

Inclusion London

Supporting London's Deaf and Disabled People's Organisations

Still Getting Away with Murder

Disability Hate Crime in England

Following the 2008 'Getting Away with Murder' report

Commissioned by Inclusion London

Funded by Three Guineas Trust

Written by Dr Laura Chapman, September 2020

Contents

Glossary	4
Foreword by Anne Novis MBE	6
Introductory remarks from Mick Conboy.....	8
Thanks & Overview from Louise Holden	9
Chapter One – Executive summary	12
Chapter Two - Introduction	15
The characteristics of disability hate crime	15
A decade of crime	18
Hate crime from a disability perspective	22
Strength in numbers.....	23
A tiered oppression	24
Institutional definitions and reporting.....	25
Within the criminal justice system	30
Chapter Three – Emerging conversations.....	34
Hidden and widespread	35
Trust and testimony	38
Unqualified and unmeasured	39
Institutional failures.....	41
Lack of knowledge and co-production values	42
Multi-agency partnerships and cross-boundary communication.....	44
Chapter Four – numbers and language.....	46
Alarming statistics.....	46
How to report disability hate crime.....	50
Under reporting	51

Consequences of not reporting	51
Society and motivation	52
Motivation for harm	54
Disabled people seen as inferior.....	55
Specifics: mate crime and cuckooing	59
Chapter Five – Important voices	60
Everyday spotlight	61
Distrust and distance.....	62
Generic and misjudged.....	63
Multi-agency partnerships and boundaries	65
Identity and public perception	68
Chapter Six – Language and culture	70
A human rights approach	70
Articulating safe spaces and shared places	73
Articulating trust in voice & stronger advocacy	74
Articulating scale and patterns of escalation	78
Articulating society’s blinkers.....	79
Articulating the voice of groups.....	81
Legitimate accountability.....	82
Chapter Seven: partnerships.....	85
Inclusion London	86
The Community Alliance to Combat Hate (CATCH) Partnership	86
The Metropolitan Police Service (MPS) Central Hate Crime Partnership Team..	87
The Crown Prosecution Service (CPS)	88

Scope	89
True Vision	90
The Metropolitan Police Disability Hate Crime Matters	91
Disabled Witness Project: Promoting Access to Justice for Disabled Witnesses of Disability Hate Crime Report	91
Chapter Eight- Conclusions	94
Key findings	94
Appendix 1	96
The social model of disability	96
Situational risk and ‘vulnerable victims’	98
About Inclusion London	107
Further information	107

Glossary

Ableism: a specific type of societal oppression, akin to homophobia, racism, sexism, or religious intolerance held in the language of communities and culture of society more widely.

Deaf and Disabled People's Organisations: groups and networks run and organised by Disabled people, where Deaf people recognise themselves as a community with their own language – British Sign Language.

Disablism: a specific type of organisational oppression levelled directly at Disabled people, much like misogyny or religious hate speech that operates within homes, public spaces and across organisational boundaries.

Disabled people (with a capital D) is used to in this document reflect the choice some people with impairments who choose an identity and political voice aligned to the Disabled people's movement. Disabled people is used

more widely in the United Kingdom in preference to ‘people with disabilities’ globally, to reference activism and acknowledgement of Disability Studies in political unity.

The Disabled population is used in the following specifically to indicate that not all disabled people are part of the Disabled people’s movement, or self-identify as Disabled people, or even like the term ‘disabled’. However, ‘population’ is used to indicate the large number of individuals who may have impairments [estimated at 1 in 10].

The Disabled people’s civil rights movement, or the Disabled people's movement, used to indicate the individuals who view the group as one of many civil rights groups. Disabled activists can be viewed as anti-ableist, as holding a position against ableism – like feminists or anti-racists.

Impairment is not a word the whole disabled population are comfortable with, it is used in the following to mean condition, diagnosis and difference. However, it is never used to imply individual’s identity which is better understood as personal choice.

Professional is used to indicate people working in paid roles within the criminal justice system.

Please note that the following draws on many texts, and the considerable amount work of many, so if an error exists, it owes its presence to the act of writing. This document aims to chart the progress in a vast field, a widening conversation about disability hate crime in the United Kingdom. Words used are often chosen to speak of things that are hard to tell because they are not simple. This text does not replace the work it tells of: it's a reflection on a journey. It's a tale of a complex area, full of contradiction, convoluted ideas – a difficult path towards greater justice for us all. At every moment I tried to

serve the most hard-pressed of victims, answering the question: what would they want people to know in order to do the least harm? Reading this will have made a difference if professionals change their ways of working to make justice more achievable, because this crime will not stop in our lifetime. The reference section is my authority: I defer to those authors who have illuminated an emerging map of a difficult terrain. I thank those who made the work possible, am grateful for help given, and hope this brings change for victims in years to come.

Dr Laura (Mole) Chapman 2020

Foreword by Anne Novis MBE

In the past 12 years I have seen Disability Hate Crime not recognised by justice agencies to a national acceptance that Disability Hate Crime does exist and work should be progressed to address it. The CPS and police services have worked proactively, albeit some regions still have far to go. To ensure Disability Hate Crime work was progressed I became an independent advisor to the Metropolitan Police Service, British Transport Police, sat on Crown Prosecution Service and Mayor's Office of Police and Crime boards as much as I could. Gradually more Disabled people and our Deaf and Disabled People's Organisations (DDPOs) focused on this work. This is needed for if our experiences are not heard then no actions are taken to address it.

Still the murders, attacks and harassments continue. Whenever society is pressured by financial constraints like 'austerity' or issues like the

recent pandemic, Disabled people become the focus for hostility. We are deemed a burden on the state, recently named as spreaders of disease, targeted if not wearing a mask, deemed a strain on the NHS. Therefore, some feel justified targeting us online, in media, and where we live and work.

Since 2008 we would have hoped to have better access to justice, we don't. The law is still the same, though good work has been progressing to get closer to a fair and equal law around hate crime. Some police services work hard to recognise, record and investigate Disability Hate Crime properly, some do not. Training for police officers is often minimal or non-existent.

If Disabled people are engaged as advisors, trainers, consulted, then local police do work harder on Disability Hate Crime, which is great. Yet all depends on individual officers, when they move on, often the work stops. I have experienced this repeatedly.

We need a national approach that does not depend on individual Deaf and Disabled people to motivate such work, or individual police officers. Also a law that ensures all hate crime is treated the same. Until we get this we hold the history of the experiences, the ones murdered, tortured, abused, attacked and harassed because of who they are.

We are the activists who will never accept that a society in the millennium cannot ensure all who experience hate crime can access support, equal justice and professionals who are trained, by us, and know what they should do and do it.

The work goes on!

Introductory remarks from Mick Conboy

National Hate Crime Policy Lead for the CPS

In endorsing the original report, 'Getting away with Murder' (2008), Sir Ken Macdonald, Director of Public Prosecutions at the time wrote: "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."

The CPS continues to play a key role in ensuring that disabled people have access to justice. As detailed within the present report, the CPS continues to raise awareness, develop effective policy, engage with community stakeholders, improve casework quality and enhance prosecutor skills.

We may have travelled some distance since the original report provided a spotlight on the newly introduced legislation covering disability hate crime, but the journey is certainly not over. Discriminatory attitudes still exist and related behaviour persists. And while we have made progress

in terms of community engagement, public policy commitments and improving performance, it remains the case that far too few cases come to the CPS for prosecution.

This remains a central challenge but one the CPS is determined to remain engaged with. By way of illustration, we are currently working with the police to pilot a revised MG2 form which is used by the police to highlight the needs of victims and witnesses in relation to Special Measures and for reasonable adjustments. We are also looking forward to the public consultation of the Law Commission seeking to reform the legal framework and all the opportunities that this presents.

I think we have made some progress but would be the first to admit that there is more to be done. What progress has been made has been due to the continuing determination of the CPS to play its part effectively and to do this in the spirit of, “Nothing about us, without us.”

**Mick Conboy - National Hate Crime Policy Lead for the Crown
Prosecution Service 2020**

Thanks & Overview from Louise Holden

With generous funding from Three Guineas Trust, Inclusion London is proud to be able to commission this in-depth report into what has happened since 2008. The original ‘Getting Away with Murder’ report was published by Scope, but it was also produced in collaboration with

Disability Now and the UK Disabled People's Council. Disabled people led the narrative then, and continue with this follow up. This report has endeavoured to cover as much as possible but invariably there will be omissions. For example, the report uses examples of partnerships based in London. However, it does cover major areas of research and UK-wide changes since 2008 with expert interpretation from Dr Laura Chapman. I would like to extend a huge thank you to Dr Chapman who invested a lot of time and energy into producing this piece of work. We hope that this report generates dialogue and debate and promotes a deeper understanding of Hate Crime through a human rights perspective.

Through the dedicated work of Disabled campaigners, including Anne Novis MBE, Disability Hate Crime is now recorded as a category of hate crime by the Police and Home Office. There is still a lack of parity with other types of hate crime within legislation. Inclusion London has been funded since 2018 to lead on a partnership of Deaf & Disabled People Organisations across London to combat hate crime against Disabled people. The Partnership has developed many links to the Metropolitan Police, Crown Prosecution Service, Home Office and Mayor's Office for Police & Crime. We thank all the non-Deaf and Disabled People's Organisation bodies that have been supportive with a real willingness to engage and understand. Through our capacity-building work with Deaf and Disabled People's Organisations, as well as providing regular opportunities for them to meet, we have:

- Provided Deaf and Disabled People's Organisation hate crime training;

- Delivered secondments to Deaf and Disabled People's Organisations;
- Produced submissions to consultations;
- Provided evidence on Disability Hate Crime to external bodies;
- Campaigned for parity in hate crime law;
- Held engagement and outreach events.

All this has led to increased knowledge and awareness with the Disabled community and improved the ability of staff in Deaf and Disabled People's Organisations to identify hate crimes when supporting Disabled people. The London Deaf and Disabled People's Organisations Hate Crime Partnership has become a vital resource for our sector. We are supporting Deaf and Disabled People's Organisations during a time when our sector is struggling with the challenge of larger charities who are not led by Disabled people yet are funded instead of local Deaf and Disabled People's Organisations. Despite evidence that shows that local services are more effective and value for money, Deaf and Disabled People's Organisations continue to be overlooked as valuable resources for the community. We work to make sure that Disabled people are consulted as experts with lived experience that improve the experience of Disabled survivors of hate crime and no Disabled person has to suffer alone. There is still a long way to go: Inclusion London is committed to continuing advocating for more resources to be allocated to Deaf and Disabled People's Organisations so they can provide holistic services that include support to recognise, report and recover from hate crime.

In the next few years, we are developing a series of training modules with films that will be available to frontline workers. We hope non-Deaf and Disabled People's Organisations bodies will commit to using them to for more awareness, increased reporting and more non-Disabled allies.

Louise Holden, Hate Crime Partnership Project Manager at Inclusion London, 2020 www.inclusionlondon.org.uk

Chapter One – Executive summary

One in five Disabled people report they have either experienced hostile or threatening behaviour or even been attacked (Inclusion London, 2020).

This document charts the progress in the fight against disability hate crime in England over the last decade. Since the [Getting Away With Murder](#) report published in 2008, there have been many changes in the way disability hate crime is reported, investigated and prosecuted. However, just how much the conversation about disability hate crime has changed in 12 years is hard to say. In some ways, disability hate crime has been better quantified and qualified by the Police Service, the Crown Prosecution Service and the criminal justice system; in other places the debate still lacks the nuance wanted by many Disabled victims and Deaf and Disabled People's Organisations. Working partnerships on this issue have had to straddle a ground between the private experience

of victims and the public space of professionals. In extended conversations partners are adding nuances in language and addressing barriers culture in equal measure. These mirrors matters in society more widely, where a tension exists between those seeking to define disability hate crime more accurately, those not yet able to recognise it, and a significant population for whom the words hold little currency. Despite growing evidence, the true extent of the problem remains largely hidden from public view on a shared landscape where Back in 2008, the phrase ‘disability hate crime’ would have hung in the air, barely eliciting a response in conversations about justice, one better recognised across wider public spaces. Today, disability hate crime is understood as violence that equates to hostility motivated by race and ethnicity, religion and belief, sexual orientation, or transgender identity (Crown Prosecution Service, 2018). However, more widely across society, few words convey its pervasiveness as a community responsibility, let alone a national and global human rights issue. The good news seems to be that ideas barely spoken of a decade ago are slowly gaining traction in conversations increasingly relevant to the world in which we live. This report looks at whether there has been a positive response to the following recommendations in the Getting Away with Murder report:

- Tackle disablist attitudes and behaviours as soon as they start
- Eliminate casual and institutional disablism
- Ensure Disabled people have equal access to justice

- Empower Disabled people and their organisations to co-produce effective responses to hate crime with statutory agencies
- Improve data collection and research into the prevalence of disability hate crime.


(Quarmby K. Scope, 2008, pp. 59-62)

From the perspective of the many partnerships working hard to raise awareness and further action against disability hate crime, this report examines ways in which the knowledge has changed for professionals in the criminal justice system. The following examines disability hate crime as a recognisable harm that is prevalent and weighty, by investigating the reasons behind its low profile and prosecution rates by articulating the consequences for the Disabled population more widely. As the Equality and Human Rights Commission 'Report Hidden in Plain Sight' (2011) identifies major gaps in the gathering of evidence across sectors, is no doubt due to institutional discrimination (disablism) and societal oppression (ableism) that hides its scale within the landscape.

Chapter Two - Introduction

The characteristics of disability hate crime

Since the 2008 publication of *Getting Away with Murder*, the following activity has been evident in the area of disability hate crime. The Crown Prosecution Service (CPS) began to develop an action plan in response to the EHRC report, *Hidden in Plain Sight* (2011). The National Police Chiefs' Council (NPCC, formerly the Association of Chief Police Officers) has adopted a definition of hate crime, and crimes monitored by the criminal justice system now include this in their hate crime manuals and guidance (2005, 2014). The government has published four hate crime action



If words used included the definitions for disablism and ableism, as used in Disability Studies, they might also articulate intersectionality more clearly . With more explicit terms to name the multiple aspects of disability hate crime, it becomes far easier to identify it within a cultural pattern.

plans, and disability hate crime featured in keynote speeches by both the Attorney General and the Director of Public Prosecutions in late 2008. These publications included a report charting the criminal justice system's failure to respond appropriately to disability hate crimes, including murders (Scope, 2008). A turning point was the report by the Independent Police Complaints Commission (IPCC), an inquiry into the deaths of a mother and her Disabled daughter in Leicestershire (IPCC, 2011).

By definition, disability hate crime is an extreme articulation of prejudice, and adds to the disadvantage already caused by social inequalities endured by the Disabled population every day. Therefore, disability hate crime needs to be viewed as any criminal offence that is motivated by dis/ableism – the hostility based upon a victim's difference or a perceived identity. The literature articulates that hate as a reaction to a belief in the negative stereotypes perpetuated by media in our society. Therefore, harassment may also be dealt with as hate crime or hate incidents (Bryant, Watson, & Philo, 2011; Burch, 2018). As we have seen, disability hate crime can take many forms, including physical attack, threat of attack, verbal abuse, harassment, graffiti, bullying, vandalism, malicious complaints, kidnap, rape, torture and murder (Quarmby K, 2011; Ryan, 2019). More forms appear with the development of new technologies, which means new challenges to tackle the manifestation of disability hate crime that now includes a rise in institutional crime and online crime (HM Government, 2014).

Growing evidence suggests that there are several reasons why disability hate crime is not easily recognised. It may be that these crimes are sometimes different from other sorts of hate crime, and yet are often in the mix with race, religion, race and gender hate and can therefore be harder to study and understand (Taylor, 2019). While perpetrators may be motivated by a belief that Disabled people are ‘vulnerable’ or ‘easy targets’, many of them will not verbalise these thoughts. Unfortunately, this means that for hate to be challenged in the current legal framework, the victim’s identity tends to get qualified more readily than the perpetrator’s hostility or hatred (CPS, 2018). Crucially, what is reported by victims as disability hate crime is often the tip of an iceberg, incidents do not reflect the amount of abuse and pejorative language so common on transport and in the streets. Furthermore, to exploit a Disabled individual, a perpetrator might appear friendly and show no hostility whatsoever. This means professionals working for the Police and CPS will not necessarily find evidence of hostility: they can however still draw the court's attention to such targeting where it is identified. The Law Commission is currently reviewing this area of law with regard to the legal framework for hate crime. 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.

A decade of crime

With increasing media coverage, there is a growing conversation about disability hate crime, and the once-sparse research base now provides mounting and more detailed evidence (Taylor, 2019). As the research gains pace, the evidence has stimulated a more nuanced language describing the complexity of disability hate crime (Carr, et al., 2017). In addition, the literature now includes the voice of Disabled victims by taking their experience seriously. Recent work on transport, for example, has given more insight into the way space becomes a disputed territory where Disabled people can become victims (Wilkins, 2019). However, with the power of partnerships, joint work is leading to a more expansive terminology from that of a decade ago. Changes to the culture of society, and the language of institutions, are reflected in public policy, where previously, multi-agency silos typically silenced reality. Disability hate crime needs to be understood as day-to-day business, with the rise self-representative language leading change on a specific crime within a wider number of interrelated issues for communities (Taylor, 2019). Groups speaking on behalf of Disabled victims have gained a characteristic group voice that the criminal justice system has growing trust in, one it needs to nurture in order to respond with a more legitimate accountability to the Disabled population at large. In future conversations about disability hate crime, the criminal justice system

may need to state more clearly its awareness of the systemic failures and misrepresentations that drive human rights crimes in society.

More widely, research has been published by the Equality and Human Rights Commission (EHRC) into the targeted violence experienced by Disabled people (EHRC, 2009). A formal statutory inquiry by the EHRC was launched into disability related harassment in 2010 (Equality and Human Rights Commission, 2011a). In 2010, the Government issued its Equality Strategy which included a commitment to improve the recording of disability hate crimes (UK Government Equalities Office, 2010). Subsequently, some political parties have pledged to create specific disability-aggravated offences (Liam Byrne MP, Labour Party, September 2013). The CPS Disability Hate Crime Action Plan (2011/14) reported and recommended further work based on good practice identified. A Joint Thematic Inspection of Disability Hate Crime was published in 2013. The Crown Prosecution Service Disability Hate Crime Ten Point Plan (2014) introduced key measures including quality assurance checks, improved guidance and mandated training. The HMCPSI Management Report appeared in 2014, with the Joint Thematic Inspection of Disability Hate Crime and positive feedback following in 2018. The pledge to create a specific disability aggravated offence became the Labour Party's official position at the time of the 2015 general election (Taylor, 2019).

Crown Prosecution Service events include:

- CPS National Scrutiny Panel on Disability Hate Crime (2014)
- CPS National Scrutiny Panel Disability Hate Crime x2 (2015)
- CPS Disability Hate Crime and other crimes against disabled people policy statement (2017)
- CPS Disability Hate Crime mandated training for all prosecutors (2015)
- CPS Support for disabled victim and witnesses of crime - Easy Read (2016)
- CPS What is Hate Crime and what to do about it - Easy Read (2016)
- CPS How to support victims of hate crime - Easy Read (2016)

For the Disabled population disability hate crime is a common experience, and many are frustrated that it is not more widely understood, with some individuals feeling that professionals do not take their reports of abuse seriously. Much progress has been achieved by professionals across networks working together on in these issues, yet Disabled victims often feel they face additional barriers to justice because of the specific institutional and societal discrimination they face is not acknowledged. In addition to the pain of crime, the pressure is on the Disabled victims to navigate institutional warrens in order to get access to adequate help, support and justice Where hard work and campaigning has changed people's understanding, with the growth and prominence of the Deaf and Disabled People's Organisation, recognition has raised in a voice against the crime in the United Kingdom. Increasingly, disability hate crime has become a human rights abuse concern, and slowly the language used to describe its complexity is

emerging. Definitions are now more explicit and help frame Disabled victims as recipients of crime within a context of broader disadvantage. The move away from describing Disabled people as vulnerable is still far from being well articulated within the criminal justice system. Perhaps because disability hate crime takes so many different forms, it is hard to identify when harassment becomes violence. In addition, for many this abuse is still understood as the problem of a few Disabled individuals, rather than a sizeable concern for many community members within local populations. Because the nature of violence against Disabled people can be physical, emotional, financial, psychological, sexual, neglectful and institutional, incidents of disability hate crimes can often be viewed as one-off incidents, and the issue of perceived vulnerability makes it far harder for professionals to see abuse that is perpetrated by friends and family. Now given the label of 'cuckooing', examples of insidious 'mate' crimes, is violence that goes on inside the home demand extended definitions.

Ideally, to express the full character of these dimensions, and to align and extend definitions more critically, disability hate crimes need to be more clearly articulated across the entire public sector. Dimensions could be similar to the cases of certain 'red flag' incidents, which are now understood and used to identify coercive control in cases of violence against women for example. Action against disability hate crime must be viewed as a human rights imperative, with its small acts of

denigration following a pattern, which can lead to sustained violence and even to murder.

Hate crime from a disability perspective

Like many academic disciplines, theory may not solve societal issues but can help frame them in ways that illustrate the interests of marginalised groups. Using theory, built in the communality of Disabled people's experience, it is the voice of an identifiable section of the civil rights movement. Here Disability Studies gives us the tools to challenge the institutional discrimination and societal inequality Disabled people face in a specific way. Theory, or the tools for change as they were first intended, in the medical model and social model of disability help frame issues of disability hate crime discussed in this document – and across Partnerships. In addition, after decades of activism in this area, Disabled people's voices are still perceived as too few to be trusted as the voice of serious public concern (Simmonds, Burke, Ahearn, & Kousoulis, 2018).

From a historical perspective the harm imposed on the Disabled population have a longstanding legacy. Research offers that these centuries of mistrust and fear of those seen as significantly 'different' from others. Imposed segregation during/after the Industrial Revolution, within asylums built to keep Disabled people away from society can be equated to early forms of institutional discrimination. Furthermore, 1920s eugenics theory from USA - sought active destruction of 'imperfect' individuals. This societal injustice, the roots of medical model

of disability, meant that disability issues became the territory of the professionals, as it frames individual difference as problematic deficits that deserve care and treatment. Framed that way Disabled people, here Disablism victims, becomes 'cases' often seen as best managed by experts in paid roles. This has been identified as a cost to society, primarily for those in long-term institutionalisation, but far more widely for those isolate at home and frequenting 'special' centres, where care is the priority, rather than freedom, rights or dignity.

Strength in numbers

In 1970s, The Union of the Physically Impaired Against Segregation argued that disability is created not by medical conditions but by social factors, thus highlighting the social causes of discrimination and exclusion (the 'social model'). The social model of disability, a shorthand for disability politics, seeks to spread understanding that Disabled people are equally able to participate in society as non-disabled individuals, and to promote inclusion. The social model of disability as a tool empowers Disabled people, shifting attention from individuals and impairments to the ways in which society includes or excludes people. It frames Disabled victims as not 'at fault' while society is 'at fault' for not including them. The framing is crucial to the disability movement in the UK in establishing political commitment to removing disabling barriers in society. It remedies the fact that the voice of Disabled individuals has been denied, and particularly the experience of those most marginalised are those with learning difficulties, people with lived experience of

mental distress and trauma and severe or acute pain (Shakespeare, T. 2006).

A tiered oppression

Not having words to define the systemic discrimination and more widespread inequality Disabled people face, diminishes the likelihood that professionals will frame disability hate crime as the result of a characteristic oppression. As racism and sexism help frame crimes against women and Black people, disablism and ableism need to frame crimes against Disabled victims. Allies within the criminal justice system do best when disablism is acknowledged clearly as racism, sexism, or homophobia etc. Naming the drivers of crime may help Disabled people feel heard, and more specifically here, help Disabled victims feel understood. When professionals do acknowledge that language and culture contribute to negative stereotypes, it more clearly places the matters discussed below within contemporary ideas that emphasise 'normal' as physical 'perfection'. The language of anti-disablism, or 'respectful' language, may be more effective than current vague euphemisms or miss-aligned political correctness. Clearly naming different levels of oppression as victimisation or disability hate crime: atypical behaviour extended towards a Disabled person, negative attitudes towards Disabled people, often fuelled by a prejudice that is based on unchallenged assumption or unconscious bias; Systemic or institutional discrimination: unfair disadvantage created by ways of working and/or internal barriers that lead to on-going hindrance or restricted opportunity for Disabled people; Social inequality: local,

cultural or organisational stories and/or representation Disabled people that feed assumptions mentioned above. These are generally so widespread they escape direct notice - also known as social narratives.

Institutional definitions and reporting

Evolving definitions have been a major hurdle in quantifying disability hate crime: to count it, you have to name it. Training is not always extended equitably within professional services, and for many it is a struggle to keep abreast of changing legislation and the nuanced semantics that often precede changes in vocabulary. Without the words to articulate the subtleties of crimes against the Disabled population, it is hard to identify, prosecute or sentence them appropriately.

Fundamentally, without working with representatives of victims' groups and activists, the more nuanced language that enables a shift in attitudes is absent. Even 'at the centre of any programme designed to ensure equality for disabled people' (Patel, 2018, p. 21) and across agencies, the lack of terminology for highlighting complex and interconnected aspects of disability hate crime has reduced the likelihood of intervention and prevention. More seriously, there is no fluency: those trained still fail to act on theory in practice (Wood, 2017).

There are substantial gaps in the evidence used to inform discussions about disability hate crime. The Hidden in Plain Sight report states that gaps in data seem to mirror the areas of interest raised by the Disabled people's movement with its origins in a fight for Independent Living.

Current statistics still fail to quantify the extent to which the Disabled population are harassed or harmed within the wider communities of transport, education, housing, health service, police service, courts, and prisons (Equality and Human Rights Commission, 2011). This suggests that despite a rise in awareness, and after almost half a century of fighting for equality, the interests of the Disabled people's movement are only partially acknowledged. Since April 2008, all police services have been required to collect, standardise and report disability hate crime. Police records provide information about the number of such crimes that are reported. But unfortunately, the number of people who experience disability-related harassment may be considerably higher.

Harassment itself may need to be better defined as a hate crime or a hate incident; as the Equality and Human Rights Commission, goes further than the criminal justice system to state that a disability hate incident is:

'...Any non-crime incident which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a person's disability or perceived disability. ...'

(Equality and Human Rights Commission, 2011, p. 22)

The Disability Discrimination Act of 2005 was replaced by the Equality Act 2010. And while some of the characteristics of disability-related discrimination nuance was lost, the Act now provides a single legal framework with clear intent to tackle the disadvantage and

discrimination faced by the Disabled population. The Equality Act addresses nine specific types of discrimination whereby individuals may be treated unfairly and disadvantaged when compared with non-Disabled people. The Act states:

'... You can be discriminated against:

- *Directly - if you are treated less favourably than others*

Discrimination arising from your disability – Such as if you are disciplined because you need to take more time off work than your colleagues to attend medical appointments

- *Indirectly – if an employer, college, venue or organisation has rules or arrangements in place which put you at an unfair disadvantage as a Disabled person*
- *If you are being harassed*
- *If you are being victimised because you have complained about how you or someone else has been treated...'*
(Disability Rights UK, 2012)

There is duty, therefore, to promote disability equality within all public bodies including the police, transport, local authorities and schools. The Act imposes obligations to take positive steps to prevent disability-related harassment. Moreover, those public bodies with specific duties are required to involve Disabled people in the production of a written Disability Equality Scheme. Under the Public Sector Equality Duty, all public authorities are bound to have due regard to the need to eliminate discrimination, harassment and victimisation, and to foster good

relations between those who share a relevant protected characteristic and those who do not.

The Disability Confident scheme, a government initiative to encourage change within organisations, supports employers to make the most of the talents Disabled people can bring to the workplace. Through the scheme, many employers are:

- *challenging attitudes towards disability*
- *increasing understanding of disability*
- *removing barriers to Disabled people, and those with long-term health conditions*
- *ensuring that Disabled people have the opportunities to fulfil their potential and realise their aspirations...*

(Department for Work and Pensions, 2019)

As with all human rights issues, disability hate crime is an intersectional one, which therefore requires a careful framing in terms of individuals, groups and society. In all matters of diversity, problems arise from inequality and power within and between groups. In explicit terms, Disabled people talk about facing layers of abuse, which can include racism, sexism, homophobia and religious intolerance; therefore, discrimination or abuse is not singularly based on disability, but multiple identities assumed within neighbours, family, colleagues, practitioner networks and in society (Carr et al, 2019).

When ‘disability’ as a label is added to the existing list of administration criteria, without thought to the complexity of its definition as a hate crime, the ensuing oversimplification can lead to two major drawbacks. Firstly, notions of intersectionality disappear, with Disabled people perceived as a separate group – rather than viewed as one person in ten of all other members of groups classified as having ‘protected’ characteristics under law. Secondly, if listed last – in a document say – the hierarchy of place thus created suggests a subordinate position rather than a distinct and positive identity within all populations. These assumptions often reinforce the stereotype that Disabled people are ‘a few extras’, rather than a world majority within all communities. This example of silencing within both policy and society is not uncommon: it is rooted in the power of storytelling which distorts the articulation of hate crime by erasing the unique characteristics of disablism (Taylor, 2019). This is why intersectionality is so important, and needs far better articulation in places where many can fail to speak beyond their privilege. For where disability hate crime is considered, conversations need to recognise that identity is not a binary continuum, but a multi-dimensional AND a multi-faceted juxtaposition of personal and public storytelling. Research on these matters has suggested that stepping away from the term ‘institutional discrimination’ used in the McPherson enquiry, the Equality and Human Rights Commission may have drawn a veil over the institutional disadvantage imposed on Disabled individuals. This single example of a textual silence is deeply rooted in far wider issue in society’s storytelling. However, it affects the articulation of hate crime as it hinders the highlighting of the unique bias faced by the

Disabled population, by hiding the characteristics of disablism rather than articulating them more succinctly in a distinct definition of disability hate crime as a distinct category (Taylor, 2019).

Within the criminal justice system

A wide range of criminal offences are committed against Disabled people including assaults, criminal damage, public order offences, sexual offences and murder. There are no specific aggravated offences related to disability and no offence of incitement to disability hatred. However, judges may impose increased sentences for offences proven to be motivated by hostility. In addition, under the European Convention on Human Rights, the police and courts as public authorities, are bound to comply with the Convention when carrying out public functions. The Human Rights Act 1998 made the rights and freedoms guaranteed under the European Convention on Human Rights enforceable in British courts. As a result, individuals can take human rights cases in domestic courts rather than having to appeal to the European Court of Human Rights. All public authorities must ensure that any action they take is compatible with European Convention rights, unless an Act of Parliament prevents them from doing so.

Under the United Nations Convention on the Rights of Persons with Disabilities, a number of the Convention's articles are of relevance to harassment, particularly Article 16 which covers freedom from exploitation, violence and abuse. This means the UK Government is required to take a wide range of measures to prevent all forms of

exploitation, violence or abuse against Disabled people. Whether within or outside the home, there is a duty to investigate and prosecute those responsible. These obligations extend from government through to other public authorities in Britain. The Autism Act 2009, implemented during the course of the Hidden In Plain Sight inquiry (Equality and Human Rights Commission, 2011), recognised the importance of addressing the specific requirements of adults with autism, when preventing disability-related harassment. The first ever impairment-specific law in England, the Autism Act accomplished two key things. The first was to place a duty on the Government to produce a strategy for adults with autism (March 2010). The second gave the Government a duty to produce statutory guidance for local councils and health bodies and obliged these bodies to implement an adult autism strategy by December 2010. This Act, strategy and the statutory guidance relates only to adults with autism and living in England.

In the life cycle of a hate crime, the drop in the rate between reporting and sentencing seems disproportionately large at 4%; this drop-off from incident to uplift can be viewed as a 'justice gap'. It does not represent the conviction rate for hate crime, but rather it is an estimate of how many hate crimes may be 'dropping out' of the system.

Taking the data altogether, we can see that out of an approximate 110,160 reported hate crimes each year, just 4,342 offences (4%) resulted in conviction and a declared sentence uplift based on identity-

based hostility. It is this number that represents the “justice gap” for hate crime’ (Walters et al, 2017, p. 65).

This does not tell us the reasons why, and there are likely to be a myriad of explanations. They may include: ‘issues relating to the way in which incidents are reported to the police; the quality of evidence available to officers; recording practices and investigation procedures; the systems used to determine charge and decision to prosecute... factors affecting jury decision making; sentencing practices’ (Walters et al, 2017, p. 66). As Walters et al suggest, the motivation hostility element pertaining to disability hate is a major barrier. Therefore, a ‘by reason’ test would be more useful in bringing perpetrators to court. They argue that the motivation test is rarely (if ever) used and where it is applied it is often unsuccessful, because proving a motive of hostility involves the identification of a victim’s perceived vulnerability – or presumed “difference”. Thus, the targeting of individuals who are “different”, and based on the perception that these individuals’ difference makes them innately weak or an “easy target”, is a form of prejudice and hostility in and of itself. Despite numerous guidance documents, training programmes, criminal justice reports and academic studies explaining that this is the case, legal practitioners and jurors continue to reject such cases as providing sufficient evidence of “hostility”. It is, as one practitioner pointed out, like fitting “a square peg into a round hole” (Interview CPS 20). We are not confident that further guidance or training on this matter will be sufficient to challenge the huge justice gap that exists for hate crime – that which especially affects victims of

disability hate crime. Legal amendments to the model of hate crime are therefore required if the CJS is to finally get to grips with effectively addressing all forms of hate crime equitably. Such reform would necessitate major changes to the structure of current hate crime legislation.

Mob behaviour, name-calling and intimidation continue and new ways of sharing crimes online and via phones often protect perpetrators, compounding the difficulty in preventing and prosecuting crime and allowing for victims to be blamed...disability hate crime is often viewed as the fault of the Disabled individual.



Chapter Three – Emerging conversations

Disabled people frequently report that they feel intimidated, threatened and shamed in public spaces. This indicates that what the public assume about them is a factor in the crimes committed against them. Disabled people say they are regularly mocked, taunted, robbed, assaulted and harassed, that their homes and cars are attacked and damaged, in their homes, workplaces and in their communities. In some cases, incidents develop into more sinister and serious crimes of financial exploitation, sexual abuse, radicalisation, county lines (drug smuggling), intimidation, kidnap, rape, torture and murder. The motivation behind the violence is not always clear, and in-depth training is vital to sensitise workers to the hallmarks of disability hate crime. All too often, incidents are not investigated, prosecuted or sentenced as disability hate crimes (Disability Rights UK, 2018).

In its Crime and disabled people: Measures of disability-related harassment 2016 update, the Equality and Human Rights Commission draws attention to the difficulty in identifying whether disability hate crime has fallen despite an overall fall in hate crime over the past decade: this is because in England and Wales, more Disabled than non-disabled people in every age group had experienced crime in the 12 months preceding the report (Equality and Human Rights Commission, 2016, p. v). However, more recently, the CPS says in its Hate Crime

Annual Report 2017–18 that substantial progress in raising awareness of disability hate crime has improved the number of cases with recorded and announced sentence uplifts. It also praised the work of the hate crime coordinators, and describes CPS decision-making as “excellent” (CPS, 2018). Yet, disability hate crime also seems to have spread to many areas of Disabled people’s lives, with a 33% increase in 2019 recorded in online crime being the tip of a rather large iceberg (Leonard Cheshire, 2019).

Numerous factors are at play here. Too little nuance in terminology, confused language, silo thinking and practice, and inconclusive evidence, all hide patterns in crimes that are by no means one-off incidents. A great deal of research may still yet be required to quantify the high number of victims and the severity of harm they suffer. The following points relate directly to the recommendations contained in *Getting Away with Murder*.

Hidden and widespread

One in five people had experienced a violent assault; a third were victims of personal crime and a quarter were victims of a household crime. (Pettitt, et al., 2013)

While media reports often stress that the rise in disability hate crime statistics are open to interpretation, with 8,256 disability hate crimes

were recorded by police in 2018/19 (Home Office, 2019). By contrast, organisations who speak and work towards greater rights of the Disabled population estimate this number as close to 70,000 (Dimensions, 2019). The term 'hate crime' is itself a barrier to understanding and recognising the disability-related characteristics of a particular act. 'Hate' is a powerful and emotive word and many people find it difficult to relate it to Disabled people. While emphasising that evidence suggests that efforts are being made within and beyond the criminal justice system to improve prevention, monitoring, investigation and prosecution; Disabled victims' still state that their experience of abuse feels far more common and widespread than the existing figures suggest. Deaf and Disabled people's organisations have helped highlight the understanding that disability hate crime is rooted in contempt, rather than in fear. Prejudice against Disabled people is rooted in an acceptance that certain stereotypes generally go unnoticed: negative stories, misrepresentation and imagery contributes to the negative way Disabled people are viewed (Stone & Priestley, 1996; Chapman, 2011). Mob behaviour, name-calling and intimidation continue and new ways of sharing crimes online and via phones often protect perpetrators, compounding the difficulty in preventing and prosecuting crime and allowing for victims to be blamed – for example, for not keeping safe. Thus, disability hate crime is often viewed as the fault of the Disabled individual.

Feeling victimised by successive attacks depletes Disabled people's sense of safety and has a growing impact on their wellbeing and health.

In this long-view disability hate crime is not solely a fear of others, but a fear of being in a public space. Disabled people's sense of shame and self-blame is reinforced by a continual sense of dread. It is a vicious circle: as they avoid the places and people who help them feel strong, they lose opportunities for resilience and empowerment. In addition to the victimisation in secluded but public spaces discussed above, a crime recently identified as institutionalised abuse, relates to the 'care' facilities often imposed on Disabled people receiving support. Segregation is often offered to people entitled to support under the pretext of efficiency, and professional paternalism: "We think it's best for them" (Equality and Human Rights Commission, 2011, p. 12). In the name of austerity, an earlier step forward in the movement for independent living has been severely eroded by political party ideology. Local authorities are once again using cheaper, segregated accommodation, to satisfy a call for cheaper service provision driven by budget cuts. Housing people with complex requirements in facilities however infringes their human rights. Furthermore, it offers perpetrators opportunity, as demonstrated by the crimes at Winterbourne View care home in 2011, Mendip House in 2017 and Whorlton Hall in 2019. These are institutional units for people with learning difficulties and autism, but when liberty and protection are removed, people can become an easy target for violent treatment and abuse. In the case of Whorlton Hall, the unit was closed and 16 of 85 staff were suspended following a Panorama programme after abuse was reported to the Durham police (The Independent, 2019).

Trust and testimony

To eliminate the prejudice, institutional disablism and societal inequality that puts Disabled people at a disadvantage their experience needs to be heard and accepted. Yet, an absence of first-hand experience – the voice of Disabled victims – was certainly an obstacle to articulating disability hate crime over a decade ago. It is hard to define and qualify a crime without talking to those who have survived it. Furthermore, how can its prevalence be quantified when personal accounts are dismissed? Lack of trust in the voice of victims, viewed as unreliable, adds to the issues of terminology. Viewing Disabled people as vulnerable individuals, thus remains a barrier to articulating the motivation of perpetrators within institutions that marginalise Disabled people, and within a national context that has been said to demonise the Disabled population (Quarmby, 2011; Ryan, 2019; Chapman, 2020). The framing is critical to stating the wider impact of silencing Disabled people as part of the abuse. The documented paucity in training – and therefore in professional insight - particularly at higher levels in the criminal justice system, no doubt helps professionals leave their mistrust of Disabled victim's testimony unquestioned, for why would you ask about what you cannot see? (Tameside Adult Safeguarding Partnership, 2013; Taylor, 2019).

A human rights approach puts the duty on the institution to change, because it reduces the need for Disabled victims to fight to be believed, and makes change in professional attitude a matter of justice. Lack of trust is tied into attitudes, with the stereotypes and prejudice described

above linked to the negative experiences of reporting, and the tendency of Disabled people to report incidents to a third party rather than to the police. As Anne Novis MBE, Inclusion London's Chair, says on the Disability Hate Crime Network's website, seeing a particular Disabled people as a target should not alter the fact that the offender's attitude is still the greater issue. As a long-standing activist, she states: "It frustrates me immensely that in my work advising justice agencies, again and again the issue of 'vulnerability' becomes a stumbling block in the work on disability hate crime... Yet another hurdle to be overcome before we as Disabled people can rightly get the justice we deserve as fellow human beings" (Watson, 2020). The bias towards Disabled victims, the testimonial distrust, are institutional barriers in which disability hate crimes, like other forms of hate crime, are not viewed predominantly as motivated by contempt, hatred or hostility towards the Disabled population.

Unqualified and unmeasured

To ensure Disabled people have equal access to justice, education is both needed for those dealing with Disabled victims, so that in turn they can help victims make sense of the crime. Because, for a large number of Disabled people harassment is a part of everyday life, many come to accept aggression as inevitable and try to find ways of living with it as best they can. Harassment can take many forms. It ranges from name calling in the street, bullying at school and petty violence to full-on physical assault, theft, fraud, sexual exploitation, domestic violence and

damage to property. It can be perpetrated by strangers, but equally it can happen in the context of the family, friendships or relationships (Equality and Human Rights Commission, 2011). However, while aggression towards Disabled people has changed over the years, it shows little sign of going away. Its definition has evolved over the past two decades helping to articulate prejudice, disablism and ableism, and has become more sophisticated to express matters relating to individuals, groups and global justice (Kumari Campbell, 2019).

In qualifying the oppressive nature of aggression towards Disabled people, words used also lead to assumptions, in that they encourage a view of Disabled victims as needy. This has an impact therefore, on both victim and professional, and affects their ability to recognise and understand disability hate crime as motivated by hate. To those more familiar with violence against Disabled people, the patterns and motivation are easier to spot. The intent to befriend, isolate, shame, steal from, and exploit often come with offensive language and behaviour that degrades and dehumanises. Human vulnerability is deliberately targeted, with victims attacked or harassed by more than one attacker. The motivating factor remains a hostility and contempt for Disabled people, rooted in the view that the Disabled population is inferior.

Institutional failures

Despite the recognised qualities of human rights as universal, inalienable, and indivisible, Disabled people experience unequal access to justice. Disabled people often have negative experiences when reporting to agencies and therefore tend to report incidents to a third party rather than to the police. In addition, many professionals working with the public often fail to recognise disability hate crime. Even where training specifically addresses the issue, they frequently fail to recognise abuse, or to implement training recommendations in practice (Disability News Service, 2011, Wood, 2017).

Within many workplaces, in and around the criminal justice system, disability hate crime is rarely described as driven by culture. Yet, because the size and characteristics of both the group and the societal oppression which the Disabled population face, these dimensions need to be voiced more succinctly. While professionals continue to refer to the 'vulnerability' of Disabled people, 'disability' will be generally understood in terms of 'difference' rather than 'injustice'. Disability hate crimes need to be viewed as the wider end of a lethal wedge of harm, which, in the worst case scenario, places many Disabled people in an unprotected position when facing opportunistic perpetrators. In the media for example, the Disability News Service reported that a judge failed to treat the murder of a Disabled man, imprisoned and tortured to death by his killer, as a disability hate crime; this sheds light on the

flawed working practices that we would expect to ensure higher sentences for offences against Disabled people (Pring, 2017).

Lack of knowledge and co-production values

To help empower Disabled people and their organisations to co-produce effective responses to hate crime with statutory agencies specific change is required. There is a fundamental difference between training, focus groups and co-production when it comes to changing outcomes in terms of language and culture. Often blamed on the politically correct nature of some training, changing the words within documents does little to reflect an understanding of the tiered oppression cited above. Equally focus groups can only dis/agree with pre-planned options. Real choice relies on new options, those that change the bias within and beyond institutional knowledge bases. This may only have been achieved where Disabled people working with professionals have rewritten documents to change practice - sometimes entirely: significant changes in culture require far more than lip-service. As Hidden In Plain Sight states, society tends to exclude Disabled people from mainstream participation, which means their ideas are ignored in conversations about everyday life.

Many Disabled people still live in 'care' facilities, are educated in 'special' schools, and are marginalised in all sorts of daily activities within their localities. The criminal justice system is not alone in not accounting for the rights of Disabled population within its service: rarely is there segregated data illustrating the scale of discrimination.

Therefore, while disability hate crime is a matter of public interest that

goes far beyond the cases reaching court, and it is rarely visible. As the Equality and Human Rights Commission states:

‘Schools don’t know how many disabled pupils are bullied; local authorities and registered social landlords don’t know how many antisocial behaviour victims are disabled; health services don’t know how many assault victims are disabled; police don’t know how many victims of crime are disabled; the courts don’t know how many disabled victims have access to special measures, what proportion of offences against disabled victims result in conviction or how many of these offences result in a sentence uplift; and the prisons don’t know how many offenders are serving sentences for crimes motivated by hostility to disabled people’ (Equality and Human Rights Commission, 2011, p. 95)

As Chapter Seven articulates, significant changes have taken place in response to a call from partnerships within the criminal justice system. However, justice, transport, education, and housing have far more to do to address systemic discrimination and society’s inequality, to respond to the interests of Disabled people with legitimacy: the perception of disability hate crime as ‘an occasional problem for a few individuals’ remains all too prevalent. Precise changes in definitions of racism and sexism, for example, need also to extend to the characteristics of disablist and ableist motivation.

Multi-agency partnerships and cross-boundary communication

The drive to improve data collection and research into the prevalence of disability hate crime relies on trust in an exchange of ideas. A lack of shared language, equivalent reference documentation or common terms of reference have been highlighted in reviews as the failures of multi-agency working. When professionals do not easily share conversations about disability hate crime, they are likely to find it hard to work together. Many situations are complex and demand action by several teams – impossible to achieve where knowledge and insight are inadequate. The absence of fluency in qualifying the threat of disability hate crime also explains why such crimes are frequently ignored, where they may have been prevented. Disability hate crime does not exist in the minds of those who cannot speak its name. Much work is needed to extend vocabularies beyond institutional silos in order to broaden the visibility of disability hate crime on agency agendas.

This chapter has loosely followed questions raised in the 2008 Getting Away with Murder report. Under its six headings, it has sought to frame disability hate crime as a public concern with cultural and societal ramifications. Because of its hidden but widespread nature – a cultural blind spot for so many – both global and local representations of disability have impacted on the conversations within the criminal justice system in ways that affect the articulation of disability hate crime and

the way victims are treated. Since research suggests that Disabled people are targeted because of their identity, far more needs to be done to express the violence driven by the perpetrators' ignorance. While language has flourished within co-productive relationships between professionals and Disabled people's networks, research suggests it is still patchy and does not reach senior professionals. The following chapter sets out the size and scale of disability hate crime, articulating it as a matter of public interest and suggesting definitions for disablism and ableism in order to offer an insight into how disability hate crime differs from other types of hate crime.

Disablist attitudes are both deeply entrenched and often invisible, and being so commonplace, many will have failed to consider the implications.



Chapter Four – numbers and language

Alarming statistics

Being able to tackle attitudes and behaviours that cause harm to Disabled people as soon as they start depends hugely on the knowledge professional have of the situation they face. Since April 2008, the Police Service and the CPS have been required to standardise the collection and reporting of disability hate crime. The law was changed by the Criminal Justice Act 2003 but it only came into force in April 2005, to mean policy and data collection systems started only from that date. Hate crime on the grounds of race and sexual orientation had been established for over ten years at the point disability hate crime was added. The information provided by these bodies has improved since 2008, with a total of 5,342 disability hate crimes recorded in 2017-18 – a dramatic 33% rise on the 4,005 offences recorded in the previous year (Disability Rights UK, 2018). Despite this, the CPS has struggled to collect reliable data, and reports that where crimes include a disability element, they may have been incorrectly classified as disability hate crime (Crown Prosecution Service, 2018). 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. Disability hate crimes were more typically classified as motivated by racial or religious hatred, because these separate charges of hate crime were easier to monitor (Home Office/ Department of Health). There

appears to be an administrative difficulty in recording crime, such as theft motivated by hate, because the 'theft' data held by the police service does not register as disability hate crime, and hampers its quantification.

According to Equality and Human Rights Commission figures, Disabled people are four times more likely to be violently assaulted than non-Disabled people and almost twice as likely to be burgled. The Commission has also found that while Disabled people experience more crime – and far more fear of crime – they are much less likely to report crime. As Chapter One explains, this happens because they fear they will not be taken seriously as Disabled victims. More Disabled young people report having been victims of attacks than their non-Disabled peers; and people with episodes of mental ill-health and mobility difficulties experienced more crime than those with other differences (Coleman, Sykes, & Walker, 2016, p. 77).

More specifically in 'At Risk, Yet Dismissed: the criminal victimisation of people with mental health problems' report, Victim Support and Mind (the charity for better mental health) explain the experience of victims with lived experience of trauma and distress. It reported that they were likely to be significantly affected by incidents considered as motivated by their Disability. In addition, the report found that the types of crime most feared were hate crimes, crimes against the person and property crimes, because those interviewed had either experienced such crimes

personally or knew others who had. Notably, a large proportion of the focus group had been victims of crime and many had been repeat victims of verbal harassment, sexual abuse, assaults and burglary (Pettitt, et al., 2013).

The Hidden In Plain Sight report published by the Equality and Human Rights Commission states that within an estimated population of 10.1 million, approximately 1.9 million Disabled people were victims of crime in 2010, that is an estimated 35, 000 adults per year (Equality and Human Rights Commission, 2011). In England and Wales, ‘more Disabled than non-Disabled people in every age group had experienced any crime in the previous 12 months... Experience of any crime was higher overall for Disabled adults in the younger age groups’ (Equality and Human Rights Commission, 2016, p. v). Hate crime against Disabled people appears to be both common and widespread, and individuals within the Disabled population are far more likely to be victims of crime than non-disabled people (Home Office, 2019; Dimensions, 2019; CPS, 2018).

Definitions of disability hate crime contrast and share many concepts with other forms of hate crime. However, their characteristics are specific to the Disabled population as a marginalised group. In the No Secrets report, a consensus has emerged on disability hate crime identifying it as:

- physical abuse, including hitting, slapping, pushing, kicking, misuse of medication, restraint, or inappropriate sanctions;

- sexual abuse, including rape and sexual assault or sexual acts to which the vulnerable adult has not consented, or could not consent or was pressured into consenting;
- psychological abuse, including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks;
- financial or material abuse, including theft, fraud, exploitation, pressure in connection with wills, property or inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits;
- neglect and acts of omission, including ignoring medical or physical care needs, failure to provide access to appropriate health, social care or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating; and
- discriminatory abuse, including racist, sexist, that based on a person's disability, and other forms of harassment, slurs or similar treatment.

(Home Office / Department of Health, pp. 8-9).

While motivation is increasingly documented, the difficulty in detection had translated into low prosecution rates. The reality for Disabled individuals is that they may have experienced many incidents before escalation reaches a point of violence that can be dealt with by the criminal justice system. Because, it is unfortunately only in the increasing severity and frequency of incidents – sustained attacks, excessive violence; cruelty, humiliation, degrading treatment – that makes them matters for the police and the courts. For Disabled people, harassment

feels like a common experience, because it is often in the more private of public spaces that the crime happens, a factor that can screen disability hate crime from community scrutiny. For those actively set against disability hate crime, the assumption that it is a personal problem, is also part of the problem preventing its causes being stated a fully in law and practice.

How to report disability hate crime

Inclusion London advise the following on their webpage:

“Call 999 if you or someone else is in immediate danger, or emergency 999 SMS text service for Deaf people or people who have difficulty with speech. If you cannot make voice calls, you can contact the 999 emergency services by SMS text from your mobile phone. Emergency SMS is part of the standard 999 service which has been designed specifically for people with hearing loss or people who have difficulty with speech, including people with asthma.

You will need to register your mobile phone before using the emergency SMS service. More information is available

at: <http://www.emergencysms.org.uk/>

If the crime is not an emergency, call 101 or contact your local police, third party reporting centre or specialist Hate Crime Service. It is common to not realise when an incident or crime is actually a hate crime, so please contact someone for advice if you are not sure.”

(Inclusion London, 2020)

Under reporting

The reporting of disability hate crime is an issue. There is a substantial gap between the amount of harassment that Disabled people experience, the amount that they report to the police and the amount that is recorded as disability-motivated. This suggests that the systems that should encourage Disabled people to report antisocial behaviour and hostility are inadequate (Equality and Human Rights Commission, 2011). Reporting is made particularly difficult for individuals within the Disabled population who do not identify as Disabled people. This is why the focus on victim identity is problematic, and where a focus a more nuanced qualification of the perpetrators' opportunity, community spaces and society's inequality – disablism and ableism – would be more empowering for victims (Equality and Human Rights Commission, 2011).

Consequences of not reporting

Not reporting disability hate crime has a serious consequence, particularly for those people who feel they cannot escape it. While the less violent incidents are often perceived as a part of life for those subjected to frequent abuse, a wider culture running through communities accepts that it is okay to harm people. This subtext is dangerous, and needs to be understood fully by professionals, as disability hate crime can grow in intensity. Disabled victims are often in circumstances difficult to escape. As the impact of this disadvantage is better understood, the causes of crime become more evident, and the issues is more easily framed as isolation, poverty, and lack of education

or self-esteem. Similarly, to domestic violence, for example, where coercive control is now viewed as a pattern of assault, threats, humiliation and intimidation used to harm, punish, or frighten a victim. It is time for disability hate crimes to be seen in the same way, not as one-off attacks against Disabled individuals but as an escalation of a pattern of events (Equality and Human Rights Commission, 2011).

Society and motivation

For those working in partnership, Disabled victims, criminal justice system professionals and Deaf and Disabled People's Organisations, the definitions that enable nuance are hugely important. This might be because their experience, professional knowledge and wisdom allow a view of the world framed in ways that too few have words for. For example, they will know that few Disabled people are untouched by crime, even if they describe the hate they have endured with difficulty. Those campaigning for Disabled victims' rights, often state that definitions of disability hate crime need to be far more nuanced to reflect the language of theory and research. If words used included the definitions for disablism and ableism, as used in Disability Studies, they might also articulate intersectionality more clearly. With more explicit terms to name the multiple aspects of disability hate crime, it becomes far easier to identify it within a cultural pattern. Because knowing why people are more likely to be viewed as vulnerable, pitiable, undeserving, needy and costly (i.e. the bias) highlights why the crimes they suffer are identified as disability-related. Looking for the distinct patterns behind damage to property, exploitation, theft and fraud, cyber-bullying and

cyber harassment, sexual violence and harassment, bullying, anti-social behaviour, domestic violence, physical violence and institutional abuse makes them more visible within the criminal justice system (Taylor, 2019). While the more typical wording of disability hate crime addresses the person-on-person aspect of disability hate crime, much more nuance is still needed to express the specific barriers that disadvantage Disabled people and to emphasise the harm caused by crimes that accentuate existing discrimination and inequality. The cultural aspects nature of adding disablism and ableism to definitions is reflected in the Equality and Human Rights Commission report (2011) definition as: ‘...unwanted, exploitative or abusive conduct against disabled people which has the purpose or effect of either: ...violating the dignity, safety, security or autonomy of the person experiencing it, or creating an intimidating, hostile, degrading or offensive environment’ (Equality and Human Rights Commission, 2011, p. 17).

The frequent use of the term ‘vulnerable’, relevant to this discussion, influenced how we see Disabled people as needy, and Disabled victims as failing to keep safe. Where texts use ‘vulnerable’ and ‘disabled’ interchangeably, it makes it more difficult for both professionals and victim to talk about identity and crime when it occurs. This is not helped by the media and social networks, where views about Disabled people are often polarised and personal boundaries are often ignored. When Disabled people are represented negatively, the interpretation can be made that disability hate crime is somehow their failure to stay safe. As so many of the reports already mentioned highlight, reinforcing the

‘vulnerable’ stereotype tends to make matters worse for Disabled victims. Viewing victims as needy, with its response of safeguarding, fails to frame Disabled victims as having had their rights to privacy, freedom, community and family life infringed. In this way some of the measures put in place to help Disabled victims might be making things worse by focusing on matters that do not clearly stress Disabled people's human rights (Equality and Human Rights Commission, 2011). Failing to voice the transgression as motivated hostility also fails to present perpetrators as the cause of disability hate crime. While aggravated sentencing for crimes against a disadvantaged group is welcome, but the frequently used definition of vulnerability remains both crude and misleading. Like everyone, Disabled people are vulnerable when they are under attack, but this vulnerability does not extend to every aspect of their lives. While crimes defined as ‘committed against vulnerable people’ can, under separate sentencing provisions, attract heavier sentences, the fault lies not with the individual’s identity nor their perceived group affiliation. The criminal justice system as a whole would benefit from a definition that moves from a victim descriptor to include why people are those targeted because of their age, background, gender, disability or simply the job they do.

Motivation for harm

It is not so much the words, but direction of change in language that is interesting in this context. In the past decade, there has been greater emphasis on articulating the motivation of a perpetrator. Motivation for harm is not always clear, but the scope of violence is increasing, since

much aggression share the characteristic of exploiting opportunity. Crimes include 'aggravated sexual offences, burglaries, robberies, theft and handling, fraud and forgery among Disability Hate Crimes, and in the lower levels of recorded public order offences' (Taylor, 2019, p. 109). It seems important to state that Disabled people frequently report that their 'difference' is a factor in the crimes committed against them. In addition, disadvantage created by societal inequality and the institutional creation of barriers to fairness impact negatively on Disabled people as a group and have been named as 'ableism' and 'disablism' (Kumari Campbell, 2019). The charity, Scope, defines disablism as a noun meaning 'discriminatory, oppressive or abusive behaviour arising from the belief that Disabled people are inferior to others' (Scope, 2020).

Disabled people seen as inferior

The perception of Disabled people as inhuman emerges from the analysis of crime against people with learning disabilities, which states: 'It's as though the perpetrators didn't think of their victims as human beings... It's hard to see the difference between what they did, and baiting dogs' (Simmonds, Burke, Ahearn, & Kousoulis, 2018, p. 10). Figures that suggest 50% of Disabled adults risk experiencing violence in any one year, and Disabled people are four times more likely to experience violence if they have a 'mental health condition' (Mikton C, 2014). These crime numbers also vary in the media: last year, the police service area with the highest number was West Yorkshire (818),

followed by Greater Manchester (464) (BBC News, 2019). Research found that the crimes involved the treatment of Disabled people as less than human and frequently degraded as though their lives do not matter (Simmonds, Burke, Ahearn, & Kousoulis, 2018). Furthermore, the impact of crime – being afraid of feeling fearful in public spaces – shows how seriously and deeply the impression of disability hate crime harms people. In other words, because of exposure to negative or unrealistic stereotypes, Disabled people view themselves as ‘deserving [sic] victims’ after episodes of sustained abuse. As Taylor describes, the mother who killed her Disabled daughter and herself in response to harassment was not only a tragedy, but a reaction to her belief in her own powerlessness. Such examples illustrate the devastating impact of ableism, particularly when faced with the failure of the agencies tasked to intervene (Taylor, 2019, p. 102).

Disability hate crime needs to be understood as crime that, if not explicitly encouraged, makes sense in the current national climate often understated in conversations within society more widely: there are cases in which there is no other reasonable explanation, other than that the perpetrator’s hostility was based on disability. The acknowledgment that the perpetrator perceives – rather than names – their victim as ‘Disabled’ is critical. The victim can therefore be understood as receiving dis/ableism, whether they identify as Disabled, or are labelled as ‘weak’ or ‘vulnerable’. The focus needs to rest on the motivation that drives the attack.

Common assumptions are misleading. For example, people with ‘severe mental illness’ are five times more likely to be victims of assault, and three times more likely to be a victim of household crime. Women are ten times more likely to be assaulted than men (Pettitt, et al., 2013). In research, a ‘survey supported this sense of people being targeted for their identity, where 37% felt the incident was motivated by their identity and 25% felt this was specifically because of their mental health status’ (Pettitt, et al., 2013). Research carried out by Mind Out also shows that many Disabled people do not realise what hate crime is and that despite experiencing it, few recognised their right to report it (Mind Out - LGBTQ Health Service cited in HM Government, 2014). This suggests that to respect the victim’s rights, the question as to whether the individual identifies as Disabled need not impede prosecution. Most relevant is the recognition that Disabled people may be in receipt of dis/ableism, which manifests as thoughtless language, institutional barriers, and cultural expectations that put them at a significant disadvantage compared to non-Disabled people.


Because nuance is essential in describing what drives the violence against Disabled people, the inadequacy in terminology has made it difficult to qualify disability hate crime. Without the word ‘ableism’ – the society and culture that misrepresents Disabled people – it is hard to see what motivates perpetrators. A number of surveys and studies have presented compelling evidence about Disabled people’s experience of crime, including hate crime (Leonard Cheshire, 2019; CPS, 2018; Equality

and Human Rights Commission, 2016; Equality and Human Rights Commission, 2016; Equality and Human Rights Commission, 2011). The reports universally suggest a significant gap between reported crime against Disabled people and their lived experience. Not all evidence presented to the public was carried out by organisations with a good experience of the accessibility issues involved in interviewing Disabled people. It seems that the more inclusive research carried out by specialists presents a far more detailed – and chilling – picture of crime against Disabled people. Rather than describing people who are all subject to a lack of typical protection within society, or a human rights approach to their safety, it is hate crime, and the fear of it, that runs like a thread throughout the reports. Thus, violence directed towards a Disabled person because they are ‘vulnerable’ is clearly cited as hate crime by the CPS. The meaning of disability hate crime has therefore been clear in disability studies, with the Disabled people’s movement and its allies working for decades on a clear articulation.

According to the Home Office, 2019 figures suggest trends are changing, with 8,256 disability hate crimes reported – a rise of 14%. This continues the upward trend in recent years, in which the number of hate crimes recorded by the police has more than doubled since 2012/13 (from 42,255 to 103,379 offences). While overall increases in hate crime may have been driven largely by improvements in crime recording by the police, there have been spikes in crime following specific events, such as the EU Referendum and the terrorist attacks in 2017 (Home Office, 2019).

Specifics: mate crime and cuckooing

Two aspects of disability hate crime differ from other hate crime strands. Firstly, violence against Disabled people can happen behind closed doors, in the private spaces of homes and in care facilities. Secondly, Disability Hate Crime can involve whole families or households, where relationships are abused to further perpetrators' other crimes (county lines and fraud, for example). This suggests that more needs to be done to help professionals find the crime, rather than wait until victims are in a position to understand what is happening to them and report it. As testimony suggests, a victim may not be able to get help, because they may not see themselves as being victimised: 'We have heard many horrific stories where people with learning disabilities did not realise they were victims of hate crime, particularly from people posing as 'friends'' (Simmonds, Burke, Ahearn, & Kousoulis, 2018, p.7).



Disabled people, however, still reports a sense that the harassment, hostility and abuse they face is largely disbelieved. Because wider issues normalise the way Disabled victims are treated by society

Chapter Five – Important voices

This chapter describes an ongoing lack of voice and reduced visibility that leaves Disabled people feeling they are further penalised within institutional settings such as the criminal justice system. Looking back over the last decade, work in this area has brought great change in the ways Disabled victims are treated. The Disabled population, however, still reports a sense that the harassment, hostility and abuse they face is largely disbelieved. Because wider issues normalise the way Disabled victims are treated by society, it is not the sole responsibility of the criminal justice system to make our communities safe. As the following chapter points out, responsibility falls on the public sector, with an equal duty on departments of education, transport, social care, housing, work and pensions to address institutional culture around the United Kingdom.

The way disability hate crime has been articulated in stories in the media helps highlight the issues of ongoing concern in the field. In the following paragraphs, the six themes in Chapter Two are reprised to illustrate more clearly how society storytelling presents Disabled victims. This in no way denies that the criminal justice system has moved on greatly on these issues, and efforts have been made to identify, investigate and prosecute disability hate crime. However, is a similar message reaching our communities and the Disabled people within them?

Everyday spotlight

The press presentation of the attack on Ms Laura Milne was a watershed moment for society (Taylor, 2019). And while the media coverage preceded the 2008 Getting Away with Murder report, its articulation in the following years is telling. As a story of mate crime, it sheds light on manifestations of violence that were previously seldom shared in the public sphere. The past ten years also highlight the difficulty for Police Services and the CPS to prove hostility based on ‘a disability or presumed disability’, because of the identification of presumption requires professional perception. Various news articles explain that despite being bullied, and in denial of her father’s fears, Ms Milne saw her attackers as friends. Furthermore, in a statement, Aberdeen City Council said that the perpetrators saw her as worthless because of her disability.

Widespread examples of occasional – sometimes casual – discrimination are very easy to find on social media, with personal stories telling of the various bad practices that equate to sexism and racism (I found five in a single lunchtime). Mr Michael Gilbert’s murder in 2011 illustrates that the results of cuckooing can be catastrophic. Its review records that members of the Watt family in Luton held him captive for 10 years in a home take-over. Mr Gilbert was regularly beaten, stabbed, tortured, treated like a slave and robbed of his benefits. He was murdered in 2009, his body dismembered and thrown into a lake. Following the trial, Mr Gilbert’s mother contacted the IPCC and alleged that three police

forces had failed to investigate incidents involving her son: an assault in Luton in 2002, abductions in Cambridgeshire in 2007 and again in Lancashire in 2008. This suggests his murder could have been prevented if police constabularies had communicated more clearly and intervened with greater insight on each occasion (Disability News Service, 2011).

Distrust and distance

Illustrating the issue of testimony, coverage of murder indicates that despite the repeated involvement of agencies, the voice of the victim is often not taken seriously enough to begin an investigation. It might be that victims are misunderstood, or not trusted, but in many cases, threats appear to have been underestimated. As an incident of mate crime, Mr Gilbert was killed by people he thought were friends. An independent Safeguarding Adults Review revealed that 14 agencies had been involved with the Mr Irving case. Furthermore, the specialist Disability News Service coverage suggests that the murder was not treated as a disability hate crime by the judge (Pring, 2017). It illustrates that people with certain difficulties are more likely to be victims, as in the case of Mr Irving (Wood, 2017). This echoes the institutional failures and multi-agency silos above, and shows how the professionals supporting Mr Irving should have been aware of the harm he lived with before his murder. The report suggests that clear indications of the threat he faced from people he lived with were not recognised or recorded (Wood, 2017).

As press stories exemplify, language contributes to the difficulty in identifying disability hate crime, especially when vocabulary is vague, undefined and euphemistic. ‘Bullying’ used to describe the attack by a group of teenagers on a Disabled woman in July 2018 as she sat on a bench. Their taunts and the throwing of flour bought nearby was posted on Snapchat, from where it was shared more widely by others. The East Anglian Daily Times states the attack was not treated by the courts as a disability hate crime. Despite a clear intent in purchasing the flour, and an initial guilty plea by perpetrators, the story ends with only one of the attackers facing trial (East Anglian Daily Times, 2019). This type of news story highlights how legal definitions, procedural terminology, and colloquial language can differ. From the Disabled People's Organisations’ perspective, it indicates a more generalised reluctance to use words that specifically identify ableism and disablism – the character of the prejudice and oppression faced by the Disabled population every day.

Generic and misjudged

Stories lose their edge as words are quoted or paraphrased. No doubt, writers unintentionally interpret storytelling in their own words, their personal meaning perhaps dropping elements they do not understand, or for which they have no lexicon. For example, in 2010 Philip Holmes was beaten and kicked to death in his flat. While police were initially said to have described the death as “unexplained”, a murder investigation began six days later and the prosecutors and North Wales Police flagged the case as a disability hate crime (BBC, 2010). The BBC quoted the CPS

description of a "vicious and senseless attack which took the life of an innocent man", and while the perpetrator's motivation can only be guessed at, it remains that Mr Mather abused Mr Holmes' situation. Prosecuting counsel drew attention to the fact that in interviews with police following his arrest, Mr Mather had shown hostility towards Disabled people: the court therefore accepted that the murder was motivated by hate (BBC news, 2010).

In another example, in 2010 Mr David Askew, a 64-year old gentleman with learning difficulties, was murdered by Mr Cottingham in a violent attack following prolonged abuse. The Guardian reported that the Independent Police Complaints Commission's (IPCC) investigation reveal that the taunting lasted over a decade before this, yet during the trial, the court was not made aware of the years of abuse and the victim's distress was ignored, so that the psychological and physical effects might also have been overlooked (Carter, 2010). According to an independent investigation final report on the Lemos & Crane website, the threats were described as a repeated pattern of thefts, assaults, harassment and other "anti-social" incidents in and around his family's home. Previously, the IPCC report had identified failures in recognising such hate crime indicators and in framing a response within the serious disadvantage of the Askew family circumstances (IPCC, 2011).

Mr Askew collapsed and died soon after police received reports that youths had repeatedly harassed him outside his home. The IPCC investigation into Greater Manchester Police's handling of the alleged

harassment reached similar conclusions: ‘a lack of consistent identification of, and response to, the vulnerability factors affecting the Askew family; a total failure to recognise and respond to the incidents as ‘hate crime’; an apparent lack of coordination and cohesive action between partner agencies; a lack of robust offender management’ (IPCC, 2011). A report by The Serious Case Review, commissioned by Tameside Adult Safeguarding Partnership, noted that human rights violations must be more clearly defined because abuse against Disabled victims often occurs in circumstances where it may not easily be recognised, not least because it takes many forms – physical, emotional, financial, psychological, sexual, neglect and institutional (Tameside Adult Safeguarding Partnership, 2013).

Multi-agency partnerships and boundaries

As explained above, the abuse known as ‘cuckooing’ sees perpetrators exploit the isolation of Disabled people to further their own crimes, particularly when the individual is left without adequate support. This has doubtless been made easier by wider policy changes made in the name of austerity. Successive cuts in social care budgets, with many councils have going back to institutionalisation, helps identify and isolate potential victims. Furthermore, with the return to care homes and assessment and treatment units, people with learning difficulties and autism are far more likely to be abused by perpetrators shielded from scrutiny (Simmonds, Burke, Ahearn, & Kousoulis, 2018).

A prime example is that of Whorlton Hall, an institution where staff taunted, provoked and scared people with support requirements. Institutional abuse was exposed with the death of Connor Sparrowhawk, for which the NHS Trust was fined £1,000,000, deeming the incident unnecessary and avoidable, and no-one listened to his mother's concerns. As Baroness Williams of Trafford states: "This report has brought to the fore the real-world impacts of hate crime on people with learning disabilities, their families and the wider community around them. It is saddening to hear about the level of social exclusion which many people with learning disabilities feel, and the objectionable behaviour of others who manipulate vulnerable individuals for their own ends" (Simmonds, Burke, Ahearn, & Kousoulis, 2018, p. 5). The volume of hate crime reported implies a need to further research the way hate crime is defined, and develop an understanding of the broader definition. We need to review the volume of hate crime experienced compared to reported crime. We have heard many horrific stories in which people with learning disabilities did not realise they were victims of hate crime, particularly from people posing as 'friends'. (Foundation for People with Learning Disabilities, 2018, p. 7). Addressing the full rights to which Disabled people are entitled seems key, to protect people no more vulnerable but unusually exposed to perpetrators. Furthermore, an approach from a community perspective fits with the literature on wellbeing, happiness and resilience. People well connected in terms of friends and family are safer, and more likely to be known in localities. On a wider scale research suggest inequality is a huge indication of where crime is likely (Wilkinson, 2005).

Internal documents, even those for public scrutiny, are influenced by the terminology of institutional working practice, administration protocols and distinctive wording. As the reports on the murder of Mr Askew illustrate, ‘taunting’ does not signal a death threat to readers unacquainted with the circumstances in which verbal abuse is a daily nightmare for Disabled people.

The government report, Action Against Hate – two years on suggests a move towards local services that enable better prevention, response, reporting, support and understanding of disability hate crime (HM Government, Oct 2018). Action will need to be strengthened by the Public Sector Equality Duty, under the Equalities Act 2020, because there is a duty placed on upon public bodies to eliminate discrimination, harassment and victimisation, by fostering good relations between groups and individuals with protected characteristics (HM Government, Oct 2018). Despite the Government’s own recommendation, there has been a systematic decline in funding for localised Deaf and Disabled People’s Organisations, in favour of national charities that are not led by Disabled people. The difference to Disabled people is one of power and agency; being provided for is part of the narrative of Disabled people being ‘needy’ and ‘vulnerable. Deaf & Disabled People’s Organisations have a proven track record within the Disability Rights Movement and provide a holistic solution to counter Disablism on multiple levels.

Identity and public perception

The idea that some people with conditions are perpetrators, not victims, persists across society, with a survey showing that people with episodes of 'mental illness' experienced high rates of crime, and were significantly more likely to be victims of crime than the general population. Mind's 'At risk, yet dismissed' report examined the risks of people having episodes of 'mental illness', and showed that contrary to popular perceptions, people with episodes of 'mental illness' are more likely than others to be victims of crime. The report goes on to state the issues 'are complex, and there is no one simple solution, nor can one particular agency alone resolve these issues' (Pettitt, et al., 2013, p. 11).

Victims with episodes of mental distress and trauma are up to four times more likely to be victimised by relatives or acquaintances than by strangers. In addition, 9% of victims with episodes of 'mental illness' described crimes in psychiatric inpatient settings.

(Pettitt, et al., 2013, p. 6)

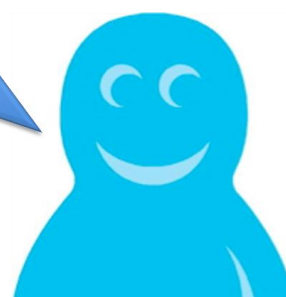
Many participants reported multi-factorial abuse and discrimination impacting on mental health, such as racism, sexism, homophobia and discrimination or abuse based on disability and gender identity from neighbours, family, colleagues, mental health practitioners and in society.

(Carr et al., 2019)

Nonetheless, 45% of people with 'severe mental illness' are victims of crimes in one year (Pettitt, et al., 2013). The lack of trust in Disabled people telling of their experience becomes more insidious when applied to people with episodes of mental trauma and distress. Some solutions are easier than others, but most of all it is important to listen, believe, validate and take action to empower victims and help them take steps to live more safely.

As the Foundation for People with Learning Disabilities states in its report, 'A Life Without Fear?', addressing the abuse of people in certain groups who are most often targeted is a significant priority. The report is also clear about the types of criminal abuse, which include fraud, violence and taking over people's property for the purposes of criminal activity such as drug dealing or prostitution. More refined analysis and the use of segregated data is essential to help qualify and understand the characteristic implications for people with different impairments. A pan-impairment approach could reveal more about why some Disabled people seem to be attacked more often and more severely than others.

**Institutional
discrimination helps
hide many crimes,
because the
opportunity is hidden
from public view...**



Chapter Six – Language and culture

This chapter explores language – more specifically, the way in which disability is talked about in society. Language defines the organisational cultures that influence professional assumptions. For example, where reports highlight ‘vulnerable individuals’, they suggest a negative assumption of Disabled victims as needy (Taylor, 2019). Thus terminology of the criminal justice system creates a culture in which Disabled people are seen as victims – and an inherent part of the problem. The assumption is that being targeted need not be challenged, nor articulated in a way that seeks to address the crime more succinctly. As Walters et al (2017) identify, the training of all CPS lawyers has helped to improve prosecution, presumably because professionals felt they had clearer terms with which to qualify the crimes against Disabled people they encountered.

A human rights approach

There has been a growing recognition that describing the Disabled population as a group is more helpful than having to draw attention to a victim’s identity. It interrupts the bias levelled at the victim, and focuses attention on the size of the population affected, not on perceptions of individuals as weak or needy. As demonstrated in the positive impact of the attitude-changing media campaigns, public consciousness is also important, particularly in the portrayal of people with a named condition (Equality and Human Rights Commission, 2011). A human

rights approach embraces the emphasis on disadvantage in the wellbeing of the Disabled population, so often denied support and freedom through poorly articulated safeguarding guidelines. While still recognising an individual's difference, the No Secrets Report talks of Disabled individuals as people with protected characteristics. Literature reviews indicate gaps in the research into prevention and highlight weaknesses in many studies, with fewer than 10 studies meeting their inclusion criteria, even when these are both deliberate and broad. (Mikton C, 2014). Disability hate crime is largely viewed as the problem of a few, with many Disabled people seen as putting themselves in danger. While on paper, Disabled people are described as victims, in common parlance they are perceived as defenceless.

Within a human rights approach perspective, prejudice, disablism and ableism refer to the personal, organisational and institutional oppression faced by Disabled people. This perspective explains why Disabled people are significantly disadvantaged in society: they have fewer qualifications, are less likely to be employed, have jobs, or access transport or leisure opportunities. A human rights approach refers to the way that storytelling in films, books and the media comprises tales in which Disabled people are at best, largely missing, and at worst, vilified (Ellis & Kent, 2016). In terms of participation, evidence suggests that for many Disabled people, social media tools remain inaccessible to some degree: Facebook, LinkedIn, Twitter, YouTube, and blogging websites all feature

limited accessibility, thereby placing barriers between the stories of Disabled people and the wider conversations about the world.

In policy and legislation, more specifically, Disabled people are described as vulnerable and needy, and as community members, individuals are often viewed as costly and unproductive and are shunned. Thus viewed as a cost to society within a consumerist culture, 'disablist hate speech may be underpinned by feelings of frustration and inequality in relation to financial instability' (Burch, 2018, p. 392). Sadly, all of this may explain a widespread belief that it is reasonable to treat Disabled people differently and to routinely deny them equal access to the participation that many take for granted. Unchallenged ideas like these help define a culture where disability hate crime can exist without being recognised or interrupted (Bryant, Watson, & Philo, 2011). Both ableism and disablism need stating powerfully in order to fully articulate the hate and violence to which Disabled people are subjected. The aim is to move further towards co-production, extending the vital the role of leadership to Disabled people, Disabled People's Organisation's and allies.

Disablist attitudes are both deeply entrenched and often invisible, and being so commonplace, many will have failed to consider the implications.

Articulating safe spaces and shared places

Led by research into disability hate crime on transport, there seems to be a growing understanding about the type of spaces in which it occurs. And while anecdotally, Disabled people report an unease in public areas, specific research into crime on public transport speaks to the targeting of Disabled victims in confined spaces (Wilkin, 2020). The Equality and Human Rights Commission report, *Disabled People's Experiences of Targeted Violence and Hostility* (EHRC, 2009), had previously indicated that hotspots of hostility were centred on public spaces where Disabled people's presence was resented – areas such as social housing, parks, malls, leisure facilities and educational institutions. As well as offering perpetrators a degree of privacy, enclosed spaces also enable attacks to be committed with a degree of passive acceptance from fewer onlookers. Evidence reveals that Disabled people feel afraid on public transport, and therefore stop using it to get out and about. This suggests that while it's assumed that public space is for all to enjoy, the experience of many suggests that even priority seating is often contested in an environment that may then be perceived as hostile (Wilkin, 2020).

Despite the Equality Act 2010, and a Public Sector Duty to protect the Disabled public from harm in working practice and in the wording of policies, research suggests far more needs to be done by the public sector to meet its obligations. At organisational and institutional levels, the link between disablism and ableism needs greater articulation in

print in order to lead and influence practice. While ableism may take decades to eradicate, professional bodies that fail to stand against it do nothing whatsoever to dismantle it. Disability hate crime is still largely a crime without words, one that is rarely spoken about in ways that place it as a human rights issue for all. Human rights dictate it is a matter of national concern, justice and public health, and foremost, that Disabled people are entitled to live crime-free. Euphemistically describing harassment and assault as bullying, and rape or torture as abuse, results in crimes against Disabled people being seen as fundamentally different to those experienced by other groups. Ignoring a call to verbalise discrimination and inequality only serves to set Disabled people apart and make them and their experiences 'other'. There is, therefore, an urgent need to clarify the vocabulary of disability hate crime as to articulate such crimes in terms that are familiar and understandable by all, and punished like any other.

Articulating trust in voice & stronger advocacy

It is not Disabled people who need to be more fluent about their experience, but it is a duty of professionals to articulate disablism and ableism in their work. Similarly, it is not up to black victims to educate professionals about racism: the onus is on professionals to advocate victims' rights. Professionals have a duty under the Equality Act 2010 to express its implications in language. Therefore, a more explicit terminology is needed within the criminal justice system to place Disabled individuals as recipients of crime, framed within the wider hostility of society in which Disabled people are negatively represented.

It may be easier to understand the motivation for someone's hatred in relation to wider assumptions about Disabled people, than to ask them to label or justify their identity.

Good practice begins by asking Disabled victims what wording they prefer to define their own experience, because their views on disability will vary. Responsible practice demands a professional fluency guided by an intersectional approach, and a knowledge of civil rights groups' interests more widely. In terms of the activism of the Disabled people's movement, as guided by the representatives of Deaf and Disabled People's Organisations, there is a terminology that articulates the interests, issues and concerns of the Disabled population and epitomises the voice of the group (Disabled storytellers) and its collective storytelling. For research, education and policy documents, disability studies also provide tools and ideas that will help define wording, with accountability towards Disabled people as a group receiving a characteristic oppression. The character of the prejudice, discrimination and inequality the Disabled population faces has recently been given its own terminology which is gaining currency despite lacking universal recognition. The micro aggressions Disabled people face daily are driven by the stereotypes found all around us on multiple media platforms. These consist of misrepresentations typically describing stereotypes such as lazy, smelly, nasty, feckless, undeserving and worthless (Stone & Priestley, 1996; Ryan, 2019). Phrases such as "what's wrong with you?", "why don't you get a job?" and "you don't need more money!" are common slights endured by Disabled people every day (Chapman, 2011).

The increasing use of 'Disabled victims' in preference to 'vulnerable individuals' would indicate more clearly the fault of perpetrators to abuse in places of opportunity. Such changes in wording encourage a move in the documentation towards a clearer terminology that articulates these issues. The disability hate crime knowledge-base needs further development to update and populate training programmes, upskilling professionals to recognise it, with a language to name it, call it out, and address the perpetrators whenever they emerge. At the moment it is still cloaked by many other complex taboos. There is also increasing evidence that specialist training at higher levels is needed within the criminal justice system, not least because of media coverage that presents Disabled victims negatively or erases the discrimination they face by focusing on other matters such as a victim's gender or race. Even if the intention is not planned, the disconnect between Disabled people's experiences of crime and what professionals feel is 'serious' may explain why much violence is dismissed as mere bullying. It is crucial that beliefs throughout the criminal justice system are challenged, so that all those who work in it are made aware of their prejudice and the discrimination in the system around them - more obviously ableist narratives (Patel, 2018). It is interesting to note that women and children often face a similar issue linked to the trustworthiness of their testimony. It is taking time for the term 'hate crime' to be 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 for society to start talking about the existence of such crimes exist and to take them seriously.

The CPS, for example, has chosen words that point to the perpetrators intent on a crime, their motivation, thereby facilitating a move away from the formerly implied victimhood. Prejudice in a perpetrator's intent, not the identity of the Disabled victim, helps clarify the idea that it is a crime of opportunity within a culture that ignores, vilifies or demonises Disabled people. More widely, there is a growing acknowledgement that Disabled people's human rights are denied, which offers perpetrators of violence spaces where crimes can be committed (Roulstone, 2019). Disabled victims will benefit from knowledgeable advocates, particularly those who can articulate nuance without causing offence. This would help make their treatment fairer when seeking justice. Disability hate crime can look different from religious intolerance or racist crime, but this does not mean it is not also motivated by hostility and hate. Much can be learned from the role of Independent Domestic Violence Advisors in the way the police and judiciary have begun to tackle physical and sexual violence against women, especially in establishing what motivates hostility. Offences can be aggravated (and therefore sentences lengthened) if a 'vulnerable victim' is 'deliberately targeted'. For example, as part of Inclusion London's Hate Crime Partnership, in 2020 Choice in Hackney, a DDPO with many years of Hate Crime Advocate experience is initiating a first of

its kind training module in hate crime advocacy leading to a recognised qualification. This is an excellent example of Disabled people leading on innovation around support Disabled victims of hate crime.

Articulating scale and patterns of escalation

It seems that still more fluency is needed to describe the sheer scale of the discrimination facing the Disabled population in order to put disability hate crime in the context of community life. While for the large part, minor aggressions largely go unnoticed, they need to be seen by those in the criminal justice system as normalising the more aggressive episodes that end up in the system, and ensure that no aspect of its character goes unnoticed. That way, disability hate crime, which can seem trivial to many, will become far more prominent in the minds of us all. Fundamentally, the message needs to be that disability hate crime is a significant part of life experience for many Disabled people, and that – while many professionals still find this hard to believe – it is their perspective that must change by acknowledging that experience. Indeed, across many institutional settings, people need to understand that the entire Disabled population are often subjected to derision and mockery, and the fact that this facilitates greater abuse of some is newsworthy.

From micro-aggression to full on attack, the regularity of the former hides what fuels the latter – an omnipresent and toxic culture in which people only react to the most shocking attacks and murder. Sadly, Disabled people still say that the initial response to "I've been hurt!" is

most often "You must be joking?". It seems violence against Disabled people is still seen as mere bullying, thus less severe attacks are normalised as a personal matter, perhaps between acquaintances, rather than a national problem with a public health cost. Most importantly, while experienced as a bombardment of micro aggressions that may seem inconsequential, disability hate crime means living a nightmare for those who endure it. Long term, the impact seems cumulative: weeks of low-blows can change a Disabled individual's life into isolation and fear. As explained previously, fear is a daily experience for the many who then avoid public spaces. In a vicious cycle, victims avoid the life-affirming habits that help relationships flourish and reduce any sense of exposure. Thankfully, quantification and qualification is increasingly revealing the scale of the problem. Even so, too few attackers are treated as perpetrators of disability hate crimes since the offence is as yet unrecognised in law, although its naming in sentencing has led to stricter penalties.

Articulating society's blinkers

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. Addressing the implications of the use of ‘special’, as in ‘special measures’ for example, fears were also expressed about the language, with some arguing that the name ‘equalising measures’ would be more appropriate. As one victim says:

‘They’re not special measures; they’re making my ability to give evidence the same as yours. That’s what it’s about, and the system doesn’t see it that way.’

(Equality and Human Rights Commission, 2011, p. 170)

Institutional discrimination helps hide many crimes, because the opportunity is hidden from public view, and much abuse is still not identified as prosecutable offences. As a society, we have largely accepted that hate crime is unacceptable, BUT we have yet to consider fully how unfairly Disabled people are treated within the criminal justice system.

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 Rights, 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.”

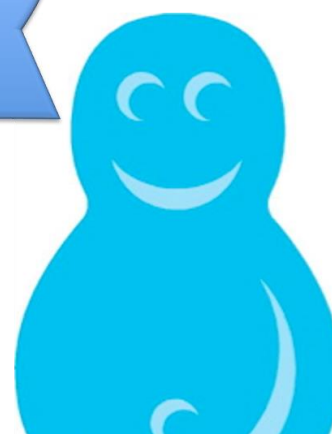
Articulating the voice of groups

In developing their policy statement on disability hate crime and other crimes against Disabled people, the CPS demonstrated their increasingly respectful practice, first establishing a National Scrutiny Panel to explore the nature of disability hate crime by working with individuals with real and relevant experience and expertise, including individuals from Deaf and Disabled People's Organisations, Disabled people, and academics in the field. The second National Scrutiny Panel went on to refresh the policy statement on disability hate crime which was then revised and subject to a three-month public consultation exercise. The content was amended extensively and included the following section on the issue of 'vulnerability' and the social model of disability. See section '[Strength in numbers](#)' and [Appendix 1](#).

Deaf and Disabled People's Organisations argue that being victimised is situational, therefore public places and shared spaces need to be made safer. Broad-brush definitions are part of the issue, and labels often disempower, making it harder for Disabled people to get recognition for the crimes committed against them. Members of The Disabled people's movement have taken issue the wording of policy and legislation, because it has encouraged a view of Disabled people as passive. Yet despite the early dearth of literature in relation to disability hate crime, low compared to other protected characteristics, much is being done to bring the crime to public attention. [see #DisabledPeopleLoveWorkPlay]

This is problematic as it again conflates identify with group oppression. An individual targeted because they are Disabled can be classed as a vulnerable person, though in normal circumstances, crimes committed against someone because of who they are would automatically be considered a hate crime. There is an urgent need to clarify the legal definitions so that police, prosecutors and judges can pass sentences that accurately reflect the nature of the crime.

Disabled people still say that the initial response to "I've been hurt!" is most often "You must be joking?". It seems violence against Disabled people is still seen as mere bullying



Legitimate accountability

Accountability suggests an ability to respond to a group on their terms, following dialogue. Agreed terms are deemed legitimate where they reflect the group's interests. Therefore, to demonstrate legitimacy,

organisations addressing disability hate crime need to reference the interests of the Disabled population, Disabled People's Organisations and The Disabled people's movement. Unfortunately, reports suggest that around 60% of all crimes affecting the Disabled population go unreported, and those with learning disabilities or experiencing mental trauma and distress are even less likely to report crimes (Simmonds, Burke, Ahearn, & Kousoulis, 2018). Several reasons are offered to explain why Disabled people do not report crime or are not believed when they do so, and reports of 'violence may be treated by public authorities with disbelief and disregard, resulting in inaction and leaving the Disabled person at risk of further harm' (Equality and Human Rights Commission, 2011, p. 29). Research suggests that many victims will not report incidents due to lack of both confidence and trust in the professionals dealing with them (HM Government, 2014). A major issue seems to be the identification of a victim as Disabled, particularly when their identity or difference is not immediately obvious. One professional referred to a 'nervousness' or 'fear of offending' when asking people whether they are Disabled or have a disability (Equality and Human Rights Commission, 2011). Addressing disability hate crime through a frame of institutional and societal injustice seems particularly timely. As the Black Lives Matter movement has recently highlighted, inaction is not enough, and professionals and organisations need to address these matters with fluency and determination [anti-ism]. The Equality and Human Rights Commission report, Crime and disabled people: Measures of disability-related harassment – 2016 update, raised the point that changing individual and collective attitudes towards Disabled people is

fundamental to eliminating the disablism inherent in disability hate crime (Coleman, Sykes, & Walker, 2016).

Accountability therefore, may be understood as a willingness to change, a move towards a greater ability to respond to the needs of the Disabled population as a civil rights group with specific interests. It occurs within an ongoing dialogue where representatives of Disabled victims and the Disabled People's Organisations that support them are involved in changing the conversation of professionals in the criminal justice system. This would include improved co-ordination of agencies, easier access to services for victims and witnesses, and improved communication, availability of information, and late applications to court

(Equality and Human Rights Commission, 2011)



Chapter Seven: partnerships

Despite the definitions above, the specialist provision supporting Disabled people who have experienced disability hate crime is still underdeveloped. While Disabled People's Organisations have powerfully addressed this, there has been a distinct lack of funding available for them to sustain any ongoing support. More evaluation is needed of the effectiveness of specialist advocacy. Historically, support for families of murder victims has been patchy, although this may be improving (Equality and Human Rights Commission, 2011, p. 177). Work at the British Transport Police (BTP), for example, includes monthly community events across the UK talking about crime, crime prevention and hate crime. The 'We Stand Together' campaign, as a cross agency group, provides a workshop pack designed to give opportunities for young people and adults to learn about issues of diversity and inclusion and challenge hate in their communities. The London Metropolitan Police now flag and process hate complaints immediately. Random samples are overseen by an appointed detective to ensure consistency and are further monitored by a Data Integrity Unit. Many other forces are adapting to the rise in hate offences.

It is where partnerships have been established between services, authorities and Deaf and Disabled People's Organisations that positive changes have made benefitting Disabled victims. When disability hate crime is framed through the lens of societal disadvantage (prejudice,

discrimination and inequality), hate is understood as imposed on a group. In line with other protected characteristics, equating acts of hostility to those of misogyny and racism gives them a structural framework in which motivation is more clearly articulated. Furthermore, it speaks against the idea that Disabled people are weak and needy, and within a nuanced interpretation of Disabled people's oppression (ableism) as a societal problem.

Inclusion London

The lead organisation for the London DDPO Hate Crime Partnership, Inclusion London provides a wealth of information about disability hate crime as well as signposting campaigns, organisations and research on the issue. Inclusion London is the only Pan-London DDPO that campaigns for Disabled people's rights. In 2020, the Partnership includes 22 DDPOs across London offering different levels of support to Disabled victims of hate crime. The Partnership provides capacity building for DDPOs, including business support for DDPOs needing funding for hate crime services.

<https://www.inclusionlondon.org.uk/campaigns-and-policy/facts-and-information/hate-crime/>

The Community Alliance to Combat Hate (CATCH) Partnership

The CATCH Partnership provides a route for people who have experienced hate across all strands to access advice, support and

specialist casework. CATCH is open to anyone experiencing hate in London and open to enquiries from outside London too. In 2020, the CATCH Partnership includes three DDPOs who are also part of the London DDPO Hate Crime Partnership.

<https://www.catch-hatecrime.org.uk/>

The Metropolitan Police Service (MPS) Central Hate Crime Partnership Team

(DS Tony Forsyth, Hate Crime Tactical & Policy Advisor

Central Hate Crime Partnership Team, Met. Police for providing this information.)

The Central Hate Crime Partnership Team has the strategic overview of hate crime across London, and is linked to key partners in London and nationwide.

The small team is dedicated to supporting officers investigating hate crime, ensuring victims are provided with specialist victim referral pathways, reviewing hate crime policy and developing more robust ways to tackle all hate crime and promote best practice to reduce risk and improve operational effectiveness.

The team reviews every hate crime flagged reported daily into the MPS to identify high risk matters, flagging compliance, MPS trends and

provide a daily commentary on hate crime. The team offers support and guidance around best practice when dealing with Hate Crime cases.

Alongside this centralised team, a designated hate crime co-ordinator and faith officers sit on each of the 12 Basic Command Units who provide local support to officers and victims and work with 'grassroots' hate crime organisations.

The MPS continues to encourage victims of all hate crime to report these direct to Police, via 101 or 999 in an emergency, or use the online reporting system. You can also report matters via a third party site like True Vision. The MPS is committed to all safeguarding matters and our message is clear that safeguarding is the responsibility of everyone.

The Crown Prosecution Service (CPS)

CPS guidance sets out the factors to be taken into consideration when reviewing cases and prosecuting offences classified as disability hate crime, and also addresses the approach to be taken in other cases in which disability is a factor. Following the launch of its policy on disability hate crime, revised guidance records prosecutions so disability hate crimes can be separated out and performance on such crimes measured. 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 flag can be added to any file at any time. The police have the first opportunity because they are the first to put the file together. When it is submitted to the CPS, a lawyer has the opportunity to review the file and consider whether to add a flag, if one isn't already there.

Encouragingly, the public statement states that hate crimes often have a disproportionate impact on the victim because they are being targeted for a personal characteristic. We recognise that hate crime not only impacts the individual victim but also the wider community. And progress is demonstrated by the sentencing: “in some cases the victim’s disability is not a factor in the offender’s decision to target him or her. However, the impact of the crime on the victim is significant because of his or her disability. This evidence of harm caused to the victim will be brought to the court’s attention as a factor that increases the seriousness of the offence” (CPS cps.gov.uk, 2017).

(The Crown Prosecution Service, Revised: 15 August 2018| -Legal Guidance Hate crime)

Scope

As an non-Deaf and Disabled People's Organisations organisation that promotes equality for Disabled people, Scope offers advice, support, and information on recognising and reporting disability hate crime:

<https://www.scope.org.uk/advice-and-support/hate-crime/>

True Vision

This police-funded website aims to improve the service that police forces provide to different diversity strands. 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 has been 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 provide a reporting form to inform agencies where abuse occurs. There are 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 directly to reports of hate crime by providing information and encouraging reports of hate crime to the police made by people who, while they may not want any action taken for themselves, want to help identify priority areas for preventative action against future hate crime or incidents.

https://www.report-it.org.uk/your_police_force

The Metropolitan Police Disability Hate Crime

Matters

This initiative in 2016 contributed to increased reporting of Disability Hate Crime by 300% in London. The briefing to officers was delivered by Disabled people. Inclusion London have made a recommendation to London Assembly Police & Crime Sub Committee that Disability Hate Crime Matters be reinstated if reporting does not improve following the rollout of a new police training programme in 2020.

Inclusion London's report : [Inclusion London's evidence on Hate Crime to London Assembly](#)

The Disabled Witness Project recommends that this initiative be rolled out across UK Police Forces, see below.

Disabled Witness Project: Promoting Access to Justice for Disabled Witnesses of Disability Hate Crime Report

The two lead academics for this project Louise Hewitt and Angela Laycroft worked closely with Greenwich Association of Disabled People, a DDPO, when working on this research.

The Disabled Witness Project is an independent research project based at the University of Greenwich, School of Law. It was initially commissioned in 2012. This report is from the second phase of the Disabled Witness Project, the aim of which is to promote access to

justice for disabled witnesses of Disability Hate Crime. The research for this report undertook a review of the efficacy of current legislation; examined strategies for the effective policing of Disability Hate Crime, and considered recommendations for the HMICFRS in order to include in the PEEL inspection framework¹ for police forces in England and Wales a measure of how effectively police forces are identifying and recording incidents of Disability Hate Crime.

<https://gala.gre.ac.uk/id/eprint/27140/>

Summary of Recommendations from report

The following recommendations relate to the two key proposals put forward for reform:

1. A decision to extend aggravated offences to Disability Hate Crime should lead to the following amendments:
 - a) a change to the wording of s.28(1)(b) Crime and Disorder Act 1988 to replace “motivated by hostility” to a disability/personal characteristic or disability/presumed personal characteristic to “by reason of” a disability/personal characteristic.
 - b) the inclusion of property and sexual offences as crimes so that all crimes related to Disability Hate Crime can become aggravated crimes or, alternatively, the inclusion of all crimes to ensure a remedy can be achieved for any hate crime against any personal characteristic.
 - c) Clarification on the definition of disability for the purposes of an aggravated offence.
2. A decision to abolish all hate crimes would require:
 - a) a change to the wording of s.146(2)(b) Criminal Justice Act 2003 to introduce a “by reason of” a personal characteristic test rather than the “motivated by hostility” test to facilitate convictions and sentence uplift for all Hate Crime.

- b) the mandatory requirement to record sentence uplifts on the offender's criminal record.
 - c) Consideration of the political, practical, judicial and symbolic impact of this reform on the status of Hate Crime and on the combined achievements of ss. 28-32 Crime and Disorder Act 1988 and the police and judiciary in combatting Race and Religious Hate Crime.
3. The Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) assess as part of the Police Effectiveness, Efficiency and Legitimacy (PEEL) inspection framework how effective police forces are at identifying and recording Disability Hate Crime.
 4. Police forces need to understand the local picture in order to improve their training and awareness raising on Disability Hate Crime.
 5. Police forces should adopt an initiative based on Disability Hate Crime MATTERS to train police officers, and work with local disabled people and disability groups to incorporate face to face training.

It is not Disabled people who need to be more fluent about their experience, but it *is* a duty of professionals to articulate disablism and ableism in their work. Similarly, it is not up to black victims to educate professionals about racism: the onus is on professionals to advocate victims' rights.



Chapter Eight- Conclusions

This report draws together a wealth of understanding to present a clearer picture of the many ways in which Disabled people are still failed as victims of abuse. Where the language used by professionals does not qualify this absence, disability hate crime cannot be quantified, qualified, spoken of or addressed until more of us talk about this issue with an explicit terminology that articulates its pervasive and toxic nature, Disabled people will continue to be failed by the organisations and institutions who have a duty to uphold their full human rights within society.

Key findings

1. Disabled people are still overwhelmingly likely to be victims of crime

Owing to the quasi-ubiquitous nature of disability hate crime, a single decade has been too little to achieve radical change. Yet the mounting evidence suggests that these crimes are as common as ever, and if anything, methods of qualifying and quantifying them suggest a steady increase that is not yet fully articulated.

2. Disabled people are still seen as unreliable witnesses

Disabled victims still feel they are not taken seriously on the whole, and when reporting the incidents resulting in more serious injuries they often remain dismissed as unreliable witnesses, sometimes even perceived as perpetrators, and routinely denied access to justice.

3. Using a Human Rights based approach is aiding increased understanding of Disabled people's experience

Disability hate crime is now better understood, and therefore better qualified and quantified. It is beginning to be recognised as having a dual nature, that is, one of public violence and another of more intimate abuse in shared spaces and behind closed doors. Definitions have evolved which spell out the hostility of the perpetrators and dampening the characterisation of Disabled people as weak and needy. A human rights perspective is helping bring disability hate crime to the minds of professionals as a crime of opportunity. In statements though, Disabled victims still say their identity remains a focus, when in fact they'd prefer an understanding of those supporting victims. There is a pattern that often precedes attacks against Disabled people, akin to those seen in coercive control in domestic violence incidents. Hostility often grows from low-level harassment: name-calling, intimidation and vandalism frequently escalate into more serious crimes.

4. Institutional Disablism creates space for hate crime

This is articulated in evidence of its scale on public transport and on social media, and its occurrence in segregated institutional facilities and in cuckooing and mate crime. 'Opportunity' characterises both the institutional discrimination and technological advances that have generated spaces in which Disabled people are particularly powerless, and online, where they can be targeted without fear of detection.

5. Disablism has the same characteristics as other 'isms' & more work is needed to improve understanding

A positive change has been the move to understand the cultural discrimination and societal inequality (which gives disability hate crime its specific characteristics) as similar to racist, sexist, religious, transgender and homophobic motivations, yet more focus is needed to appreciate the subtle differences as well as the similarities involved.

6. Coproduction with Disabled people works

Viewing Disabled people as actively working against disability hate crime rather than as passive, weak and needy victims is enabling individual resilience and safer communities. Prejudice and bias,

such as the infantilisation of Disabled people, is apparent in the words used to describe the crimes against them, and plays a big part in trivialising their impact. A growing acknowledgement of Disabled people's inclusion along with a human rights grounding in the development of policies and organisational practices across agencies has enabled locality living. In turn, according to the wellbeing literature, this creates opportunities for the relationships that could secure greater safety. Partnerships involving multiple agencies, sectors and members of the public have leveraged huge advances. Understood as working-with, not working-on, co-production has been the source of effective change, with Disabled People's Organisations, victims and allies having their experiences taken seriously.

In brief, more needs to be done to build a fluency around culture and society, an understanding of disablism and ableism and of practice and policy, in line with the principle of 'Nothing About Us, Without Us'.

Appendix 1

Extracts from Public Statement on prosecuting disability hate crime and other crimes against disabled people (CPS, 2017).

The social model of disability

We understand the social model of disability to mean that the prejudice, discrimination and social exclusion experienced by many disabled people is not the inevitable result of their impairments or medical conditions, but rather stems from specific barriers they experience on a daily basis. These barriers can be environmental (inaccessible buildings and services), attitudinal (stereotyping, prejudice and discrimination), and organisational (inflexible policies, practices and procedures).

Using the social model helps us to dismantle or reduce the effects of those barriers that are within our power, and improve the safety and security of disabled people.

Reporting a crime, giving a statement and being called to give evidence in court can be very daunting experiences for anyone. We recognise that disabled people can experience specific barriers in this regard. These can include a failure by criminal justice agencies to identify an incident as a potential disability hate crime, inaccessible courtrooms, witness waiting areas or an absence of sign language interpreters.

We are concerned to avoid incorrect judgments being made about disabled people's reliability or credibility as a witness giving evidence in court. Such judgments may lead to an incorrect charging decision or could undermine the potential success of a prosecution.

Thus we will:

- Not make assumptions about a disabled victim's reliability or credibility, and challenge others who do so
- Ensure that disabled people are aware of the support that is available to them to give their best evidence
- Be more likely to prosecute cases where disability is a factor, including disability hate crimes where there is sufficient evidence to do so.

- Be mindful that language is important and only use the term ‘vulnerable’ in relation to disabled people when it is appropriate in the context of the law and facts of the case
- Recognise that the stereotype based belief that a disabled person is ‘vulnerable’ forms the backdrop of disability hate crime and crimes against disabled people and can even be a motivating factor in crimes committed against them.

Situational risk and ‘vulnerable victims’

Provided by the Crown Prosecution Service:

We are aware that disabled people are regularly labelled as “vulnerable”. This labelling has been repeatedly criticised by Disabled people and others and is not in line with the social model of disability. We understand that use of this label can give the message that disabled people are inherently “weak” or “dependent” as individuals and as a group, when in fact it is physical barriers and social attitudes that create inaccessible, unsafe and therefore vulnerable situations for disabled people.

Moreover, the belief that disabled people are vulnerable may be disabling in itself and can lead to decisions and actions that adversely affect disabled people’s independence, safety and security. Crucially, in the context of the criminal justice system, this attitude can undermine their perceived competence, credibility and reliability as a witness, and, therefore, their access to justice.

We recognise that it is therefore preferable to refer to a ‘situational risk’, or an ‘at risk situation’ that a disabled person may find themselves in, due to particular circumstances, as opposed to referring to the

disabled person as ‘vulnerable’. Like many people, those who are disabled experience situational risks, which may be taken advantage of by an offender, or provide the opportunity for the offender to act on their hostility towards disabled people. These risks can be connected to a person’s gender, job, disability or other factors and characteristics.

We will avoid the use of the term “vulnerable” where possible and we will always avoid any use of the term which may suggest disabled people are inherently weak or dependent.

However, the term is unfortunately sometimes unavoidable in the context of criminal proceedings, due to the wording of the law and relevant Sentencing Guidelines. For example, if prosecutors do not use the term in court, they may be unable to properly explain that an offence is aggravated because of a victim’s “vulnerability”, and should attract an increased sentence. This would in turn disadvantage the disabled victim, as the perpetrator may receive a more lenient sentence than is appropriate.

Our legal guidance on Prosecuting cases of Disability Hate Crime also sometimes refers to a “vulnerable” victim or person. But it does so only where necessary. This will be in the context of the person being in an ‘at risk situation’ in relation to a particular criminal offence, in particular circumstances, for the purposes of a Sentencing Guideline, or an application for special measures for a “vulnerable witness”.

Bibliography

- BBC. (2010). Life sentence for Rhyl murder of disabled man. Retrieved 11 18, 2019, from BBC News:
http://www.cps.gov.uk/wales/news_and_views/martin_mather_jailed_for_murder_of_disabled_man_in_rhyl/
- BBC news. (2010, 11 20). Life sentence for Rhyl murder of disabled man . Retrieved 12 4, 2019, from BBC news: <https://www.bbc.co.uk/news/uk-wales-11755954>
- BBC News. (2019, oct 9). Disability hate crime: Number of reports rising. Retrieved mar 22, 2020, from BBC News: <https://www.bbc.co.uk/news/uk-england-49975697>
- Bryant, Watson, & Philo. (2011). Bad News for Disabled People: How the newspapers are reporting disability. University of Glasgow, Inclusion London. Glasgow: Strathclyde Centre for Disability Research and Glasgow Media Uni.
- Burch, L. (2018). 'You are a parasite on the productive classes': online disablist hate speech in austere time. *Disability and Society*, 33(3), pp. 392-415.
- Carr, S., Holley, J., Hafford-Letchfield, T., Faulkner, A., Gould, D., Khisa, C., & Megele, C. (2017, 12 11). Mental health service user experiences of targeted violence and hostility and help-seeking in the UK: a scoping review. *Policy and Systems, Interpersonal Violence and Mental Health, Review*, p. online.
- Carter, H. (2010, 10 20). Teen sentenced for bullying learning difficulties man right up to day he died. Retrieved 22 4, 2020, from The Guardian UK.
- Chapman, L. (2011). *A Different Perspective on Disability Equality, a practical handbook*. Huddersfield: EQT Publishing.
- Chapman, L. (2020, 4). *Exploring Accountability, Human Rights and Legitimacy from a disability equality perspective*. UB : UP.

- Coleman, M. (2011). *Woman at the Top, Challenges, choices and change*. Basingstoke: Palgrave Macmillan.
- Coleman, N., Sykes, W., & Walker, A. (2016). *Crime and disabled people: Measures of disability-related harassment 2016 update*. Equality and Human Rights Commission, Research report 103. Manchester: EHRC.
- College of Policing. (2014). *Hate Crime Operational Guidance*. College of Policing Limited.
- Crown Prosecution Service. (2018). *Hate Crime Annual Report 2017–18*. Crown Prosecution Service.
- Crown Prosecution Service cps.gov.uk. (2017). *Hate Crime: Public statement on prosecuting disability hate crime and other crimes against disabled people*. Crown Prosecution Service cps.gov.uk.
- Department for Work and Pensions. (2019, 11 25). *Disability Confident: how to sign up to the employer scheme*. Retrieved 11 27, 2019, from Gov.UK: <https://www.gov.uk/guidance/disability-confident-how-to-sign-up-to-the-employer-scheme>
- Department of Health. (2014). *Care and Support Statutory Guidance*. Department of Health. © Crown copyright.
- Dimensions. (2019). *How often are disability hate crimes committed?*. Retrieved 4 22, 2020, from Dimensions: <https://www.dimensions-uk.org/get-involved/campaigns/say-no-autism-learning-disability-hate-crime-imwithsam/know-more/often-disability-hate-crimes-committed/>
- Disability Rights UK. (2012). *Stop Disability Hate Crime*. Retrieved 11 15, 2019, from Disability Rights UK: <https://www.disabilityrightsuk.org/how-we-can-help/independent-living/stop-disability-hate-crime>

Disability Rights UK. (2012). The Equality Act and disabled people. Retrieved 11 13, 2019, from Disability Rights UK:

<https://www.disabilityrightsuk.org/equality-act-and-disabled-people>

Disability Rights UK. (2018, 10 18). United Response says disability hate crimes in England and Wales up by a third. Retrieved 11 12, 2019, from Disability Rights UK: <https://www.disabilityrightsuk.org/news/2018/october/united-response-says-disability-hate-crimes-england-and-wales-third>

Dr Mark A. Walters, U. o.-B.-i. (2017). Hate Crime and the Legal Process Options for Law Reform. University of Sussex.

East Anglian Daily Times. (2019, 3 20). Youth sentenced for flour and egg attack on woman. Retrieved 12 4, 2019, from East Anglian Daily Times: <https://www.eadt.co.uk/news/youth-sentenced-for-his-role-in-flour-and-egg-attack-on-woman-in-bury-st-edmunds-1-5925597>

Ellis, K., & Kent, M. (2016). Disability and Social Media: Global Perspectives [Kindle Edition]. abingdon: Routledge.

Equality and Human Rights Commission. (2011). Hidden In Plain Sight. Equality and Human Rights Commission.

Equality and Human Rights Commission. (2013). Manifesto for change progress report 2013. EHRC. 2013: Equality and Human Right Commission.

Equality and Human Rights Commission. (2016). Crime and disabled people: Measures of disability-related harassment 2016 update. Equality and Human Rights Commission. Equality and Human Rights Commission.

Equality and Human Rights Commission. (2016). Crime and disabled people: Measures of disability-related harassment, 2016 update. Equality and Human Rights Commission · www.equalityhumanrights.com. EHRC.

Equality and Human Rights Commission. (April 2017). Being disabled in Britain - A journey less equal. Equality and Human Rights Commission. London: Equality and Human Rights Commission.

Foundation for People with Learning Disabilities. (2018). A life without fear? A Call for Collective Action against Learning Disability Hate Crime. London: Foundation for People with Learning Disabilities.

Guest - Disability News Service. (2011, 7 7). Murder reviews tell familiar story of multi-agency failures. Retrieved 12 1, 2019, from Disability News Service: <https://www.disabilitynewsservice.com/murder-reviews-tell-familiar-story-of-multi-agency-failures/>

HM Government. (2014). Challenge It, Report It, Stop It Delivering the Government's hate crime action plan. Crown Copyright: Home Office.

HM Government. (Oct 2018). Action Against Hate The UK Government's plan for tackling hate crime – 'two years on'. HM Government, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748175/Hate_crime_refresh_2018_FINAL_WEB.PDF.

Home Office / Department of Health. (n.d.). No secrets: Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse. Government, Home Office / Department of Health. Home Office / Department of Health.

Home Office. (2019). Hate Crime, England and Wales, 2018/19. Home Office Statistical Bulletin 24/19. © Crown copyright.

Inclusion London. (2020). Disability hate crime. Retrieved 4 4, 2020, from <https://www.inclusionlondon.org.uk/campaigns-and-policy/facts-and-information/hate-crime/>

IPCC. (2011, 3 11). IPCC publishes findings from investigation into GMP contact with David Askew. Retrieved from Lemos&Crane: <https://lemonsandcrane.co.uk/resources/David%20Askew%20report%20for%20publication.pdf>

(n.d.). joint review of disability hate crime follow-up. HMCPSI; HMIC; HMI Probation. 2015: UK GOV.

Kumari Campbell, F. (2019, 5). Precision ableism: a studies in ableism approach to developing histories of disability and abledment. *The Journal of Theory and Practice*, pp. 1-19.

Leonard Cheshire. (2019, 5 11). Online disability hate crimes soar 33%.

Retrieved 11 12, 2019, from Leonard Cheshire:

<https://www.leonardcheshire.org/about-us/press-and-media/press-releases/online-disability-hate-crimes-soar-33>

Mikton C, M. H. (2014). A Systematic Review of the Effectiveness of Interventions to Prevent and Respond to Violence Against Persons With Disabilities. *Journal of Interpersonal Violence*, pp. 1-20.

Pettitt, B., Greenhead, S., Khalifeh, H., Drennan, H., Heart, T., Hogg, J., . . .

Moran, P. (2013). At risk, yet dismissed, The criminal victimisation of people with mental health problems. *Mind*.

Pring, J. (2017, 6 22). Agencies 'should have been aware of risks faced by Lee Irving before his murder'. Retrieved 12 1, 2019, from Disability News Service:

<https://www.disabilitynewsservice.com/agencies-should-have-been-aware-of-risks-faced-by-lee-irving-before-his-murder/>

Quarmby, K. (2011). *Scapegoat* [Kindle Edition]. London: Portobello Books Ltd.

Roulstone, A. (2019). Chapter 23: Disabled People, Hate Crime and Citizenship.

In J. M. Brian Watermeyer, *The Palgrave Handbook of Disability and Citizenship in the Global South*. Cham: Palgrave.

Ryan, F. (2019). *Crippled: Austerity and the Demonization of Disabled People*. London: Verso Books.

Scope. (n.d.). Recognising and reporting disability hate crime. Retrieved 5 4, 2020, from Scope: <https://www.scope.org.uk/advice-and-support/hate-crime/>

Simmonds, R., Burke, C., Ahearn, E., & Kousoulis, A. (2018). 1 A life without fear? A Call for Collective Action against Learning Disability Hate Crime. Foundation for people with learning disabilities. London: Mental Health Foundation.

Solesbury, M. (2018, 11 18). Disability hate crimes in England and Wales surged by a third last year, disturbing new police figures reveal. Retrieved 11 14, 2019, from United Response: <https://www.unitedresponse.org.uk/news/disability-hate-crimes-england-wales-increase-new-police-figures>

Stone, E., & Priestley, M. (1996). Parasites, Pawns and Partners: Disability Research and the Role of Non-Disabled Researchers. *The British Journal of Sociology*, 47(4), 699-716.

Tameside Adult Safeguarding Partnership. (2013, 7 29). Adult Safeguarding Personal and Health Services Scrutiny Panel. (A. S.-P. Panel, Producer) Retrieved 12 44, 2019, from Tameside Gov UK: <https://www.tameside.gov.uk/scrutiny/reports/personal/oct13/adultsafeguarding.pdf>

Taylor, S. (2019). The emergence and development of Disability Hate Crime policy and practice in England and Wales: a case of an unsettled and unsettling policy agenda. (Lancaster University) Retrieved from <https://doi.org/10.17635/lancaster/thesis/529>

The Crown Prosecution Service. (Revised: 15 August 2018| -Legal Guidance Hate crime, 4 2019). Disability Hate Crime and other crimes against Disabled people - prosecution guidance. Retrieved from The Crown Prosecution Service: cps.gov.uk

The Independent. (2019, 5 10). Investigation into learning disabilities services run by major NHS contractor after police brought in over 'abuse' of patients. Retrieved 5 19, 2020, from The Independent: <https://www.independent.co.uk/news/health/care-home-abuse-care-learning-disability-cygnet-whorlton-hall-durham-cqc-a8908081.html>

UK Government. (2018, 11 16). Hate crime plan refreshed to protect victims and promote shared values. Retrieved 11 25, 2019, from GOV.UK:

<https://www.gov.uk/government/news/hate-crime-plan-refreshed-to-protect-victims-and-promote-shared-values>

Watson, S. (2020). Anne Novis writes about 'vulnerability'. Retrieved 4 22, 2020, from Disability Hate Crime Network: <http://dhcn.info/dhcn/anne-novis-writes-about-vulnerability/>

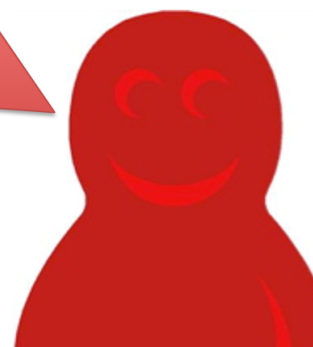
Wilkin, D. (2020). Disability Hate Crime: Experiences of Everyday Hostility on Public Transport (Palgrave Hate Studies) Kindle Edition. Cham: Palgrave.

Wilkinson, R. (2005). The Impact of Inequality, how to make sick societies healthier. New York: The New Press.

Wood, I. O. (2017, 6). SUMMARY The Death of Lee Irving Safeguarding Adults Review. (N. A. Board, Producer) Retrieved 12 4, 2019, from Newcastle Adults Safeguarding Board:

<https://www.newcastle.gov.uk/sites/default/files/Adult%20G%20SAR%20Summary%20-%20Final.pdf>

People well connected in terms of friends and family are safer, and more likely to be known in localities. On a wider scale research suggest inequality is a huge indication of where crime is likely...



About Inclusion London

Inclusion London's mission is to promote Deaf and Disabled people's equality and inclusion. We do this by supporting Deaf and Disabled People's Organisations to have a strong and influential collective voice and to deliver empowering and effective services to Deaf and Disabled Londoners. We are the only organisation run by and for Deaf and Disabled people working across every borough in London.

Further information

For more information about the Hate Crime Project, please contact

Louise Holden, Inclusion London Disability Hate Crime Partnership
Project Manager

louise.holden@inclusionlondon.org.uk

For Campaigns & Policy, please contact

Svetlana Kotova, Director of Campaigns & Justice

Svetlana.kotova@inclusionlondon.org.uk

Inclusion London

Supporting London's Deaf and
Disabled People's Organisations