waqar Ahmed, 26, Azhil Khan, 23 and Afzal Khan, 22, were sentenced to a minimum of 25 years each for racially motivated murder in May 2006.
- 4. Lee Phipps murder, South Shields, 2006:**
Scott Nicholas, 21, was sentenced to at least 22 years (although police did not treat the murder as racially motivated, despite evidence to the contrary).
- 5. Mohammed Pervaiz murder, Huddersfield, 2006:**
Christopher Murphy and Michael Hand, both 19, were ordered to serve at least 25 and 21 years for the racially aggravated murder. Graeme Slavin, 18, and Steven Utley, 17, were given 17 year minimum terms.

Disability Now looked at the sentences given to those responsible for the murder of eight disabled men: Rikki Judkins, Sean Miles, Steven Hoskin, Barrie-John Horrell, Colin Greenwood, Keith Philpott, Albert Adams and Brent Martin. In almost all cases, the sentences were far lower – and

²¹ Sentencing Guidelines Council, Minimum Terms in murder cases, 2002

none of the cases was treated as motivated by disability hatred²².

In the case of Brent Martin, who was kicked, punched and beaten to death for a five pound bet, the ringleader, William Hughes, 22, was sentenced to at least 22 years and Marcus Miller, 16, and Stephen Bonallie, 17, received sentences of 15 and 18 years respectively. His murderers appealed against the length of their sentences in June 2008. Three appeal court judges decided that Mr Martin's murder was not 'sadistic' and reduced the sentences (by three, two and three years respectively), to the anger of Mr Martin's family and disabled people's organisations.

Simon Unsworth, 20, and Aaron Singh, 17, who robbed and murdered Rikki Judkins, were given sentences of 18 years and 15 years respectively.

Edward Doyle, 34, Terry McMaster, 24, and Karen Feathers, 35, were given sentences of 17, 15 and 14 years in jail. They had falsely accused Sean Miles of being a paedophile and had kidnapped him, stabbed him and then allowed him to drown.

Sarah Bullock, 17, and her boyfriend Darren Stewart, 30, were jailed for 10 years and 25 years respectively for the murder of Steven Hoskin. Bullock stamped on Mr Hoskin's hands, causing him to fall 100ft from a railway viaduct to his death.

Cousins Lee Davies, 28, and Brett Davies, 23, were ordered by Judge Christopher Pitchford to serve sentences of 18 and a

half years and 17 years respectively for the murder of Barrie-John Horrell.

For the murder of Colin Greenwood, who was kicked to death, one 15-year-old and one 14-year-old were sentenced to a minimum of 12 and a half years.

In the case of Keith Philpott, who was falsely accused of being a paedophile, disembowelled and stabbed to death, Sean Swindon, 25, and Michael Peart, 22, had their sentences set at 20 and 15 years respectively. The Court of Appeal then raised their sentences to 28 years and 22 years respectively because of the sadism in the case – but not because of hate crime.

Disabled Londoner Albert Adams was murdered by Jennifer Henry. She stabbed him repeatedly. She also called 999 and said that she had murdered a man who tried to rape her (a false allegation), describing Mr Adams as 'a little spastic'. However, the murder was not treated as motivated by disability hatred. Henry was sentenced to 14 years in jail. Anne Novis, from the Greenwich Association of Disabled People (GAD), who knew Albert Adams, told police that they believed the murder was a hate crime. Despite this, the crime was never recorded as such. Lobbying by the Metropolitan Police Disability Independent Advisory Group did result in the crime being eventually recorded as domestic violence.

Groups representing disabled people are concerned at these findings. Julie Newman, acting Chair of the United Kingdom's

²² Disability Now magazine, Unequal before the law, April 2008

Disabled Peoples' Council, says: "The matter of sentencing for those who are convicted of disability hate crime will be of concern as long as there continues to be a difference between this and other forms of hate crime."

Liz Sayce, chief executive of RADAR, says: "These despicable crimes – up to and including murder – that are perpetrated against disabled people must be treated with exactly the same gravity as crimes motivated by racial or homophobic hatred. Only a consistent sentencing regime...will send that message."

Robin Van Den Hende, from VOICE UK, adds: "If the criminal justice system is to tackle disability hate crime then courts must increase sentences in all disablist crimes and clearly state when a disability hate crime has occurred. We would be deeply worried if murders motivated by disability hatred did not lead to a longer sentence."

Chapter two

19

Under the spotlight – the real scope of disability hate crime

A number of surveys and studies, published over the last eight years, have presented compelling evidence about disabled people's experience of crime, including hate crime. These reports suggest that there is a significant gap between reported crime against disabled people and their lived experience. Although the reports discussed below are not as large as the British Crime Survey, they were carried out by organisations with good experience of the accessibility issues involved in interviewing disabled people. Because of that specialist expertise, they present a far more detailed – and chilling – picture of crime against disabled people. And hate crime, and the fear of it, runs like a thread throughout the reports.

A report, by the crime reduction charity Nacro²³, in 2002, which carried out detailed focus group research with disabled people, along with other research in the same year²⁴, found that disabled people were four times more likely to be violently assaulted than non-disabled people and almost twice as likely to be burgled. It also found that while disabled people experience more crime and far more fear of crime, they are much less likely to report crime because they fear they will not be taken seriously. The report found that the types of crime most feared were hate crimes, crimes against the person and property crimes – because those interviewed either knew those who had experienced such crimes or had experienced them

personally. All members of the focus group had been a victim of crime and many had been repeat victims of verbal harassment, sexual abuse, assaults and burglary.

The first national survey of people with learning difficulties, carried out by the charity Mencap²⁵ in 2000, found that nearly nine out of ten respondents said that they had been 'bullied' in the past year (for a discussion of whether the terms 'bullying', 'abuse' and 'vulnerability' cloud the reporting of hate crime, see Chapter three). 23% reported physical assaults. 73% reported being bullied in public. Mencap's survey concluded that:

"People reported that they had to cope with bullying for so long that they saw it as a distressing, but inevitable part of everyday life for a person with a learning disability".

One local study, in the London borough of Waltham Forest, shows how widespread disability hate crime may be²⁶. The hate crime co-ordinator examined all reported incidents of hate crime through seven different third party reporting sites in the borough. 42% of victims of racist, homophobic or faith-related hate crime either identified themselves as a disabled person or thought it was important to report that a close family member was a disabled person. The hate crime 'trigger' (the inciting incident), was identified by the victim to be disability related in 13% of all cases, with the victim identifying 'vulnerability' as the trigger

²³ Nacro, Access all Areas, 2002

²⁴ Nacro and Southampton City Council, Community Safety Audit, 2002

²⁵ Mencap, Living in Fear, 2000

²⁶ Waltham Forest Council, 3rd party hate crime reporting statistics, 2006-2007

in a further seven per cent. This forensic study in one borough suggests that the problem is serious, common and frequent and often has more than one facet – a hate crime may be motivated by racism *and* disability for example, at the same time. Victims were also more likely to be women – a finding which suggests that the targeting of disabled women is even less well understood than disability hate crime generally.

A 2004 survey by the Disability Rights Commission (DRC) and Capability Scotland²⁷ found that 47% of respondents had been attacked or frightened (by someone) because of their impairment. One in five had suffered an attack at least once a week. Those with learning difficulties were most likely to be targeted (although those with mental health conditions and visual impairment were also frequent victims). Of those who were attacked, 35% were physically assaulted, 15% were spat at and 18% had something stolen. Hate crime had a particular impact on the victims. One third avoided certain places and one quarter had moved house as a result of an attack.

Deaf people too, are targeted. The latest member survey of over 8,500 members of the Royal National Institute for Deaf People, found that only 23% of respondents felt safe walking around their neighbourhood at night. 14% of all those polled felt that they had

experienced physical or verbal assault because of their deafness or hearing loss. That figure soared to 49% of all those using British Sign Language or Sign Supported English.²⁸

Another in-depth study, *Another Assault*, by the mental health charity, Mind,²⁹ published in 2007, found that people with mental health issues were 11 times more likely to be victimised than the rest of society. The report found that 71% of survey respondents with mental distress had been victimised in the last two years.

The report revealed that 90% of respondents who lived in local authority housing had been victimised, while 22% had been physically assaulted. Findings also showed that 27% of respondents had been sexually harassed and 41% were the victims of ongoing bullying. 62% had been called names such as ‘schizo’, ‘nutter’ and ‘freak’ – often by gangs of youths or neighbours. The majority (64%) of respondents said they were dissatisfied with the response they received from the authorities when they reported the incident.

Londoner Nicola Barnaby³⁰, 67, who has chronic anxiety, told Disability Now that she had endured seven years of physical and verbal abuse from tenants in her council flat. Ms Barnaby said she felt sickened by how the police responded to

²⁷ Disability Rights Commission and Capability Scotland, Hate Crime against Disabled People in Scotland: A survey report, 2004

²⁸ Annual survey results, Royal National Institute for Deaf People, 2007

²⁹ Mind, *Another Assault*, 2007

³⁰ Not her real name

her initial complaint of being pushed and called a 'mad schizo'. She said: "It could have been nipped in the bud but the police bungled it. I think I'm being targeted because I'm vulnerable and they (the perpetrators) are just bullies. Once you get a label, it is very difficult to change people's perception of you."

She added: "Neither the council or the police seem willing to put any effort into stopping it."

Anna Bird, from Mind, said that the charity was 'shocked' at the report's findings: "Not just by the figures, which are definitely shocking, but by the testimony of experiences. It was often ongoing and never resorted in any justice being done." She added that the report showed that victims of abuse were frustrated and had an expectation that nothing would be done to stop the crimes against them.

In January 2008, Disability Now magazine published an in-depth study of 50 crimes; many of them hate crimes, across nearly half of the police forces in England and Wales³¹. The cases involved disabled people with a wide range of impairments and included 12 vicious attacks on people with learning difficulties, nine of which resulted in death. There were a further 26 attacks on wheelchair or mobility scooter users, seven attacks on people with sensory impairments and four attacks on other disabled people.

A young man with learning difficulties was viciously attacked in Blackwood, Gwent, when he went to buy a newspaper. In Princes Risborough, a blind man was spat at and verbally abused. In Birmingham, a wheelchair-user, Jonathan Lea, was battered with a pole by a motorist. Four disabled men suffered arson attacks and 17 wheelchair or mobility scooter-users were robbed and tipped or dragged out of their wheelchair or vehicle. In October 2006, a wheelchair-user, Craig Robins, sustained a brain injury in an attack after he challenged people he thought were responsible for repeated vandalism to his adapted car.

Some attacks resulted in death or serious injury. Doncaster resident Robert Griffiths died in an arson attack. A teenager, who had been regularly visiting him and stealing his money, viciously attacked Christopher Foulkes, of Rhyl, Wales. Mr Foulkes died. The teenager was originally charged with murder, but the charge was dropped, and the youth pleaded guilty to wounding with intent. In Sheffield, a young Chinese woman, Shaowei He, was physically abused by her husband's mistress while she worked, unpaid, in his take-away. Eventually she was beaten and left outside in the middle of winter to die. In another Sheffield case in April 2007, a blind father, Colin Greenwood, was kicked to death by two teenagers. According to a woman who came to his aid, Mr Greenwood had stopped using a white stick for fear of being targeted.

³¹ Disability Now magazine, the hate crimes dossier, January 2008

Of the 12 deaths documented in the Disability Now dossier, nine of the 12 involved two or more perpetrators. Of the attacks on disabled people that did not result in death, the majority also involved multiple perpetrators who condoned the actions of the others, or proactively egged them on. Many of those involved in these group attacks were never charged with an offence despite being party to it. This pattern is something that the Home Office should consider in light of its decision not to extend incitement to disability hate crime.

A number of victims had experienced overwhelming violence and even torture. Some were murdered and one man died whilst held captive by his attackers. Some disabled people and their families were preyed upon by 'friends', who robbed and attacked them. Others were targeted, on a systematic and regular basis, by youths who mocked and often assaulted them. In a significant number of cases, disabled people were falsely called paedophiles – and then subjected to the law of the lynch mob. Many disabled people subjected to robbery were also humiliated – by being taunted, spat at or dragged out of their wheelchairs. A disturbing amount experienced arson attacks. Some were driven out of their homes.

In a striking number of crimes, disabled people were treated as less than human. They were frequently degraded and treated as if their lives did not matter. One victim was treated like an animal, made to wear a dog collar, dragged around on a lead and forced to call his captors 'Sir' and 'Madam'. A number of victims were treated like

servants and made to perform menial tasks. In at least three cases victims were heard pleading with their attackers to stop hurting them, but to no avail. All three were ultimately murdered. But, despite evidence of degrading and inhuman treatment in many of the cases looked at by Disability Now, police still said there was not adequate evidence of hostility to prosecute their attackers under Section 146 of the Criminal Justice Act.

Police confirmed that just one out of 50 individual cases examined by Disability Now was investigated as a disability hate crime.

Five deaths that should have shocked a nation

Rikki Judkins was attacked in an underpass. A police spokesman said: "He was subjected to a sustained assault that culminated in a large stone being dropped on his head causing fatal injuries." His money was stolen. He was murdered in June 2006. His attackers were jailed in February 2007.

Raymond Atherton was beaten, had bleach poured over him and teenagers, whom he considered to be friends, used his flat as a place where they could smoke cannabis and have sex. In May 2006 he was beaten and thrown in the Mersey, where police later found his body. His attackers were jailed for manslaughter in April 2007.

Barrie-John Horrell was seriously assaulted by 'friends' who, in the words of the judge,

“treated him like a dogsbody” and “leached off him”. He was abducted and hit over the head with a brick and strangled. He went missing in July 2006. His murderers were jailed in May 2007.

Kevin Davies was “kept like a dog in a locked garden shed”, said the prosecutor, by “friends”. For nearly four months he was fed scraps and brutally tortured. His benefits were stolen. He died in September 2006. His captors were jailed in July 2007.

Steven Hoskin was made to wear a dog collar and lead and dragged around his own house by his ‘friends’. He was forced to call his captors, ‘Sir’ and ‘Madam’. His benefits were stolen. He was forced off a viaduct and fell to his death in July 2006. His tormentors were jailed in August 2007.

None of these cases were definitively flagged, investigated, prosecuted or sentenced as disability hate crimes. (However, it appears that the judge in the Steven Hoskin case may have taken Section 146 into consideration when sentencing.)

In another study, by the charity Action for Blind People³², they found that visually impaired people were four times more likely to be verbally and physically abused than sighted people. The results also showed that visually impaired people are only half as

likely to report crimes to the police, with up to 60% of survey respondents having been victims of verbal and/or physical abuse.

Survey participant George Wilson, 70, from Lancaster, said he refuses to go out alone at night for fear of abuse from a group of local youths.

Mr Wilson said he has been physically threatened, taunted and had rubbish thrown at him in his village, though he does not believe reporting the incidents to the police will result in action.

He said: “There is nothing you can do about it. I feel frustrated, angry and very much alone. Why should I be in a position where I can only go out if accompanied by a sighted person? It’s taking away my personal freedom.”

Stephen Remington, Chief Executive at Action for Blind People, said: “Unfortunately visually impaired people can be seen as vulnerable and an easy target for anti-social behaviour. The impact this can have on a visually impaired person, who may already feel vulnerable, can be devastating.”

According to data from the British Crime Survey 1995, disabled women are twice as likely to experience domestic violence as non-disabled women³³. 2008 research by

³² Action for Blind People, Report on verbal and physical abuse towards blind and partially sighted people across the UK, January 2008

³³ British Crime Survey 1995

Women's Aid³⁴ into disabled women's experience of domestic violence backs up this finding and reveals that disabled women are less likely to report domestic violence and are more likely to experience it for longer before attempting to escape from it.

For their research the definition of domestic violence was extended to cover the different types of violence experienced by disabled women. It included: "disabled women experiencing abuse from partners, ex-partners, other family members, or personal assistants (including paid and informal care workers)".

Disabled women who participated in the research reported being systematically humiliated, verbally, physically and sexually assaulted, and stolen from.

The researchers also found that perpetrators of domestic violence frequently used women's impairments to exert greater control over them. Where women needed support to carry out day-to-day tasks such as visiting the toilet, moving around the house or going shopping, perpetrators would often refuse to provide this support, exacerbating the women's dependence and isolation. One woman said:

"At night times he'd be in the living room and I'd be in my bedroom and he'd shut the door on me...if I wanted to use the toilet or anything he'd tell me to piss myself there and then. Now obviously for me if I was non-

disabled I'd be able to get up and do it...There was slapping on the face, chucking me out of the wheelchair".

Another respondent talked about her enforced isolation: "One time he actually took the battery out of this wheelchair I'm in now. He just unplugged it so I couldn't move...and he'd shove me about sometimes and push me hard."

A number of paid carers or personal assistants also abused disabled women, leading to calls for this to be recognised by the police as domestic violence.

One woman said: "I have been stolen from and abused by my care workers and then there was a huge argument with social services and the housing people because they refused to believe it or even investigate it. They were just on the care workers' side".

Ruth Bashall, who provided disability equality training to the researchers, says that disabled people's organisations, which could reach out to victims of domestic violence, are overstretched at present, and that too many remain male-dominated. She says: "There is a real fear of being perceived as a vulnerable victim" and that many disabled women fear that they will be institutionalised if they report abuse. "We are determined to stay in the community", she says, and adds that the portability of social support is key to helping disabled women flee domestic violence.

³⁴ Violence against Women Research Group and the Centre for the Study of Safety and Well-being, at the Universities of Bristol and Warwick respectively

Anne Pridmore, a Scope Trustee who was consulted on the project, says that “disabled women and their experience of violence have been neglected for far too long” and welcomed the research into carer and personal assistant (PA) abuse. “I think that there are many forms of abuse, that people don’t see as such...with personalisation and individual budgets there will be people employing their own PAs and carers and it is very difficult to prove when abuse happens, and very difficult to dismiss a PA.” She was not surprised by the level of abuse endured by women from intimate partners. “A lot of disabled people are trapped in relationships that non-disabled people would leave because they can’t get the funded support they need.”

The researchers concluded: “Despite the best of intentions, good practice was patchy within both the disability and the domestic violence sectors, which still work largely in isolation from each other.” Nicola Harwin, the Chief Executive of Women’s Aid, said that the charity would continue to “discuss and promote the findings...and will be reviewing whether we need to produce additional guidance or checklists for our services to complement the existing recommendations from the research.”

A clear thread runs through all these reports. Some disabled people are targeted because of their perceived ‘vulnerability’ (for a more detailed discussion of this term, see Chapters three and four) which might, for instance, make them easier to rob or take

advantage of. But the sustained nature of many of the attacks, the insults, jibes, systematic humiliation and extreme violence, suggest that a significant number of people in society dislike and even hate disabled people. In many cases what starts off as an opportunistic crime can morph into a hate crime.

This is not reflected in the media reporting, investigation, prosecution and sentencing of crimes against disabled people, although at least some criminal justice professionals are starting to understand how a crime can start as one offence and turn into another. Sir Ken Macdonald, Director of Public Prosecutions, told Disability Now³⁵: “I think that prosecutors would do well to bear in mind the scenario that you have suggested, that something can start off as one crime and continue as another”. At the moment, though, the situation is paradoxical: all hate crimes are viewed as equally heinous by the law – but are not recognised or treated as such in practice. In Chapter three we discuss why this is the case.

³⁵ Disability Now magazine, Why shouldn’t people be angry? June 2008

Chapter three

26

The motiveless crime – barriers to recognising disability hate crime, Part I

If you can't recognise a disability hate crime you can't flag it up, prosecute it or sentence it appropriately. You also can't prevent it happening to others. So why is disability hate crime so difficult to identify?

A clue can be found in the language used by police, judges and journalists to describe crimes committed against disabled people. In the majority of the cases examined by Disability Now magazine, including the most violent, the attacks were described as 'senseless' and 'motiveless', and the disabled victims as 'vulnerable'.

The judge called the murder of the "vulnerable and defenceless" Barrie-John Horrell "senseless". Detective Inspector Geoff Brookes, who investigated the torture and death of Kevin Davies, said that only the guilty trio could say "exactly what motivated them" and the judge described Mr Davies as "vulnerable". The judges sentencing for the murder of Rikki Judkins and Raymond Atherton also mentioned "vulnerability" when they summed up before sentencing. Local newspaper reports routinely refer to attacks on disabled people as "lacking a motive" and describe victims as "vulnerable" people.

The words used to describe these crimes, and the assumptions that such descriptions encourage, impact on people's ability to recognise and understand disability hate crimes. And this lack of recognition has a significant impact on our collective ability to name, tackle and prevent violence against disabled people.

The cases described in this report are not 'motiveless'. Looked at together, the five

deaths examined in Chapter two, exhibit striking similarities. The victims were treated as sub-human by their attackers, four out of the five were attacked by 'friends', money was stolen from them and all were subjected to particularly vicious, sustained and unprovoked violence.

In other cases victims were deliberately targeted, many of them had been attacked or harassed before, in almost all cases more than one attacker was involved, and the perpetrators used explicit derogatory language like 'spastic', 'schizo', 'cripple' and 'muppet' to describe their victims.

The motivating factor stares us in the face: a hostility and contempt for disabled people based on the view that disabled people are inferior, and do not matter.

None of the attacks described above were treated or investigated as disability hate crimes. Police spokespeople expressed surprise when Disability Now asked them whether the crimes were treated as such (a few didn't even recognise the term).

It is, perhaps, in examining the cases of Kevin Davies, Brent Martin and Christine Lakinski in greater depth, that the lack of recognition of what constitutes disability hate crime by criminal justice professionals becomes clear.

Kevin Davies grew up in the Forest of Dean and enjoyed a happy and uneventful childhood. Kevin's mother, Elizabeth James, described him as:

“A gentle giant... he wouldn't hurt a fly”³⁶.

At 15, Kevin was diagnosed with epilepsy. “Nothing was ever done to help him except offer him medication. I asked for more help when he started falling out of bed and jerking about and bumping his head but it was just medication, medication, medication” says his mother, sadly. She says she asked for advice on how to manage her son's condition but never received any help.

Kevin's epilepsy worsened as he got older, and he left school with few qualifications. He went to college, but dropped out because it was too far from where he lived. He started an apprenticeship as a welder, but his condition forced him to drop out and live on disability benefits instead. He roamed the Gloucestershire fields, looking for odd jobs. His mother says he had no contact with adult social care services, although he was given a housing association flat.

Then, approximately three years ago, he took up with David Lehane and his partner, Amanda Baggus. Lehane, Mrs James says, befriended Kevin and offered him odd jobs. When Kevin's father died of pneumonia he turned to drink to drown his sorrows and grew closer to Lehane as a result, says Mrs James. On occasion he forgot to take his epilepsy pills, but insisted to his mother that he was “all right”.

In May 2006 the three-wheeler car that Baggus drove overturned, damaging a door.

Lehane and Baggus blamed Kevin and decided that he must pay for the damage. Their lodger, Scott Andrews, agreed. Kevin Davies was ‘detained’ in their shed at night, fed scraps and made to wash and scrub. His captors forced him to give up his flat and stole his benefit money. His weight plummeted from 13 stone to just seven, despite the fact that he was over six foot tall.

The trio filmed a hostage video, in which they forced Kevin to say that he was being treated well. He was subjected to weeks of torture. He was forced to ingest weed killer and was bruised all over his body. Burns covered 10% of his body. One pathologist said that branding with a hot knife could have caused burn marks on his arm.

The prosecutor told the court that Kevin had been “kept like a dog in a locked garden shed at night”. Amanda Baggus dehumanised him in her frequent diary entries about the torture. One read “both Scott and Dave hit Prick until quite late, cause Prick made a load of shouting.” After four months of imprisonment and torture Kevin Davies died on September 26th 2006. He was 29 years old. The police informed Mrs James of his death. She wanted Lehane to serve as a pallbearer at the funeral. She had no idea that his ‘friends’ were involved in his death.

Detective Chief Inspector Geoff Brookes commenting on the case said of the perpetrators: “Only they can say exactly what motivated them”. Because the police could not determine whether Kevin had died

³⁶ Disability Now magazine, interview with Elizabeth James, September 2007

of his injuries or following an epileptic fit, the trio were charged with false imprisonment and assault occasioning actual bodily harm. They all pleaded guilty. Baggus and Lehane were sentenced to 10 years in prison and their lodger, Andrews, to nine.

The judge at Bristol Crown Court, when sentencing, said: “Kevin Davies had been a vulnerable young man, gullible and naïve.” But he did not single out disability hate crime as an aggravating factor – which could have increased the sentence significantly.

Mrs James says that the police asked her no questions about Kevin’s disability or whether that could have been a motive behind the attack. Thus the crime was never prosecuted as a disability hate crime.

At the VOICE UK Parliamentary meeting in November 2007, Sir Ken Macdonald, Director of Public Prosecutions, conceded that there may have been “an underlying hostility” towards Kevin Davies.

On 29 February 2008, the Gloucestershire coroner recorded a verdict of unlawful killing, and said: “I am satisfied so that I have no reasonable doubt that Mr Davies died from multiple blunt force trauma.” He said the final blow was delivered to the head with a blue plastic jug.

Despite this new development, the attorney general, Baroness Patricia Scotland,

confirmed that the three perpetrators would be released automatically after serving just half of their sentences. She also said that unless “new and compelling” evidence, not available at the time of the original court case, came to light there could be no retrial. She did not consider the coroner’s verdict to be such evidence.

Sir Ken Macdonald, interviewed in June 2008, referred to the case as “grim”³⁷. He went on to say of that case (and the other deaths highlighted by the magazine: “I was particularly struck by the idea of locking someone in a shed and treating them like an animal, there is a very disturbing level of violence in the cases you have highlighted, I completely accept that, it is a campaign of sadistic violence”. He acknowledged that disability hate crime was an “area of poor performance” for the CPS, saying: “It is only comparatively recently that we have recognised this as a particular category of crime”.

Despite the head of the CPS indicating that the death of Kevin Davies may have been motivated by ‘hostility’, the key definition of a hate crime; it was not prosecuted as such. If it had been, the three people who imprisoned, attacked, and according to the Gloucestershire coroner also killed him, would have received longer sentences.

Mark Harper, shadow minister for disabled people, and the constituency MP for Kevin Davies and his family, is exploring ways of having the case

³⁷ Disability Now magazine, Why shouldn’t people be angry?, June 2008

re-opened. If the case is not re-opened, those who were responsible for imprisoning and torturing Mr Davies will be set free in two to three years time.

The case of Brent Martin, too, was not treated as a disability hate crime – despite the fact that hostility towards him as a disabled person clearly played a part in the attack.

Brent Martin, a young man from Sunderland with learning difficulties, was about to start a new job as a landscape gardener and live independently for the first time in his life. He and his close-knit family were excited about his future. Mr Martin had already bought new bedding for his flat and was looking forward to working and spending free time with his new girlfriend.

Instead, on 23rd August 2007, he was viciously attacked and murdered for a five pound bet by trainee boxers William Hughes, 21, Marcus Miller, 16, and Stephen Bonallie, 17. Before his death he was partially stripped and chased through the streets. He was attacked by his killers in four different locations over a period of several hours, during which time he pleaded with his killers to stop hurting him.

His mother, Brenda Martin, was with Mr Martin when he died. She told the *Sunderland Echo*: “I heard the last beat of his heart – I can still hear that last beat, I feel it here in my heart and it will never go away.”

She paid tribute to a much-beloved son: “He was a lovely lad...He was kicked to death and didn’t deserve it.”³⁸

Mr Martin’s twin sister, Danielle, said that he was “looking forward to starting a new life. Words cannot describe the pain we feel.”

Detective Superintendent Barbara Franklin, from Northumbria Police, led the investigation. Shortly after Mr Martin’s body was discovered, she told newspapers³⁹: “There is no motive for the assault but children (on the Town End estate, where Mr Martin was found dying) often bully people with learning difficulties.”

Despite this statement, the murder was never investigated or flagged as a disability hate crime, although a spokesman for Northumbria Police told *Disability Now*: “The Senior Investigating Officer and her team are aware of all the issues surrounding Mr Martin’s disabilities and his family have provided comprehensive details about him. We also have his medical history. His disability has been a factor throughout the investigation”.

But in the judge’s summing up, no mention was made of disability hate crime – despite the fact that witnesses told the court that Bonallie had said: “I am not going down for a muppet” (a common term of abuse for a person with learning difficulties). Instead, the judge called for an investigation into whether defendants were getting younger.

³⁸ *Sunderland Echo*, Mum’s tribute to gentle giant, August 2007

³⁹ *Times*, Gang dragged victim by belt to his death, August 2007

Steve Thompson, of Sunderland People First, told Disability Now that the crime had had an immediate impact on local disabled people: "It magnifies in people's minds and they won't go on the buses". Lesley Mountain, from Better Days, a local self-advocacy group for people with learning difficulties, told Disability Now that the people with whom the charity work were deeply distressed by the crime. She said: "The Brent Martin case has made people very frightened. Fear of crime is limiting people from going places and doing things. It is limiting the more independent people in our group. They say that they won't go out after dark or go to new places."

Despite the savage violence he was subjected to and the fact that the police stated that people with learning difficulties in the area were targets for 'bullying', Brent Martin's murder was not investigated, prosecuted or sentenced as a disability hate crime. The impact this type of crime has on other disabled people when it is not named, condemned and its perpetrators suitably punished is immense and further restricts disabled people's ability to live independent lives free from fear.

In June 2008, Mr Martin's killers successfully appealed against the length of their sentences. Three appeal court judges agreed that the murder did not fulfil the strict legal definition of 'sadism'. If the judge at the original case had applied Section 146 instead, he could have extended the sentences on the grounds of disability hatred – and the

killers might not have been successful at appeal.

Raymond Atherton's killers also successfully appealed against the length of their sentences. One may only serve three and a half years in jail and the other just three years for their systematic abuse of Mr Atherton, which culminated in his death. Again, the failure of the criminal justice system to recognise that he was the victim of a disability hate crime has led to his killers getting away with murder.

A third case, that of Christine Lakinski, also raises serious questions about whether police and prosecutors recognise the hallmarks of disability hate crime.

Anthony Anderson, who urinated on Christine Lakinski as she lay dying, was sent to prison for three years – for the crime of 'outraging public decency'.

Miss Lakinski, who was disabled, had collapsed at her front door in Hartlepool.

Anderson carried out a series of humiliating acts against Miss Lakinski while his friend filmed the events on his mobile phone.

A post-mortem later established that Miss Lakinski died of natural causes.

The judge, Peter Fox, sentencing Anderson at Teesside Crown Court, said: "You violated this woman in an incredible way and the shocking nature of your acts over a prolonged period of time must mean

that a prison sentence of greater length is appropriate in this case.”

Miss Lakinski’s family released a statement after the judgement, saying: “We remain totally shocked that anyone could behave in such an appalling way. The fact that Christine was dying makes this man’s actions even more sick and inhumane. However, those who stood by and did nothing to stop Anderson are also guilty in our eyes.”

The family added that Christine had managed to “forge an independent life for herself” despite facing “immense challenges”.

A spokesman for the Crown Prosecution Service said that prosecutors had “no evidence that the defendant had verbally abused the victim” about her disability or shown that he knew that she was disabled, so there was no evidence to make it an “aggravated sentence”⁴⁰.

He added that there was “no evidence of a previous relationship” between the two that would have meant that the defendant was aware of Miss Lakinski’s disability, although they lived on the same street and local newspaper reports asserted that he had harassed her in the past.

These three cases show several failures in the criminal justice system. Firstly, police forces failed to identify these crimes as potential hate crimes and so did not investigate them as such. Secondly,

prosecutors failed to go back to police and ask them to provide more evidence on crimes against disabled people where hostility seemed to have been a factor. Thirdly, judges, as a result, were unable to pass stiffer sentences (or to take it into account as an aggravating factor when determining the life tariff in the case of murder).

The horrific facts of the three cases outlined above demonstrate that there is a long way to go before disability hate crime is routinely recognised and accepted. If these crimes had been perpetrated against a gay person or someone from a minority ethnic or religious group there can be little doubt that they would have been investigated as possible hate crimes. So why is disability hate crime so difficult to identify? To answer this we need to look more closely at the status of disabled people and the language we use to talk about their experiences.

⁴⁰ Disability Now magazine, personal communication, 2008

Understanding and defining disability hate crime

Casual disablism permeates our society. The widespread belief that it is legitimate to treat disabled people differently and to routinely deny them equal access to the things that others take for granted creates an environment where disability hate crime can exist without being recognised or challenged. Disablist attitudes are still the norm. They are so entrenched, that when disablism escalates into hate crime few people are able or willing to recognise it for what it is. This casual disablism goes a long way towards explaining why disability hate crime is more difficult to identify than other forms of hate crime.

Changing individual and collective attitudes towards disabled people is fundamental to eliminating disablism and disability hate crime. As Demos' 2004 report *Disablism: how to tackle the last prejudice*⁴¹ argues: "disablism is as much about changing attitudes as it is about reforming services and products; networked campaigning, rather than top-down change, offers a new and powerful way of understanding the roles and responsibilities that key players in the change process will need to take in the future."

This chapter explores the role language plays in shaping our individual and collective attitudes towards disabled people. It considers how attitudes and the pervasive casual disablism discussed above, can

undermine or negate the efforts of top-down institutions such as the Government and police to tackle hate crime effectively. It also highlights the vital role disabled people themselves have to play in developing the community networks that are needed to challenge the status quo.

The term 'hate crime' itself is a barrier to understanding and recognising hate crime. 'Hate' is a powerful and emotive word and many people find it difficult to relate it to disabled people. Robert Shrimmsley, news editor of the Financial Times, exemplifies this struggle to understand disability hate crime in a recent article, which started: "Don't you just hate the disabled? You don't? That's odd. I was under the impression a lot of people must do", and went on to call disability hate crime a "questionable notion".⁴²

For people like Mr Shrimmsley, and many others, the term 'hate crime' creates barriers to understanding. The prevailing attitude towards disability hate crime remains that of disbelief – disabled people are vulnerable and pitiable, perhaps, but not hate-worthy. However, hate, which is defined as intense aversion or hostility, can be motivated by many things, including the belief that someone is inferior or less valuable than you. It may be harder to understand the motivation for someone's hatred in relation to disability hate crimes but the level of violence, the contempt for people's lives and the often sustained nature of the crimes detailed in this report can leave little doubt that hate is a factor.

⁴¹ Disablism: How to tackle the last prejudice, P.Miller, S.Parker, & S.Gillinson. Demos, Scope and Disability Awareness in Action, 2004.

⁴² Financial Times, A Mockery of the law and the disabled, 7 November 2007

It is interesting to note that the term hate crime is rarely used to define crimes against women and children even though many of these crimes would fit the formal definition of hate crime. There are clear parallels with the experiences of people who were abused as children whilst in the care of the state and women who experience domestic and sexual violence. It has taken several decades of campaigning by victims of child abuse and domestic violence for wider society to acknowledge that such crimes exist and take them seriously.

As a society we have by and large accepted that hate crime against people based on sexual orientation, ethnic or religious background and to a lesser degree gender exists, and that it is unacceptable. Though, there are still police officers and journalists who argue that allowing increased sentencing for hate crimes is a backward step for equality, that crimes should be treated in the same way, regardless of the motivation. This acceptance was hard won; until recently racist and homophobic attacks were frequently ignored, and in some cases condoned, by those in authority, and many people still have to fight to get justice.

For disabled people however, although we have disability hate crime legislation and a growing commitment to tackle it from the police and Government, there is still not widespread acceptance amongst the general population that disability hate crime exists. The shocking case of Brent Martin should have been the tipping point for society-wide recognition of disability hate crime, but Mr Martin's killers were not prosecuted under

disability hate crime legislation and even had their sentences reduced on appeal.

Increasing public acceptance of disability hate crime, and supporting police, prosecutors and judges (who too, are ordinary members of the public) to recognise it when it occurs, are essential to effectively tackling and preventing disability hate crime. As we will discuss later in this chapter, disability hate crime can look different to homophobic and racist crime, but this does not mean it is not motivated by hostility and hate. Much can be learned from the way the police and judiciary tackle physical and sexual violence against women, especially in establishing the difference between crimes motivated by vulnerability and those motivated by hostility.

Vulnerability

The widespread use of the term 'vulnerable' is particularly relevant to a discussion about language. Many of the disabled victims of crimes talked about in this report were described as 'vulnerable', either by the police, the judge or the media. Crimes committed against vulnerable people can, like hate crimes, attract stiffer sentences, under separate sentencing provisions.

Vulnerable adults are defined by the Government as:

"An adult (a person aged 18 or over) who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or

unable to protect him or herself against significant harm or exploitation”⁴³.

Members of the disability rights movement take issue with the Government’s definition because it encourages the view that some disabled people are innately vulnerable. They argue that vulnerability is situational not innate and broad-brush definitions and labels disempower disabled people and make it harder for them to get recognition for hate crimes committed against them. Disabled people who require community care services are not innately vulnerable, though they may be if they do not receive the services they need. Aggravated sentencing for crimes against vulnerable people is welcome but the definition of vulnerability needs to be more sophisticated. Disabled people, like everyone else, are vulnerable in situations where someone wishes them harm but this vulnerability does not extend to every aspect of their life.

The judiciary, when sentencing, has a wider definition of “vulnerability”, which includes those targeted because of their “age, youth, disability or the job they do”. Offences can be aggravated (and therefore sentences lengthened) if a “vulnerable victim” is “deliberately targeted”⁴⁴.

This too is problematic as it once again conflates identify with vulnerability. Someone who is targeted because they are disabled can be classed as a vulnerable person under this definition, though in normal

circumstances crimes committed against someone because of who they are would be considered hate crimes. There is an urgent need to clarify the legal definitions of vulnerability so police, prosecutors and judges can pass sentences that accurately reflect the nature of the crime. The tendency to use the terms ‘vulnerable person’ and ‘disabled person’ interchangeably, particularly in the media, creates further confusion and makes it much more difficult to identify disability hate crime when it occurs.

Vulnerability is frequently used to explain why crimes are committed against disabled people. This makes sense where a person with a visual or physical impairment is targeted by a street robber because they are easier to overpower or less likely to fight back, or where a person with a learning difficulty is befriended or intimidated and ‘persuaded’ to hand over money or property. However, vulnerability does not provide a satisfactory explanation for the examples of ongoing harassment or savage and sustained violence that some disabled people experience.

It is clear that in some cases vulnerability is used as an explanation for crimes that were actually motivated by hostility. This is unhelpful as if we do not recognise disability hate crime for what it is we cannot monitor its prevalence, understand it, condemn it, or take action to prevent it. However, the confusion between vulnerability and hostility is understandable as many of the cases documented in this report

⁴³ Home Office, Department of Health, No Secrets; Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse, 2000

⁴⁴ Sentencing Guidelines Council, Overarching Principles: Seriousness, 2004

appear to be motivated by a combination of the two. What starts out as a crime that exploits someone's vulnerability can morph into another that is motivated by hostility. To complicate things further, someone's vulnerability can often be the cause of the hostility – someone is hated precisely because they are vulnerable and inferior, an easy target who is less worthy of life.

Barrie-John Horrell

In 2006, Barrie-John Horrell, who had learning difficulties, was lured to a flat by two 'friends'. They claimed, incorrectly, that Barrie-John was a paedophile and that he had told the police about their involvement in a robbery and said they were going to get revenge. Inside the flat Barrie-John was subjected to a violent attack. His captors then put a pillowcase over his head and drove him to a remote Welsh hillside where they strangled him, beat him with a brick and set him on fire. His body was found 11 days later.

In his summing up at the trial the judge Mr Justice Pitchford said to one of the defendants:

"You assaulted him in the past. You leached off him and treated him as a dogsbody. You subjected a vulnerable and defenceless man to a terrible death. How much the cause of your attack on him was revenge and how much was simply your willingness to bully Barrie Horrell, I don't know."

This highlights the difficulty judges have in

identifying the motivation of the perpetrators. But it is highly likely that what started off as taking advantage of Barrie-John's vulnerability and desire for friends, in the end turned into a murder motivated by hostility. Though the judge acknowledged that 'willingness to bully' may have been a motivation behind Barrie-John Horrell's murder, the perpetrators were not given longer sentences under hate crime sentencing provisions.

It is right and proper that those who commit crimes against vulnerable people can be given longer custodial sentences. However, the routine deployment of the 'vulnerable' label for disabled victims also serves to mask crimes where the true impulse is hostility. It is, of course, easier to make a sentence longer by deploying vulnerability – but it has created several unintended consequences. The fact that so few disability hate crimes are named as such in court means that the true motive behind these crimes is not acknowledged. Those who commit such crimes are not challenged in their offending behaviour, unlike those committing racially motivated offences or domestic violence, who can be compelled to attend courses that address their hostility. As a result, society is unaware of the scale of the problem of disability hate crime – fuelling the common belief that the crime does not exist.

Sir Ken Macdonald, who heads the Crown Prosecution Service, in his extended interview for *Disability Now* magazine⁴⁵, was very frank about the issue. He said: "there is

⁴⁵ *Disability Now* magazine, Why shouldn't people be angry?, June 2008

often a misunderstanding about what the law can...and cannot achieve...Section 146 (of the CJA) requires evidence of hostility and is not the same as taking advantage of vulnerability". He continued: "the issue of vulnerability clouds the issue" when prosecuting disability hate crime, unlike other sorts of hate crime, such as racially motivated or homophobic violence.

This confusion between crimes motivated by 'vulnerability' and those motivated by 'hostility' goes a long way towards explaining why so few incidents are recognised and prosecuted as disability hate crimes.

Another side-effect of confusing vulnerability and hostility is that aggression, harassment and violence are seen as an inevitable part of life as a disabled person. If all disabled people are innately vulnerable, and people are attacked because they are vulnerable, it is logical that disabled people should *expect* to be attacked because of who they are. The view that crimes against disabled people are inevitable has striking parallels with crime against women. Both groups are given the message that they are innately vulnerable and that they should modify what they do and where they go in order to protect themselves. Women are still told not to walk around alone at night, or not to wear revealing clothes in case they invite unwanted attention. Disabled people are told to avoid certain areas, not to carry a white stick or to move house to escape harassment from neighbours.

It is not women or disabled people who should have their freedom of movement or

association restricted, it is those that wish them harm. In relation to women's safety this message is largely accepted by progressive police officers and politicians and support provided to women when they report crimes has gradually changed to reflect this. The same approach needs to be adopted for disabled people.

Jon Sparkes, Chief Executive of Scope, commented: "The experience and learning gained from tackling violence against women needs to be applied to disabled people and disability hate crime. Labelling disabled people as vulnerable and using this vulnerability as an explanation for the crimes they experience sends out the message that aggression, harassment and violence are an inevitable part of life as a disabled person.

"Until we stop using vulnerability as an explanation and an excuse we will never be able to tackle the root cause of hate crime against disabled people."

Disabled people have the right to live independently and participate as equals in their community and wider society. They are not innately vulnerable and should not 'expect' to be attacked because of who they are; nor should they have to change the way they live because of these expectations. The number of attacks on disabled people living in the community has led some people to question whether disabled people should be living independently at all. Indeed, fear of intervention from the police and social services may be one of the reasons disabled people are reluctant to report hate crimes.

This simply reinforces the view that crimes against disabled people are to be expected and it is disabled people (rather than society) who should change their behaviour.

Language

This problem of language extends beyond vulnerability. The term ‘bullying’, is often used, with the best of intentions, by organisations working with people with learning difficulties to help them understand that they are being wrongly targeted and to seek redress. This is then reflected in media reporting, where reporters will often describe people with learning difficulties as “having the mental age of a child”.

Such language encourages the infantilisation of disabled victims of crime within the criminal justice system and masks the gravity of their experiences. It can lead to front-line police officers, faced with a victim saying that they are being ‘bullied’, failing to take a crime seriously and then record or investigate it appropriately. This was particularly clear in the case of the murder of Brent Martin. The senior investigating officer, Barbara Franklin, referred to local children ‘bullying’ disabled people. Brent Martin had, in fact, been a victim of a sustained, sadistic attack – the full extent of which could never be adequately conveyed by the school-yard term ‘bullying’. Some groups working with and led by people with learning difficulties have recognised the problems with this term, though others continue to use it.

VOICE UK, Respond and the Ann Craft Trust note similar problems with the widespread use of the word ‘abuse’ instead of ‘crime’. In its submission to the Parliamentary Joint Committee on Human Rights⁴⁶, they concluded: “The use of the term ‘abuse’ devalues the offences and their victims. It is our experience that calling a criminal offence ‘abuse’ also encourages organisations to believe that these crimes do not need to be reported to the police, but can be dealt with by the organisation.”

Scope Chief Executive Jon Sparkes, concurs with this view: “The language used to describe crimes against disabled people plays an immensely powerful role in shaping how the criminal justice system and wider society sees disabled people. Using alternative terms to describe crimes against disabled people masks the true extent and nature of disability hate crime.

“Euphemistically describing harassment and assault as ‘bullying’, rape and torture as ‘abuse’, or victims as ‘vulnerable’ results in crimes against disabled people being seen as fundamentally different to those experienced by non-disabled people. This serves to set disabled people apart and make them and their experiences ‘other’. In light of this there is an urgent need to clarify the vocabulary of disability hate crime so such crimes can be described in terms that are familiar and understandable by all and punished like any other.”

⁴⁶ VOICE UK, Respond, the Ann Craft Trust, Submission to the Joint Committee on Human Rights Inquiry into the Human Rights of Adults with Learning Disabilities, July 2007

Very serious forms of disability hate crime, although still motivated by hostility, may look different from other forms of hate crime. It may be a more intimate crime – carried out by people who describe themselves as the victim’s ‘friends’ or someone who provides support to them – but this does not mean that the crime should not be named and investigated for what it is. Disabled people are more likely to rely on others to support them, which increases the likelihood of care-giving and ‘friendship’ evolving into something more sinister – and this raises a number of issues for social care professionals and housing association and voluntary sector workers who support disabled people in the community. The specific nature of disability hate crime – and its roots – is discussed in more detail in Chapter five.

So far this report has discussed the nature and extent of disability hate crime, the impact of the language used to describe it and the criminal justice system's response to it. However, the most important question for this report is how can we stop it happening in the first place?

Is disability hate crime different to other forms of hate crime?

There may be another reason that disability hate crime is not easily recognised. It may be that in some cases disability hate crimes are different from other sorts of hate crime and can therefore be harder to identify.

Home Office analysis of hate crime offenders shows that the typical offender is a young white male (most homophobic offenders are aged 16-20, and most race hate offenders under 30). Most hate crimes happen near to victims' homes and offences are most likely to be committed between 3pm and midnight. Most offenders live in the same neighbourhood as their victims.⁴⁷ In almost all the cases with the perpetrators of disability related hate crime, those markers were consistent (although there appear to be more female perpetrators in disability hate crime incidents). The survey findings by a number of organisations, discussed at length in Chapter two, chime with this analysis for lower level disability hate crimes.

But there were a number of striking differences. Of 18 disabled victims who died

in disablist incidents, 11 were killed by people they considered 'friends' (as opposed to neighbours or work colleagues). Only two of the 18 victims were attacked by strangers. All 18 incidents involved multiple perpetrators and in seven of these cases women were directly involved in the attacks.

Kevin Davies was captured and tortured by friends before he died in their so-called care, as did Raymond Atherton. Barrie-John Horrell, Steven Hoskin, Steven Gale, Sean Miles, and Albert Adams were all murdered by people who they felt close to, as was Keith Philpott. William Ripsher, who was murdered in July last year, was murdered by acquaintances, as was Brent Martin. Steven Gale and Albert Adams were murdered by people who even described themselves as their 'carers'. Just two disabled men, Rikki Judkins and Colin Greenwood, were murdered by strangers.

By contrast, the five racially-motivated murders highlighted above were carried out by strangers, though harassment, verbal and physical abuse from neighbours and work colleagues is common. The horrific, homophobic murder of Jody Dobrowski was also a stranger attack, though 2003 research by Galop⁴⁸ on the experiences of homophobic hate crime in two London boroughs revealed that two thirds of victims knew their attackers, with the most common perpetrators being neighbours and work colleagues.

To date, no perpetrator analysis has been undertaken to try and build a more

⁴⁷ Home Office website <http://www.homeoffice.gov.uk/crime-victims/reducing-crime/hate-crime/>

⁴⁸ Count Me In! A study of the experiences of homophobic and transphobic abuse and domestic violence among LGBT people in the London boroughs of Bexley and Greenwich, Galop 2003

comprehensive profile of those who commit disability hate crime. The work done by criminologist Betsy Stanko for the Metropolitan Police on offender profiling in rape cases has revolutionised the way the Met understand and investigate rape. A similar study is urgently required if we are to better understand, tackle and ultimately prevent disablist crime.

Low-level crimes that escalate

This chapter focuses on the origins of disability hate crime and highlights the tendency for low level crimes and anti-social behaviours that escalate into more serious incidents. It looks at the bullying of disabled children in school and the harassment of disabled adults in their own homes and in places where they socialise. It also looks at the persistent problem of targeted vandalism of disabled people's property.

One disturbing trend, that of vandalising and targeting of property, particularly cars, belonging to disabled people, has been well documented by the charity Mind⁴⁹, by the Disability Rights Commission (DRC) and Capability Scotland⁵⁰ and by Disability Now magazine⁵¹.

The joint survey by Capability Scotland/DRC found that one quarter of those surveyed had had to move house. One respondent said: "I am unable to go into my back garden as they threaten me and use abusive

language." Incredibly, the local authority told the victim to move house, rather than the perpetrator. Another respondent said: "We've been attacked since my disabled [parking] bay was put down...I get verbally attacked by the people who live next door every time I go out...I can't go to my bin or my car. The tyres were let down not so long ago."

Mind found that only 19% of people with mental distress surveyed felt safe in their own home. People who harassed the survey respondents were often neighbours. A further 26% had had their home targeted and 17% had received hate mail or prank phone calls. Over one quarter of all respondents had been targeted in their own homes: Anna Bird from Mind commented: "Respondents described how people threw eggs and tomatoes, put cigarette ash and rubbish through the letter box, threw stones at the windows, urinated or left obscene graffiti on the walls, poured paint on the door, or cut through the doorbell cable with gardening shears. Some even received death threats."

In Leicestershire in 2007 Fiona Pilkington and her disabled daughter Frankie died in a car accident. A police spokesman confirmed that Mrs Pilkington had reported 'several incidents of anti-social behaviour'⁵² to the force (and that police were not seeking anyone else in connection with the deaths). Neighbours and friends said that the family had endured a months-long hate campaign

⁴⁹ Mind, Another Assault, 2007

⁵⁰ Disability Rights Commission/Capability Scotland, Hate crime against disabled people in Scotland: A survey report, 2004

⁵¹ Disability Now magazine, the hate crimes dossier, January 2008

⁵² Disability Now magazine, personal communication, 2008

of their house being pelted with eggs and stones, leaving Mrs Pilkington despairing about the intimidation. Neighbours said Frankie was often called a 'disabled bitch' by local youths and was virtually a prisoner in her own home because of the harassment.

Disability Now, in its dossier of 50 cases published last year, highlighted a number of incidents over the last two years alone in which property was repeatedly damaged or places where disabled people either lived or visited were serially targeted. Anecdotally, people with physical and sensory impairments also report being targeted because they use disability related equipment. A number of visually impaired people told Disability Now that they did not use a white stick outside because they felt they were more likely to be targeted. Other disabled people reported having their crutches kicked from under them and a number of wheelchair users described being harassed by neighbours who put bins or other obstacles in their way, including blocking access to their front door or garage.

In October 2007, the Thistle Foundation in Scotland, which is home to more than 100 disabled residents, experienced repeated problems with stones being thrown through windows. Sally Cameron, the marketing director, said that the attacks were 'scary' for the service users (although she did not know whether they were aimed specifically at disabled people). She said that the police were not treating them as targeted attacks.

In a similar situation, a residential home for disabled people in Towcester has been repeatedly vandalised 'for years and years',

with the latest incident in November, but both the manager and Northamptonshire police insist it is not specifically directed at disabled residents.

There were numerous attacks during summer 2007 on the North Warwickshire Equestrian Centre, a horse-riding school for disabled people. Helen Holley, whose sister used to ride there, raised funds for repairs. She said: "It's one of the very few purpose-built facilities for disabled people in the area. The vandalism has had an impact on the cash flow of the charity."

In another incident, a woman with Down's syndrome was seriously injured in early November 2007 after a brick was thrown through the window of her care home in Warrington. According to reports, the home, which houses people with learning difficulties, has been repeatedly targeted; yet local police have ruled that it would not be treated as a hate crime.

In the same month, a minibus carrying disabled students from Bridge College in Offerton, had a stone hurled through the back window while on the motorway. Head teacher Maggie Thompson said: "I think that anyone who acts deliberately or without thought in the fashion the culprits did is compounding the act of callous stupidity by involving vehicles that are or may be carrying particularly vulnerable people."

Earlier this year, a family in south Wales contacted police because their car was repeatedly vandalised after they were granted a disabled parking bay. South Wales police have refused to disclose whether the

case was investigated as a disability hate crime. Many other such crimes around disabled car parking spaces have been reported by readers to Disability Now. Vandalism to adapted cars and disabled bays are a frequent feature of local newspaper reports – the worst being the case of Craig Robins, who was left with a serious brain injury after he challenged a gang of youths he suspected of repeat vandalism to his adapted car. Strikingly, the CPS told Disability Now that prosecutors did not treat it as a hate crime because there was no evidence that the attackers knew he was a disabled person. This seems difficult to believe as Mr Robins was a wheelchair user, and drove a distinctive adapted car that was parked in a disabled bay.

The role of schools and colleges in preventing disability hate crime

A number of sobering reports, most notably by two charities, the National Autistic Society (NAS) and Mencap, have documented in shocking detail the extent of bullying experienced by disabled children in school.

In 2006, Mencap carried out an in-depth survey of 500 children and young people, throughout England, Wales and Northern Ireland, with a learning difficulty⁵³. They found that 80% of children with a learning difficulty had been bullied and 60% physically hurt. 27% were bullied for three years or more. Half said that it affected where they went and 80% were scared to go out.

In 2006 the NAS⁵⁴ carried out the largest ever survey of autism and education. They received 1,400 responses and interviewed a further 28 children in depth. That research found that 40% of children on the autistic spectrum have been bullied at school.

Children and parents interviewed recounted harrowing experiences. One child was found, contemplating suicide, on a motorway bridge. Another used to bang her head against the wall before being taken to school. Another, just 13, tried to kill herself.

Of those who said that their child had been bullied, 44% said that no action had been taken by the school. But where action had been taken, a whole school approach worked by helping children understand that bullying on the grounds of disability is indefensible. The report recommended that the Disability Equality Duty should be used as an opportunity to ‘eliminate disability-related harassment’.

The Secretary of State for Children, Schools and Families, Ed Balls MP, released a new plan to help schools with disability-related bullying in May 2008, saying: “Bullying is preventing far too many disabled children and young people from being able to stay safe and enjoy their education.”

The systematic targeting of disabled people can start early and continue in every part of their lives. If unchecked, it can escalate into

⁵³ Mencap, *Bullying Wrecks Lives*, 2006

⁵⁴ National Autistic Society, *B is for Bullying*, 2006

the kind of violence that can lead to physical assault, torture – or even murder, as demonstrated by the tragic case of 19 year old Laura Milne.

Laura Milne

In 2007 Laura Milne, who had a mild learning difficulty, was attacked and murdered by Stuart Jack, 22; and two women, Debbie Buchan, 19, and Leigh MacKinnon, 18.

The court heard that Buchan had continuously bullied Laura at school since they met at the age of five. Though Laura's father warned her to be wary of Buchan she assured him they had become friends.

Her three attackers viciously beat Miss Milne to the point of unconsciousness, then Jack slit her throat. Afterwards they videoed each other boasting about killing her on her mobile phone, and attempted to conceal her body by dismembering it and wrapping it in plastic bags.

Jack said he enjoyed slitting her throat and said Laura was "worth f*** all". Buchan said: "Thank you, goodbye, you are the weakest link."

The advocate for the prosecution said Laura was a "vulnerable and naïve young woman", and Detective Chief Inspector Mark Cooper of Grampian Police said in a TV interview: "There was absolutely no motive" for her murder.

As the crime took place in Scotland, hate crime sentencing provisions of Section 146 of the Criminal Justice Act 2003, do not apply.

The role of statutory services in preventing disability hate crime

Persistent, repeat, targeting of disabled people and exploitation of their money, property and medication are common to many cases, although this is often unrecognised by those who visit them or work with them. The fact that disabled people are often asked to adjust their lives, (such as being asked to move, stay in, or avoid certain areas), shows that public bodies are not taking their duties (under the Disability Discrimination Act and specifically the Disability Equality Duty) to promote disabled people's equality seriously enough. Imposing effective curfews on victims of crime, rather than targeting the perpetrators, is simply not acceptable.

Disability Now magazine has carried out an analysis of the deaths of ten disabled people over the last three years. These deaths revealed some striking patterns – which have implications for social care professionals, housing association workers and voluntary sector agencies. They also have wider implications for the policy of 'safeguarding vulnerable adults'.

Eight of the ten disabled men who were killed and whose cases are described below were attacked by people they considered friends. In many of the cases social care

professionals were in contact with those individuals and some were aware of persistent problems with those so-called 'friends'. Two individuals who feature in the Disability Now dossier were murdered by people who they called 'carers'. It is possible that a number of these deaths could have been avoided, if action had been taken earlier.

Steven Gale, 28, had learning difficulties. Andrew Green, who called himself Mr Gale's friend and who lived with him, systematically abused him and eventually murdered him. By the time of his death, in October 2006, he weighed less than six stone. Leicester social services said they had no right to intervene because Mr Gale had refused help.

Raymond Atherton, a man with learning difficulties and an alcohol problem, lived in Warrington. Although Warrington social services visited him daily and had helped him move house because he had been targeted in the past, workers failed to identify or prevent an appalling campaign of physical abuse by Craig Dodd, 17, and Ryan Palin, 15. Eventually, in May 2006, Mr Atherton was severely beaten by Dodd and Palin and thrown into the river Mersey. His body was found a few weeks later.

Another disabled man, Steven Hoskin, had numerous points of contact with the social care system before he was murdered. Dr Margaret Flynn, who carried out a serious case review for Cornwall County Council, gave a sobering account of the months leading up to his torture and murder and documented over 40 warnings and missed opportunities for statutory agencies to intervene.

Many social care professionals who knew these disabled men noticed that they had injuries, or that other people were living with them. The disabled people, in a number of instances, complained that their money or medication was being stolen (a fact also mentioned as common in the Mind report, 2007). In some cases, neighbours rang social services or housing officials to complain that the disabled people in question seemed to be having trouble with unwanted visitors. Very little was done to support them to live independently without being threatened or hurt by people who wanted to exploit them.

The current framework that is supposed to protect disabled adults from harassment fails them. The adult protection framework, which is called the No Secrets guidance, is supposed to protect 'vulnerable adults'. It is not fit for purpose.

One recent case illustrates the issue at its starkest. Hounslow Council was ordered by the High Court in May 2008 to pay a couple with learning difficulties nearly £100,000 after they were terrorised in their own flat by youths in 2000. This is the first time that a council has been held liable for failing to protect vulnerable adults as well as children. The court had heard that housing officials and social services had failed to pass their knowledge of the family's ongoing harassment at the hands of a gang of youths onto police.

The couple were held hostage in their home over a weekend. They were both sexually assaulted, and the man was forced to eat faeces, and was cut 40 times. The couple's

children witnessed the attacks. The couple now have post-traumatic stress syndrome.

The Council argued that they had no duty of care towards adults, so were not required to intervene. However the judge ruled that the council was negligent because it had not moved the couple in question, concluding: “it was in my judgment reasonably, indeed clearly foreseeable that either or both of the Claimants would suffer a serious physical attack from local youths in their flat”⁵⁵. The Council is now considering whether to appeal⁵⁶. Despite the fact that there is no statutory duty of care towards disabled adults, all local authorities have a duty under the Disability Discrimination Act to take positive action to promote disabled people’s equality and participation and to eliminate harassment.

In an exhaustive report examining the regulatory framework for adult protection, commissioned by the Department of Health, researchers from Sheffield University, King’s College London and the Social Care Workforce Research Unit⁵⁷ found that most social services departments felt that the lack of statutory legislation meant that vulnerable adults were not adequately protected. As a result, their support was an ‘add-on option’. The report recommended that there should be annual reports on adult protection and that specific legislation should be developed. They concluded that: “The profile of adult protection nationally should be higher to change existing culture so that adult abuse is not tolerated”.

In general, social care professionals work well with the police on child abuse and domestic violence cases, correctly identifying when neglect, abuse and harassment tip over into criminal activity demanding a legal remedy. But in adult protection for disabled and older people, the lack of a statutory duty of care and a culture of silo working often prevents the joint working between police, housing associations and community groups that is urgently needed. The culture and language of adult protection also creates barriers to reporting and tackling disability hate crime. If a disabled person reports a crime to the police, it is (hopefully) investigated and action is taken to address it. However, if a disabled person tells a social worker that they feel vulnerable or at risk, because of harassment, verbal abuse or violence, it triggers Safeguarding Adults procedures which are designed first and foremost to protect someone from harm. The Safeguarding Adults process can be extremely disempowering for a disabled person as they are frequently unable to control what happens to them once the process is triggered. Decisions are made in case conferences, and involve reviews by care managers and other professionals which rarely involve the disabled person. Terms like ‘vulnerable adult’, ‘protection’ and ‘safeguarding’ all serve to remove disabled people’s agency and make them passive recipients of services who have things ‘done to them’. Anecdotally, a number of disabled people have reported not wanting to inform social services about harassment because

⁵⁵ Royal Courts of Justice law report, XY against London Borough of Hounslow, case number: HQ03X03456, May 2008

⁵⁶ Disability Now magazine, couple subjected to horrendous abuse win groundbreaking victory, July 2008

⁵⁷ King’s College London, Sheffield University, Partnership and Regulation in adult protection, December 2007

of a fear that they will be made to move into residential care. It is therefore not surprising that many disabled people who are experiencing hate crime often refuse help from social services.

The culture of adult protection often means that professionals do not recognise incidents of hate crime as crimes and attempt to deal with them in-house rather than referring them to the police. This has an impact on the number of crimes, including hate crimes, against disabled people that are reported to the police. More fundamentally it fails to acknowledge that the individual has been the victim of a crime and should be entitled to appropriate redress through the criminal justice system, using euphemistic terms such as abuse and bullying to describe what are in fact crimes against disabled people (see Chapter four for a more detailed discussion of the impact of language).

Other social care professionals, including the Association of Directors of Social Services (ADASS), do want to work more closely with the police and want the No Secrets guidance to be put on a statutory footing so that they can be more proactive about supporting disabled people to live fulfilling, independent lives. This is welcome, but any intervention needs to be carried out in a way which respects disabled people's right to privacy, to make their own decisions and to have crimes committed against them investigated by the police. ADASS says it wants powers to enter domestic properties where 'abuse' is suspected but this may not be the approach favoured by disabled people. The role of

social workers and other statutory agents in helping to prevent hate crime needs exploring in detail with the full involvement of disabled people and their organisations.

The No Secrets guidance on vulnerable adults is going out for consultation over the summer of 2008. But Action on Elder Abuse, a campaigning body, has criticised the Department of Health for failing to resource the consultation properly and for failing to create a performance indicator for 'adult protection' and a data collection system for 'abuse' allegations. The charity has found that almost one quarter of all referrals to adult social care involved crime or abuse against people with learning difficulties – which gives some sense of the scale of the problem⁵⁸.

The role of Crime and Disorder Reduction Partnerships (in England) and Community Safety Partnerships (in Wales) in preventing disability hate crime

These partnerships, which are funded by the Home Office, draw in police, police authorities, local authorities, fire and rescue authorities, local health boards (Wales) and primary care trusts (England). They are mandated to work together and share information on local levels of crime and disorder, any change in such patterns and to identify local priorities for crime reduction. They identify crime, anti-social behaviour, substance misuse and behaviour that adversely affects the local environment.

⁵⁸ Action on Elder Abuse, Adult Protection Data Collection and Reporting Requirements, March 2006

Such partnerships could play a valuable role in identifying ‘hotspots’ for hate crime and in conducting intelligence-led work that could help police identify repeat hate crime perpetrators, so that they can be challenged before their actions end in serious assault, injury or even death for disabled people. However, to be effective these partnerships need to fully involve disabled people and their organisations in co-producing responses to hate crime.

Police forces would do well to look at the Safer Neighbourhoods model developed by the Metropolitan Police Service, which has pioneered an intelligence-led approach to tackling local problems such as hate crime. They work closely with the crime and disorder reduction partnership and can tackle neighbour disputes (such as those around disabled parking bays, for instance) before they escalate into serious hate crimes. Ruth Bashall, co-chair of the Disability Independent Advisory Group to the Met, comments: “These teams could potentially be quite key, if local police officers start talking regularly to disabled people, whether they live in the community or in residential homes, they would have regular contact with issues such as hate crime.” But she adds that the dearth of training impedes the effectiveness of such partnerships.

The role of housing associations and housing officers in preventing disability hate crime

Housing officers, in local authorities, voluntary or private sector also have a key role to play in identifying repeat patterns of

victimisation involving disabled people and in taking action against ‘low level’ harassment that can too easily escalate into serious hate crime. However, many disabled victims of ongoing harassment by neighbours say that their complaints are not taken seriously or that they are not believed when they do report harassment. This is particularly true of people with mental health problems and those with learning difficulties as documented in reports by Mind, Disability Rights Commission (DRC)/Capability Scotland and the Greater London Assembly.

Housing associations and local authorities have made great strides forward in recognising and dealing with racial harassment, but their homophobic and disability harassment procedures are often add-ons, if they exist at all. As with other types of hate crime, disabled people are frequently reluctant to report harassment because they assume nothing will be done about it. More work is needed to make sure that disabled people feel confident about reporting harassment and making sure that it is the perpetrators, rather than the victim, who are punished.

As discussed previously, disability related harassment can manifest itself in unfamiliar ways. A number of disabled people have been falsely accused of being paedophiles and graffiti and whispering campaigns are also well-documented. Housing organisations need to work far more closely with local organisations of disabled people to increase awareness amongst disabled tenants that disability harassment is a crime and encourage people to report it to the

police or to a third party reporting site. Reporting needs to be monitored so disabled people can be confident that it is making a difference.

Many of the disability hate crimes documented in this report could have been avoided if social care professionals, housing association officers, police and other local statutory agents had worked together to identify disabled people who were at risk of crime and taken action to stop it. A system of early warning and rapid reaction, developed with disabled people and their organisations that can combat low-level harassment is key to preventing such incidents developing into more serious forms of hate crime, and to enabling disabled people to live independent lives without fear.

In Chapter seven we look at examples of good practice in preventing and tackling disability hate crime and specifically at the vital role disabled people and their organisations have to play.

Chapter six

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Innovation and best practice in tackling disability hate crime

Despite the difficulties in reporting and investigating disability hate crime, a number of initiatives around the country have blazed an admirable trail in challenging, preventing, and improving the reporting of, disability hate crime. The majority have been led by disabled people and their organisations and demonstrate the effectiveness of solutions that are designed locally by disabled people based on their real experiences.

Disabled People's Organisations (DPOs) have an important role to play in amplifying the voice of some of the most marginalised people in the UK. As a recent report by the disabled people's capacity building network Disability LIB explains:

"The overwhelming majority of DPOs work to a 'Nothing About Us Without Us' model, explicitly or implicitly. This was the motto adopted by Disabled People's International at its founding in 1981, and captures the idea that human rights are not possible without self-determination. From this springs the principle of DPOs being led and controlled by disabled people – that disabled people should be in charge of their own organisations; 'Making decisions, not following them'. DPOs seek to redress a history of disempowerment – of non-disabled people doing things 'for' disabled people, on their behalf, without their participation."⁵⁹

DPOs therefore have a crucial role to play in bringing disabled people together to tackle disability hate crime collectively. Disabled

people experience hate crime therefore they need to be at the heart of developing appropriate responses to it. Statutory agencies need to embrace the principle of 'Nothing About Us Without Us' and support the work of Disabled People's Organisations if we are to stop disability hate crime.

The Greenwich Association of Disabled People (GAD) was the first group in the UK to set up a third party reporting site and a disability hate crime and domestic violence advocacy project in 2002. More DPOs have followed suit and set up their own third party reporting schemes, though many still struggle to find sustainable funding. Anne Novis, who chaired GAD at that time and is now the co-chair of the Metropolitan Police Disability Independent Advisory Group, says that the project has increased reporting in Greenwich – but that more remains to be done. She adds: "I look forward to a time when disabled people can report such crimes confident of getting a responsive approach by police officers and prosecutors."

The London Borough of Waltham Forest is unusual in that it has commissioned an independent voluntary sector organisation to provide support and advice to its Hate Crime Project Board and local Safety Net Partnership Board on all forms of hate crime and domestic violence. The Board involves the council, community safety, housing providers and voluntary sector agencies, including local disabled people's organisations. Ruth Bashall, who serves on the board as Chair of Disability Action

⁵⁹ Disability LIB, 2007. Thriving or Surviving – opportunities and challenges for Disabled People's Organisations in the 21st century.

Waltham Forest, says that the board's ability to monitor progress, and raise awareness and work across different local agencies, provides a good model for other authorities seeking to tackle hate crime effectively.

In Coventry, a hate crime project, Havoc, run by people with learning difficulties, has worked with West Midlands Police, local companies, the Crown Prosecution Service and Victim Support. It has also run drama workshops for people with learning difficulties to help them understand their rights if they experience a hate crime and holds surgeries for hate crime victims. Denise Stokes, who co-ordinated the project, says that when it started: "bullying and hate crime were becoming an accepted part of people's lives...what the police have now found is that hotspots where disabled people are being targeted are also hotspots for homophobic or race attacks".

This theme was echoed by Deputy Assistant Commissioner (DAC) Alfred Hitchcock, of the Metropolitan Police, in an interview with Disability Now⁶⁰. The Met has worked extremely hard to improve its services to disabled people in the capital, which it consults through its Disability Independent Advisory Group (DIAG). A taskforce scrutinises the case handling of every identified disability hate crime. Two police stations in every borough are now fully accessible. And this year every disability hate crime will be 'disaggregated' and flagged separately on the Met's computer system. This will provide the first reliable set

of police statistics relating to reported disability hate crime. DAC Hitchcock has also pledged that the Met will crack down on hate criminals, "getting the bad people off the streets" so that disabled people can feel safe in the capital. DAC Hitchcock is one of the few senior police officers who acknowledges that offenders must be targeted, rather than disabled people subject to self-imposed curfews through the fear of crime.

Anne Novis, UKDPC officer and co-chair of the Met's disability advisory group, says that DIAG's first step was to press the police on disability hate crime and domestic violence, persuading the Force to address access needs, monitoring and recording.

People in Partnership (PIP) work together with and for people with learning difficulties to keep safe in their community, report crime and receive the right support and response to reported incidents. This Hertfordshire partnership is led by people with learning difficulties and includes police, social and health services and support agencies.

They use the PIP Pack, a resource pack designed by and for people with learning difficulties, the police and other support services. The PIP Pack contains information about the rights of people with learning difficulties, the law, personal safety information, a Keep Safe card, Reporting Form and signposts to police and support services.

⁶⁰ Disability Now magazine, Zero Tolerance, January 2008

The Keep Safe card is used to record contact information for use when reporting to the police, in an emergency and as an aid to effective communication. The easy to use Reporting Form aids reporting to the police and is available at police station enquiry offices, day and residential services, from adult care service teams and at hate crime reporting and information centres established by people with learning difficulties. With Home Office support the Reporting Form has been developed and through True Vision (see Chapter seven), will be available to every police force across the country to enable easy access to hate crime reporting for people with learning difficulties.

PIP Pack in Action, a team of trainers with learning difficulties, deliver training for their peers, with and for the police and support services in Hertfordshire and across the country to support similar partnerships.

Robert, a person with a learning difficulty who is transgender, said after attending training: "I have been hit, pushed, called names and more just because I am me. These are hate crimes and it is good to know if I report them the police will take action".

Jonti Sims, a trainer and chair of North Herts People First adds: "I was picked on in the street every day just because I had a learning difficulty and then I was attacked. I lived in fear, frightened to go out or go home so I had to move from where I lived. I'm OK now, I have my confidence back, I'm happy where I live and I travel all over the country...it is very important to me that people with learning difficulties can report to the police".

Jane Dellow, co-ordinator for PIP Pack in Action comments: "We aim to give people the tools and confidence to speak up and report to the police and to enable the police and support services to listen and respond appropriately. Disabled people have a right to equal access to justice and it is important for everyone to see what is really happening in the lives of people with learning difficulties so we can begin to target resources effectively and combat disability hate crime."

"I am confident the Home Office understands the problem and will help police to prioritise and serve the disabled community. I am hopeful that the police will provide accurate disability hate crime statistics and we can get a more complete picture. Improvements in recording, response and resources allocated to disability hate crime are needed. However, to achieve all this there is still an urgent need to establish consensus on what constitutes disability hate crime within the criminal justice system."

She added: "The responsibility does not only sit with the police. The accuracy of the recording system is dependent on individual awareness of disability and hate crime. We are working to agree a Disability Hate Crime Strategy for all partner agencies with a responsibility for community safety, to ensure we have an effective inter-agency system to collate and produce accurate reports and to include good practice guidance and training for public facing officers and staff in all services to enable them to recognise, report, receive, respond and record disability hate crime and incidents".

The Learning Together project, run by the self-advocacy learning group, Better Days, Coast 2 Coast and Inclusion North, has developed a training pack (with Home Office funding) that people with learning difficulties can use to train others about disability hate crime. The partnership has also developed a good practice guide to disability hate crime, so that disabled people and other groups can audit progress in their own areas.

Values into Action (VIA), which works to support and promote the right of people with learning difficulties, has been running hate crime workshops for people with learning difficulties for several years. VIA produced the first national accessible guide to taking action against hate crime (The A-Z books *'Let's Keep Safe'* and *'Let's Report It'* in 2001). VIA still has a national programme of workshops on hate crime run by and for people with learning difficulties and their current work includes an in-depth look at the phrase 'hate crime' and how it is being used by the criminal justice system and people with learning difficulties themselves. VIA also acts as an advisor to the CPS and many other local and regional hate crime projects.

In Tower Hamlets, London, DITO (Disability, Information, Training, Opportunity), a local DPO, has worked with the Council to set up a third party reporting scheme. This is supported by a website www.disablism.co.uk and a pocket-sized information leaflet that explains what hate crime is and how to report it.

Another innovative scheme to combat disability hate crime has been running in

Yorkshire for the past three years. Kirklees Safer Communities Partnership (KSCP), funded by the local council, has four dedicated, accessible centres in Batley, Dewsbury and two in Huddersfield. The centres all have specially trained staff who take reports and discuss how best to press charges or refer problems on to other agencies, such as housing associations. Victims are also offered access to counselling services. The centres are some of the first 'third party' reporting centres for disability hate crime in the UK.

The centres recognise that hate crime takes many forms and is very rarely reported (and disability hate crime even less so). They deal with physical abuse, including neighbour disputes, graffiti and arson, threatening behaviour and verbal abuse, insults and bullying. The strategy of the centres is to recognise that hate crimes quickly escalate in their severity and that if they are reported at an early stage this can prevent serious incidents from occurring.

Javier Santana-Acosta, who is the hate crimes co-ordinator for the local council, says: "We have dealt with a number of complaints. They have mostly been disputes with neighbours and other forms of lower level abuse, such as name-calling, harassment and bricks being thrown through windows. The more serious complaints go straight to the police and become formal investigations. What we do as a council is acknowledge the report of a possible hate crime, offer counselling and refer the complaint onto the right agency." Mr Santana believes that third-party reporting helps build confidence in the criminal justice system

amongst disabled people. “What we have achieved is to provide an extra service at premises where disabled people feel comfortable and the police have been very supportive of that.”

David Quarmby, Chair of the Kirklees Disability Rights Network (KDRN), says that now the centres are up and working, there needs to be a real push to publicise them. “Disability hate crime is still not taken as seriously as other forms of hate crime. We have a long way to go. Most disabled people have experienced harassment and abuse that they just shake off and mostly don’t report.” Mr Quarmby is speaking from experience – a few years ago he and his guide dog were pushed down steps at Dewsbury railway station.

Other projects are equally inspiring: Hunts Mind is a reporting centre for the third party reporting scheme, Open Out, in Huntingdon, Cambridgeshire. Hunts Mind allows clients with mental distress a safe environment in which they can report incidents of hate crime. Redcar and Cleveland Mind runs a placement scheme whereby police officers can come and spend time at the day centres to talk to service users about mental health issues. A similar scheme is running in Dorset Mind, which also runs a scheme for gay and lesbian people with experience of mental distress. Gay and lesbian police liaison officers attend sessions to encourage reporting of incidents. In Lancashire, the police run an e-card scheme that helps police officers identify people who may need extra support if in contact with the criminal justice system.

In Liverpool, a Witness Profiling scheme, run by the city council’s Investigations Support Unit, provides witness support to people with learning difficulties who want to give evidence in court. The unit has worked with 31 witnesses in 28 trials, many with evidence of sexual or physical assault. 18 out of 22 prosecutions have been successful.

Victim Support, a national charity that supports victims of crime, is also playing its part in improving the response to disability hate crime. It has teamed up with Disability Now magazine to urge disabled people to report crime to the charity – even if they do not want to contact police. It has also made an effort to recruit disabled volunteers and employees, who bring their own specialist expertise to victim counselling. Many areas have staff and volunteers who have learnt British Sign Language and some areas are recruiting committees that are drawing on the expertise of local disabled people’s organisations, such as the Coventry and Warwickshire Council of Disabled People. The charity has one third party reporting system specifically for disabled victims of hate crime, in Avonvale, Hampshire. Many victims of crime, the charity says, are disabled people and a key component of its work is to support disabled victims to get the benefits to which they are entitled and to support them through the criminal justice system.

A lot done, a lot still to do

All the initiatives described above are welcome, but progress nationally still remains patchy. It is worth reflecting on the

fact that part of the reason hate crimes against people from minority ethnic and religious groups and LGBT (Lesbian, Gay, Bisexual and Transgender/Transsexual people) people have been taken seriously by the criminal justice system and by society more widely is because of the campaigning work of their communities. Doreen and Neville Lawrence's campaigning on behalf of their son Stephen resulted in the McPherson report, national recognition of institutional racism, and subsequent changes in the law and public perception of hate crime. The campaign by Peter Tatchell and gay rights group OutRage! on police harassment of gay men helped to change attitudes towards LGBT people within the police force and influenced the development of sexual offences legislation that no longer criminalises gay men.

Disabled people and their organisations can learn a lot from these campaigns, especially their success in raising the profile of hate crime and putting it firmly on the political agenda. The Disability Hate Crime Network consists of a dozen organisations committed to tackle hate crime against disabled people. Given its size and resources it has made great progress in getting disability hate crime on the political agenda. However, disability hate crime is the starkest manifestation of disablism. Its perpetrators deny disabled people their dignity, confidence, independence and in some cases their lives. Ending it is a campaign that the whole disability movement needs to unite behind.

In Chapter seven we look at national developments within Government and the criminal justice system, to combat and challenge disability hate crime

Chapter seven 55

The national picture

As a result of lobbying DPOs and disability charities, there has also been significant progress in the drive to improve the reporting, investigating and prosecuting of disability hate crime at a national level.

The Home Office has agreed to alter the British Crime Survey (BCS) so that it includes more information on hate crime. The BCS will change, possibly from next year, so that all respondents who have been a victim of crime will be asked whether the incident was aggravated by hate, and, if so, what sort. This will provide data for all hate crimes, rather than just for those motivated by racial and religious hatred.

In another development, all police forces across England, Wales and Northern Ireland were required from April 2008 to record data on disability hate crime in a standardised way across the country. This will provide accurate performance measurement and act as a guide to the extent of under-reporting.

Superintendent Paul Giannasi, who is the project lead for 'Race for Justice', the cross-governmental hate crime programme, acknowledged that while crimes against disabled people are often 'rigorously investigated and skilfully prosecuted', "the hate element has not always been recorded. I also believe that disability hate crimes are significantly under-reported to the police due to a lack of confidence from the victim and of awareness of the problem by carers, professionals and police officers". Hate crimes will also be included into the performance measurement framework – although this may take some time to achieve.

"The government has made it clear that increasing confidence to report hate crime is a key priority. The Attorney General has set us clear objectives to improve our response to these crimes and importantly to provide the same high standards of service to all victims of hate crime.

"Within ACPO and the Race for Justice programme we have identified hate crimes against disabled victims as one of our greatest challenges. I am confident that there is the determination to meet Baroness Scotland's challenge but we can only, and must, achieve this in partnership with victims, families and those with a duty to care. We need victims and partners to understand what is acceptable and what should be reported to the Police or another statutory body.

"One of the most depressing elements of this work is hearing people with learning disabilities who think it is normal to be abused and spat at on a bus; that it happens to everyone. This is absolutely unacceptable and shows the extent of our task: to offer the level of protection that disabled people need, and most importantly have a right to expect."

Julie Newman, acting Chair of the United Kingdom's Disabled Peoples' Council (UKDPC), welcomed the developments but said that much would depend on how the question in the British Crime Survey was phrased and how much support was available to the victim of crime. She added that the recording of disability hate crime by police forces was also welcome, but said: "There may be training issues highlighted to ensure that there is full an understanding as possible by the officers involved".

Liz Sayce, chief executive at RADAR, said: “The move from theoretical legal rights to practical action on hate crime is hugely welcome. To make it work RADAR wants to see two things. First, include in the recording of hate crime exploitation of a perceived vulnerability in a disabled person’s situation, not just hatred in the classic sense: the 2006 case of Raymond Atherton, for example, murdered after thugs held him hostage and stole his benefits. Second, build trust with disabled people through outreach with disability organisations and improved support for disabled people who report crimes.”

True Vision, a police-funded website, which was launched four years ago, is aimed at improving the service that police forces provide to different diversity strands. Over half of the police forces in England, Wales and Northern Ireland have joined the scheme. The scheme offers a single self-reporting and information pack together with an online facility that allows people to report hate crime directly to the police. It is currently being revised to include disabled victims of hate crime. New packs will soon be delivered to police forces which help to identify disabled people who fear they may experience crime in the future, advise on keeping safe in a domestic, care or public setting and will provide a reporting form to inform agencies where abuse occurs. There will be two separate packs, one of which is an easy-read format for people with a learning difficulty containing a reporting book detailing what a hate crime is and how to report it and an easy to use reporting form. The police have also provided resources for other accessible formats.

True Vision aims to respond to reports of hate crime directly, through providing information and encouraging reports of hate crime to the police by people who may not want any direct action taken themselves but by reporting may identify priority areas for preventative action against future hate crime or incidents.

The Association of Chief Police Officers is also revising its hate crime manual. This may help to raise awareness among senior police officers about the importance of disability hate crime.

The Crown Prosecution Service (CPS) has also altered the way it records prosecutions so disability hate crimes can be separated out and performance on such crimes measured. This followed the launch of its policy on disability hate crime in February last year. In addition, it has launched an awareness raising initiative on disability hate crime for its prosecutors and other staff. Local hate crime scrutiny panels also look at how disability hate crimes are treated as they pass through the criminal justice system. However, the scrutiny panels can only examine the cases that police have flagged up to them as potential disability hate crimes.

A CPS spokesperson said: “We are pleased that the police are (now)...committed to consistently recording disability hate crime because we often rely on them to obtain information about the fact that an offence was motivated by hostility based on disability. We know that the earlier we identify a disability hate crime case, the better our chances of appropriately supporting the victim and gathering the

evidence to obtain a hate crime conviction. We also welcome the changes to the British Crime Survey which will give us information about people's experience of unreported disability hate crime for the first time. This information, along with our engagement with community groups will help us better understand the context and prevalence of this particularly damaging crime so that we can improve our performance in bringing these offences to justice."

On the judicial front, the bodies that advise judges have also sharpened awareness of disability hate crime. The Sentencing Guidelines Council and the Sentencing Advisory Panel have set out a series of factors that will specifically aggravate assaults and should result in more appropriate sentencing.

These include the deliberate targeting of vulnerable or disabled victims or choosing isolated places for carrying out an attack.

Those who 'happy slap' (film crimes on mobile phones with the intention of showing the material on the internet) will also get stiffer sentences. Furthermore, if the incident is deliberately set up to be offensive or humiliating to the victim or to the group of which the victim is a member, it can also attract a stiffer sentence. This provision could help to challenge the filming of attacks on disabled people in the future (the cases of Christine Lakiniski and Brent Martin, for instance).

Julie Newman of the UKDPC commented: "I think increasing the sentencing for disability hate crime is sensible given the

reported 'under-sentencing' that has been exercised historically in comparison with sentencing for other crimes. However, the criminal justice system is only part of the equation. The obstacles to reporting disability hate crime must be addressed, and the reporting of such must be taken seriously. Without this happening the cases aren't even coming to court."

Robin van den Hende from the Ann Craft Trust, VOICE UK and Respond, says that all three groups are: "Pleased that the Sentencing Advisory Panel has issued guidance to increase the sentences of people who commit crimes against people with disabilities...if the criminal justice system is to tackle disability hate crime then courts must increase sentences in all disability crimes and clearly state where a disability hate crime has occurred."

In Scotland, the Government has backed proposals to give protection to disabled and gay people under Scotland's hate crime laws. The proposals were originally lodged by Green MSP Patrick Harvie. If approved by parliament, the bill would bring Scotland into line with England and Wales.

Justice Secretary Kenny MacAskill said: "No one in Scotland should be targeted or victimised because of their sexual orientation, transgender identity or disability. Our clear aim is to prevent and deter crimes. But where crime does happen it will not be tolerated." The bill would increase sentences for crimes that are motivated by 'hostility or ill will' towards the victim.

Morag Alexander, Scotland Commissioner for the Equality and Human Rights Commission (EHRC), said: “If you have a mental health problem or a learning disability, or if you are gay or transgendered, you are more likely to have experienced abuse, threats and violence, simply because of who you are - this is unacceptable in 21st century Scotland. We welcome these proposals to give the police, prosecutors and the courts the powers they need to monitor and tackle these types of offence.”

“If we are to create a Scotland which is ambitious, fair and confident then it is only right that disabled, lesbian, gay and transgender people are able to go about their daily lives as equal citizens - these proposals are a major step forward in making that happen.”

There may also be progress in England and Wales, through the review of No Secrets, on new legislation to better protect ‘vulnerable adults’ from crime – although, as discussed in Chapter five, the language and practice of safeguarding adults and vulnerability requires urgent overhaul.

The EHRC is also expected to launch its work programme to combat and challenge disability hate crime and to improve the response of the criminal justice and social care systems to such crimes later this year.

Unfortunately not all national developments have been as positive. It was disappointing to note, earlier this year, that the Government failed to consult DPOs and other groups working in the field on its plan to combat violent crime – although it did mention the

importance of challenging hate crime. Following intervention by DPOs, the Government has committed itself to consulting on the forthcoming strategy on violent crime. The Department of Health has also committed itself to develop a separate action plan on hate crime against people with learning difficulties. How this will dovetail with the violent crime strategy (which will look at disability hate crime across all impairment groups) is not yet known, and care needs to be taken to ensure that this does not result in two separate strategies to tackle disability hate crime.

It is also disappointing that the Government has failed to support the National Aids Trust and other groups supporting people living with HIV/AIDS, to be protected against disability-targeted hate crime. Although people living with HIV/AIDS are protected under the Disability Discrimination Act, if they are targeted, as many are, in their homes, with hate mail and graffiti, those responsible for such crimes cannot be prosecuted under Section 146. This is not equitable and must change.

Progress has been slow and uneven. The concerted effort by many groups to challenge disability hate crime – and the response to it by key agencies – is yielding fruit. But there is far, far more to be done before disabled people can feel that they are equal before the law. The current state of preventing, reporting, investigating and prosecuting disability hate crime leads many activists like Anne Novis, to conclude that through their lack of action “Government, the police and those in the criminal justice system are sending the message that disabled people’s lives are of less value than those of other people”.

1. Hate crime against disabled people appears to be common and widespread. Disabled people are more likely to be victims of crime, and disabled women more likely to be victims of domestic violence, than non-disabled people. However, lack of national comprehensive data on the prevalence and the nature of disability hate crime means the true extent of the problem remains hidden.

2. Casual and institutional disablism is rife in our society. This creates an environment where disability hate crime can occur without being recognised or challenged. It also means mainstream services often fail to meet disabled people's access and information needs.

3. Failure to recognise disability hate crime when it occurs is the biggest barrier to being able to tackle it. While the criminal justice system and disabled people themselves cannot recognise disability hate crimes they cannot be investigated, flagged or prosecuted.

4. Disability hate crime often looks different to racist and homophobic hate crime. Many perpetrators have a more intimate relationship with their victims, either as friends or carers.

5. Incidents of disability hate crime often stem from low-level harassment; name-calling, intimidation and vandalism frequently escalate into more serious crimes.

6. Bullying of disabled children at school is widespread and frequently goes unchallenged. This lays the foundations for

the harassment and disrespect that many disabled people experience in adult life.

7. The language used to describe crimes against disabled people (e.g. 'abuse' instead of 'sexual assault', or 'bullying' instead of 'harassment') plays a big part in concealing the prevalence and impact of disability hate crime.

8. Adult protection policies and practices often prevent local statutory agencies taking appropriate action to stop disability hate crime and in some cases undermine disabled people's right to live independently in the community.

9. Disabled people are routinely denied access to justice, either by not having the crimes committed against them recognised as hate crimes, or because they are dismissed as unreliable witnesses.

10. Successful responses to disability hate crime need to be co-produced with disabled people themselves in line with the principle of 'Nothing About Us, Without Us'. Disabled people and their organisations have led the way in developing innovative approaches to tackling and preventing disability hate crime. Government and statutory agencies need to build on this by supporting more disabled people and their organisations to co-produce effective interventions with statutory agencies.

Conclusion and recommendations

Brent Martin was stripped, beaten and dragged around the streets until he died in his mother's arms. Kevin Davies was kidnapped, tortured, starved, branded and beaten. Laura Milne was beaten unconscious, had her throat slit and was dismembered by 'friends' who said she was 'worth f*** all'. Christine Lakinski was humiliated, urinated on and filmed as she lay dying. Keith Philpott was beaten, stabbed and disembowelled. Barrie-John Horrell was strangled, beaten with a brick and set on fire.

Apart from being disabled people, the individuals described above have one thing in common; none of their attackers were prosecuted under disability hate crime legislation.

Despite the horrific crimes documented in this report, disability hate crime remains largely invisible. Its existence is frequently denied, disabled people who report it are routinely ignored, and its perpetrators often go unpunished.

Disabled people should be able to enjoy the same human rights to life, liberty, justice, security and freedom from exploitation, violence and fear, as non-disabled citizens. But it is a sad fact that in the UK today disabled people are attacked, harassed and humiliated simply because of who they are.

Casual disablism still permeates our society. The widespread belief that it is legitimate to treat disabled people differently, and to deny them equal access to the things that others take for granted, creates an environment

where disability hate crime can exist without being recognised or challenged. This casual, often unknowing, prejudice fuels disability hate crime, with horrifying results.

So far, the criminal justice system has failed to support disabled people to recognise and report hate crimes, and failed to investigate, prosecute and sentence such crimes for what they are. The Government, too, has failed to gather the data that is essential to understanding the prevalence and impact of disability hate crime and developing joined-up ways of tackling and preventing it.

The language used by the police, judges and the media to describe disabled people and the crimes committed against them, in particular the terms 'vulnerable', 'bullying' and 'abuse', has resulted in crimes against disabled people being perceived differently and taken less seriously.

We have become much better at recognising hate crimes against other minority groups in our society. If the crimes described in this report were perpetrated against gay people or people from minority ethnic or religious backgrounds there can little doubt that they would be investigated as possible hate crimes. The systems and attitudes that deny disabled people justice and human rights need to be overhauled and those who wish to deny disabled people their humanity must be condemned and punished. Disability hate crime may look different to other forms of hate crime but it is no less serious.

To prevent, rather than simply punish disability hate crime, disabled people and their allies need to come together with

Government, police, prosecutors, judges and journalists, to pro-actively tackle this crisis of justice. It is only by working together, at a community level as well as nationally, that we will be able to tackle the disablist attitudes and practices that so often lay the foundations for hate crime. Until we do this, disability hate crimes will remain unrecognised and unchallenged, and some of its perpetrators will continue to, literally, get away with murder.

Agenda for action

To prevent and tackle disability hate crime we commit to do all in our power to:

- 1. Tackle disablist attitudes and behaviours as soon as they start**
- 2. Eliminate casual and institutional disablism**
- 3. Ensure disabled people have equal access to justice**
- 4. Empower disabled people and their organisations to co-produce effective responses to hate crime with statutory agencies.**
- 5. Improve data collection and research into the prevalence of disability hate crime**

Recommendations

Tackle disablist attitudes and behaviours as soon as they start

- The Department for Children, Schools and Families should impose a statutory duty on school governing bodies to report incidents of disablist bullying, as they currently do with racist incidents.
- Disability Equality Training should be mandatory for all teachers and school staff.
- All schools should address disablist bullying specifically in their Disability Equality Scheme.
- Social care professionals should undertake training on how to recognise the early warning signs of disability hate crime and work with disabled people, police and other local agencies to tackle it. The role of social care professionals in pioneering work on preventing domestic violence provides a useful model.
- Police forces should develop partnerships with local housing officers, social services and local disabled people's organisations, through the Safer Neighbourhood structures or similar, to identify and tackle low-level crimes that could escalate into hate crimes.
- The Home Office and the police should run a disability hate crime campaign to raise public awareness of the issue. The Met's recent domestic violence poster campaign might provide a useful model.
- The Home Office should develop an offender behaviour programme aimed specifically at offenders who have committed crimes against disabled people (similar to those developed for offenders convicted of racially motivated crimes and sexual violence).
- Journalists and disabled people should challenge police and prosecutors when they describe crimes against disabled people as "motiveless".

Eliminate casual and institutional disablism

- The Department of Health should revise the No Secrets guidance to introduce a statutory duty on local authorities to safeguard disabled adults and work proactively with the police and other statutory agencies to stop and prevent hate crime. Guidance should include information on how to safeguard “vulnerable” adults in a way that respects and supports disabled people’s autonomy, their right to live independently and make their own decisions.
- Do not use the word “vulnerable” as a synonym for “disabled”, study the legal definition of the term carefully, and use it correctly.
- Do not use the word “bullying” to describe attacks on disabled people, and do not refer to disabled people having the “mental age of...”. Such terms infantilise disabled people and mask the seriousness of the crimes committed against them.
- In developing their Disability Equality schemes all local authorities and police forces should work with local disabled people to identify specific actions to tackle crime, including hate crime, against disabled people.
- The Equality and Human Rights Commission (EHRC) should use its powers to conduct a formal investigation into the recording, investigation and prosecution of disability hate crime and the support provided to disabled people to enable them to get redress through the criminal justice system.
- Social workers and associated professionals should ensure that in implementing policies on safeguarding vulnerable adults they respect the autonomy and rights of disabled people to live independently.

- The police should state publicly, when commencing an investigation, if the case is being treated as a disability hate crime.
- Journalists should report incidents of disability hate crime to help raise public awareness of the issue.

Ensure disabled people have equal access to justice

- The Home Office should work with disabled people and the police to develop specific guidance for police, prosecutors and judges on identifying crimes that are motivated by hostility, and how to distinguish these from crimes motivated by vulnerability.
- The Home Office should introduce Statutory Performance Indicators (SPIs) for crimes against disabled people and disability targeted hate crime. The SPIs should include the collection of data on the volume of crimes against disabled people, the volume of disability targeted hate crime, sanctioned detection rates for disability targeted hate crime, disabled victim satisfaction rates and comparisons of sanction detection rates between disabled and non-disabled victims.
- The Home Office should revise its legal definition of a ‘vulnerable person’ so it does not assume that disabled people are innately vulnerable.
- The Home Office should commission a review of all violent deaths of disabled people by a criminologist, to see if a perpetrator analysis or offender profile(s) can be constructed for disablist crime. Betsy Stanko’s work on rape offender profiling for the Metropolitan Police revolutionised the Police’s understanding of rape and their ability to tackle it. A similar approach is needed for disability hate crime.

- The Home Office should consider giving judges power to use sentencing provisions on disability hate and vulnerability together in cases where the crime was motivated by both vulnerability and hostility.
- The Sentencing Guidelines Council and the Sentencing Advisory Panel should monitor how effectively their recent guidance on aggravated sentencing for crimes against disabled people is being implemented and take further action if necessary.
- The Home Office should extend the definition of hate crime to include everyone who has rights under the Disability Discrimination Act, including people living with HIV/AIDS.
- The Department of Health should revise the No Secrets guidance to ensure that policy and practice around adult protection supports disabled people's right to live independently and creates a statutory duty to work cooperatively with the police and other local agencies to tackle incidents of hate crime.
- The Scottish Government should pass disability hate crime legislation as a matter of urgency.
- Each police force should develop an effective communications strategy to ensure that disability targeted hate crime cases are recognised at such, both within criminal justice agencies and to the external media. This should include guidance on the use of appropriate language and a commitment to establish the motivation behind a crime committed against a disabled person as soon as it is reported.
- The CPS should review the support systems for vulnerable and intimidated witnesses to ensure disabled people are not denied access to justice. The right to give evidence anonymously or remotely should be extended to disabled people.
- The Association of Chief Police Officers, working with disabled people, should develop an effective risk assessment and risk management system that could be applied to disability targeted hate crime. It should also include specific guidance on how to identify disability hate crime, as distinct from crimes motivated by vulnerability, and how to explore disablist motivation when interviewing suspects in its revised hate crime manual.
- CPS hate crime scrutiny panels should not only look at prosecutions that have gone ahead, but also at those involving disabled people which were not prosecuted as disability hate crimes, but used "vulnerability" provisions instead.
- The Equality and Human Rights Commission (EHRC) should support individual disabled people who have been victims of hate crime to get legal redress.
- The EHRC should include hate crime when developing a legal approach to tackling discrimination on multiple grounds.
- Local journalists should revisit crimes committed against disabled people in their region that were not treated as hate crimes and investigate the reasons with the investigating officers and prosecutors.

Empower disabled people and their organisations to co-produce effective responses to hate crime with statutory agencies

- Local authorities and local police forces along with disabled people's organisations, should coordinate local schemes, following the lines of the Metropolitan Police's Safer Neighbourhoods model or Crime and

Disorder Reduction Partnerships (in England) and Community Safety Partnerships (in Scotland). This will bring together the police, social services, social care providers, mental health and learning difficulty teams and housing officers to create an early identification, reporting and rapid reaction system to deal with incidences of harassment and hate crime against disabled people.

- Places should be reserved for disabled representatives on police local crime reduction partnerships and safety net boards and on CPS Hate Crime panels.
- Every Basic Operational Command Unit (BOCU) should fund at least one, preferably more, third party reporting scheme, run by disabled people, explicitly for disability hate crime.
- All frontline police officers, prosecutors, judges and magistrates should undertake disability equality training and specialist training in how to recognise disability hate crime. This should be delivered by disabled people.
- Local authorities and police forces should fund training schemes for disabled people so they are able to recognise and report hate crimes. The Pip Pack from Hertfordshire provides a good model.
- Every police force should establish community outreach programmes, led by a named disabled police officer, to liaise with disabled people and their organisations, build trust, identify concerns and crime hotspots and support disabled people to recognise and report crimes.
- Police forces should ensure that local police stations are accessible and that officers are trained to provide appropriate,

accessible support to enable disabled people to report hate crimes.

- The Association of Chief Police Officers should develop an accessible charter for disabled people spelling out what standard of service a disabled person can expect from the police when they report a hate crime. This should be widely publicised.

Improve data collection and research into the prevalence of disability hate crime

The Home Office should publish the first national disability hate crime statistics in April 2009 and hold a seminar with disabled people and their organisations to discuss what the data reveals about the prevalence of disability hate crime and identify where further data is needed. The Home Office should conduct a disability equality impact assessment of the British Crime Survey and consult widely with disabled people and their organisations on how to improve the data collection on crime, including hate crime, committed against disabled people through the British Crime Survey. All future crime surveys should include disability and hate crimes as sub-categories to combat the current data deficit.

The Home Office should carry out research into a sample of crimes involving disabled people, including some of those documented in this report, to understand the reasons why they were not prosecuted as disability hate crimes.

Local police forces should collect comprehensive hate crime data and use it to inform local anti-social behaviour and youth crime strategies.

Scope is a national disability organisation whose focus is people with cerebral palsy (cp). Scope's mission is to drive the change to make our society the first where disabled people achieve equality.

For further information about Scope's work, visit www.scope.org.uk

Disability Now is Britain's leading magazine and website for and about disabled people. It's committed to reflecting and directly presenting the concerns, experiences, lifestyles and voices of disabled people.

For more information, visit www.disabilitynow.org.uk

The United Kingdom's Disabled Peoples' Council (UKDPC) was set up by disabled people in 1981 to promote our full equality and participation within society. We are an umbrella organisation that represents some 100 organisations run and controlled by disabled people.

For more information, visit www.bcodp.org.uk

Scope and The United Kingdom's Disabled Peoples' Council are registered charities