

D isability Hate Incidents and Crimes

Objectives: To prevent and reduce disability hate incidents and crimes.

To improve trust and confidence of disabled people, their carers and organisation supporting disabled people to increase reporting of incidents and accessing casework support.

Definition – *Disability hate incident is defined as:*

‘Any 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.’

The definition also includes incidents that occur through association with a disabled person, for example, family members or carers, and where an incident is perpetrated on someone presuming that they are disabled.

The **Disability Discrimination Act** says a disabled person is someone with ‘a physical or mental impairment which has a substantial and long-term adverse effect on his/her ability to carry out normal day-to-day activities’.

The **Social Model** of disability distinguishes between ‘impairment’ (functional limitations of the mind, body or senses) and ‘disability’ (disadvantage or restrictions of activity placed by the society). A key concept of the Social Model is that society disables people by the way things are arranged. Organise things differently, and they are suddenly enabled – though the impairment hasn’t changed. The Social model regards disability as:

‘the loss of or limitation of opportunities to take part in the normal life of the community on an equal level with others due to physical or social barriers.’¹

In April 2005 the law was changed by section 146 of the Criminal Justice Act 2003. Section 146 imposed a duty upon courts to increase the sentence for any offence (for example, assault or criminal damage) aggravated by hostility based on the victim’s disability (or presumed disability) thus treating the offence as more serious. For the purposes of Section 146 of the Criminal Justice Act 2003, disability is defined as ‘any physical or mental impairment.’²

Disabled people includes: people with physical and sensory disabilities, people with learning disabilities, those with mental illness and long term conditions.

Why is this a priority?

Disabled people are four times more likely to be victims of crime when compared to the non-disabled people³.

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National evidence suggests that disability hate crime is a serious issue. There is evidence to suggest that people with learning disabilities and / or with mental health conditions are at an increased risk and also experience higher levels of victimisation.

- 22% of disabled respondents had experienced harassment in public because of their impairment. This was an increase from 20% from the previous year (DRC 2002). Incidents of harassment were experienced more acutely by 15-34 year olds, with 33% having experienced harassment⁴.
- 9 in 10 people with learning difficulties had experienced bullying and harassment. 66% of people with learning difficulties had been bullied regularly, with 32% stating that bullying was taking place on a daily or weekly basis⁵.
- 71% of respondents with mental health issues reported being a victim in the last two years. Of these 62% reported name calling, 41% reported ongoing bullying, 22% reported physical assault, 17% had received hate mail and 13% had been spat at⁶.
- EHRC⁷ research identified a number of 'hotspots' (where incidents occur): street, in and around home/ home based settings, institutional settings, places of education, work and on public transport.

An individual may be targeted not only by reason of their disability but also because of their other identities (for instance: ethnicity, faith, sexual orientation) or due to their age. Disabled people may therefore experience multiple discrimination or incidents due to an intersection / overlap of identities; for example, a disabled person may be targeted due to their age and ethnic background.

- EHRC research found that gender, age and type of disability interacted to increase the risk of victimisation.
- Mind (2007) report also found that lesbian, gay, bisexual and trans respondents with mental health issues were more likely to be the victim of anti-social behaviour and crime.
- The prevalence of learning disabilities as well as mental health issues in Minority Ethnic populations is not well known. Hence, the extent of hate incidents due to disability is hidden.

Hate incidents can have a dramatic impact on people's daily lives, threaten their sense of well being, and increase fear of crime. Disabled people often experience hate incidents in the context of other abuse in the domestic or residential care settings. Perpetrators are often 'friends', 'carers'; people with learning disabilities are often 'befriended' by the perpetrators. Often incidents against disabled people are confused & conflated as due to 'their vulnerability' rather than owing to the hostility and prejudice of the perpetrator and therefore not appropriately identified or recorded. Hence, accurate data on prevalence of disability hate incident is not available. This lack of recognition also meant that actions are not taken to address disabled people's needs and concerns and has significant impact on social inclusion, opportunities and freedom. The most damaging effect of hate incidents/ crimes is normalising ('it is a part of everyday life') and institutionalising these prejudices, this in turn inhibits people from reporting and seeking support and redress.

National direction: The CPS have published additional guidance in March 2010 distinguishing between hostility and vulnerability with regard to disabled people; disabled people are not inherently vulnerable, it is the situation or circumstances that make them vulnerable and can provide opportunity for an offender to demonstrate hostility based on disability. The investigation and prosecution focus therefore ought to be on enforcing disabled victim's rights and scrutinising the offender's behaviour. CPS

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will also publish their policies on prosecuting crimes with regard to people with learning disabilities and mental health needs.

Valuing People (2001) and Valuing People Now (2009) set out the cross government strategy for people with learning disabilities based on four key principles: **Rights, Independence, Choice and Inclusion**. Effective local partnership working between the agencies and particularly the Learning Disability Partnership Board and the Community Safety Partnership (CSP) is identified as key to delivering change. Following the recommendations, responses to hate incidents against people with learning disabilities are mainstreamed within the CSP overall response to hate incidents /crimes.

Valuing People, the Autism Act, 2009, and the Strategy for Adults with Autism all emphasise a rights based approach for people with autism and learning disabilities and describe the support they should get to enact their rights, including right to complain, enjoy equal opportunities, dignity and respect. Our work should result in improved outcomes in terms of social inclusion, empowerment (greater choice and control) and equality for disabled people, people with learning disabilities and autism, their families and their carers.

The local picture

Tackling disability hate incident is a priority for the city within the context of the changing population profile. Although, estimates of disability in all its severity levels are difficult to obtain, we have some information about the proportion of people needing care as a result of disability from the Department of Work and Pensions.

Obtaining accurate details about the numbers of disabled people, which services they access, reaching all the disabled people and linking them into appropriate services is a significant challenge facing all services. However, the numbers of people in the city with various disabilities are significant. For example, Brighton and Hove has a higher proportion of Disability Living Allowance (in February 2007, 12,000 people i.e. 4.5%) claimants than the region (3.2%) and England (4.3%). 17,600 people in the city aged between 18 and 65 had moderate or severe physical difficulties. Learning Disability Partnership Board estimates that approximately 6000 people with learning disabilities reside in the city; 765 people of age 18 and over access Adult Social Care services in February 2010 (up from 702 in September 2008⁸) and 917 access the GP practices signed up to the Locally Enhanced Services for people with learning disabilities.

Local consultation with disabled people and their organisations points to significant under reporting. There is limited evidence on the nature and extent of hate incidents nationally and locally. Very low numbers (17) of disability hate incidents were recorded on the central database in the city, additionally, schools and Safeguarding Adults Board recorded a number of bullying and discriminatory abuses respectively. Sussex Police and the Crown Prosecution Service also have disability hate crime monitoring schemes, but very low numbers of disability hate crimes are recorded on the police database, while a single prosecution was recorded by the CPS for Brighton & Hove in

Main Partners

Advocacy groups of disabled people
Adult Social Care
Learning Disability Partnership Board
Sussex Police
Partnership Community Safety Team
NHS Trusts
Children and Young People's Trust
Social housing providers
Crown Prosecution Service
Court services
Voluntary Organisations supporting disabled people

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2009/10. Both in terms of numbers of cases and case outcomes, disability hate incidents are a serious challenge.

Current status of work

This is a relatively new area of work for the Community Safety Partnership and both the strategy and services continue to evolve. A high priority is to increase reporting and sustain and further develop support to disabled people reporting incidents. Currently, reporting mechanisms and publicity material have been developed with the involvement of disabled people, their carers, and support organisations. The Partnership Community Safety Team provides casework and advocacy services to victims and witnesses utilising full range of civil and criminal justice remedies to increase victims' safety and to bring offenders to justice. We are building the evidence base and developing partnership responses. We will continue to deliver training and presentations and work with our partner agencies to recognise, record, and report disability hate incidents, clarify referral pathways, increase support for victims and also raise public awareness.

Community engagement and trust and confidence

We facilitate a Disability Hate Incident Steering Group that includes disabled people, their carers, and support organisations thus enabling ongoing engagement and consultation. This group maintains an oversight of the strategy and progress on agreed actions, scrutinises reports on levels and trends of incidents, and helps us to plan and deliver our work programme. Learning Disability Partnership Board and its working groups are regularly consulted and receive reports. We will continue to develop our community engagement processes outside of the steering group and build stronger relationships with the disabled people, their carers and organisations supporting them to improve trust and confidence. Tackling disability hate incidents is identified as a high priority by the community in maintaining trust and confidence.

Where next?

The Community Safety Partnership will build on its existing work and empower victims with accessible information and accessible means of reporting to increase reporting of disability hate incidents and provide support to those reporting. We aim to prevent and reduce disability hate incidents through developing effective partnership responses that:

- increase the safety of disabled people and reduces harm,
- achieve successful outcomes in respect of those reporting incidents and the perpetrators,
- improve recording and monitoring of incidents, and
- reduce social tolerance of hate incidents against disabled people.
- pursue equality, empowerment and social inclusion for minority and disadvantaged groups in society.

We aim to develop an inclusive, responsive and flexible service to those reporting disability hate incidents.

Links to other priority areas

Nationally, the Department of Work and Pensions estimates that there are over 10 million disabled people, including those with limiting longstanding illnesses. 4.6 million are over the state pension age. We also know that levels of 'impairment' / disability increase with age. For instance, 33 % of the people aged 50 to 65 report long-term impairment / disability⁹.

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We also know that many young disabled people live with and are cared for by their elderly family members and may either be reporting hate incidents for the disabled people or may themselves be targeted due to their association with a disabled person. It is therefore imagined that our work in the field of disability hate incidents will increase our engagement with older people.

There are connected concerns and services with other areas of hate incidents, anti-social behaviour, children and young people, young offenders, safeguarding children and vulnerable adults, adult social care, housing, healthcare and mental health services.

Performance Indicators

- LI: Number of disability hate incidents reported
 - LI: Number of disability hate incidents reported from people with learning disabilities
- Number of agencies actively engaged in using the hate incident report form.
- Number of reporting centres
- LI: Number of police recorded disability hate crimes
- LI: The detection and conviction rate of disability hate crimes
- LI: Number of disability hate crimes where the victim has been a victim of a disability hate crime in the last 12 months

Parallel plans

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| • Government's White paper: Valuing People (March 2001) & Valuing People Now (January 2009) | • Anti-Bullying Strategy: Children & Young People's Trust and national guidance: 'Safe To Learn'. |
| • No Secrets – Department of Health and Home office statutory Guidance (2000) | • Inclusive Council Policy; and Reducing Inequalities Review |
| • Brighton & Hove Multi-agency Carers' Development and Commissioning Strategy 2009 - 2012 | • Saving Lives, Reducing Harm. Protecting the Public. An Action Plan for Reducing Violence 2008–11. |
| • National Strategy for Carers, 2008 | • Disability Discrimination Act (1995, 2005) and Disability Equality Duty |
| • Cross Government Action Plan on Hate Crime, 2009 | • Autism Act, 2009 |
| | • Fulfilling & Rewarding Lives: the Strategy for Adults with Autism in England, 2010 |

Disability Hate Incidents and Crimes Action Plan

Outcome Sought I

Increased reporting of disability hate incidents and crimes from all disabled people, including people with learning disabilities, autism, their carers, and others by developing a range of options to make reporting accessible to all.

Actions

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| 1.1 Distribute widely and mainstream the multi-agency Hate Incident Report Form that all statutory, voluntary and community organisations can use to report disability hate incidents to the Partnership Community Safety Team. Integrate the Safeguarding Vulnerable Adults reporting with hate incident reporting. |
| 1.2 Develop and distribute self-reporting packs widely to increase reporting of disability hate incidents. |
| 1.3 Target distribution of easy read self-reporting form for people with learning disabilities to complete with support from carers / staff. |
| 1.4 Develop web-based and on-line reporting facilities that suit the needs of disabled people. |
| 1.5 Enhance facilities to report and access services by creating reporting centres in the statutory, community and voluntary sector with particular focus on organisations supporting disabled people and their carers. |
| 1.6 Further develop easy to read and accessible publicity material to inform people about reporting schemes, reporting centres, and support services. Target publicity and support to organisations working with disabled people and their carers. |
| 1.7 Increase reporting from the marginalised and vulnerable groups within the disabled population through joint work with the Refugee Forum, Migrant Workers Steering Group and the Racial Harassment Forum. For instance, engage with and increase reporting from disabled people including people with learning disabilities and autism from the refugee, asylum seeker, LGBT, Black and Minority Ethnic communities, disabled people with mental health issues and people with compound or multiple disabilities. |
| 1.8 Translate the information and make it available widely. Make the information available at public places. |

Outcome Sought 2

Deliver improved responses, casework support and services to those reporting disability hate incident by working in partnership with key agencies.

Actions

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| 2.1 Deliver a consistent high quality casework service to those reporting incidents, regardless of where they choose to report and wherever they access support. |
| 2.2 Prioritise work with repeat victims (people who have reported more than one incident in any 12 months period) to support and protect them from further victimisation. |
| 2.3 Further develop the multi-agency Casework Panel to improve the response to disability hate incidents and to support victims, in particularly support to vulnerable and intimidated witnesses. Build up membership from organisations working with disabled people. |
| 2.4 Routinely ask those reporting disability hate incidents for their feedback regarding services and respond accordingly to improve standard of services. |
| 2.5 Ensure clients are aware of statutory sector complaint procedures; for instance, ensure that the Council, Police, NHS, CPS complaint procedures are accessible (available in easy read format) and learn from complaints made. |
| 2.6 Deliver a rolling programme of training to key statutory, voluntary and community agencies including staff from day centres, supported housing, social care, health care and organisations working with disabled people, people with learning disabilities and autism. The training programme will raise awareness and improve recognition of disability hate incidents, mainstream the use of reporting forms and clarify referral pathways, effective interventions, link organisations to casework panel and multi-agency working. We will seek to involve disabled people in training wherever possible. |
| 2.7 Review, build on and mainstream learning from national and local research to ensure best practice. |
| 2.8 Safeguarding Adults Procedure to incorporate hate crime practice guidance, including analysis and provision of training to the relevant staff. |

Outcome Sought 3

Effective monitoring systems to develop crime reduction strategies and improved accountability / reporting to the disabled people and their organisations.

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Actions
3.1 Develop and maintain a city-wide centralised monitoring system of disability hate incidents. Through this data we will be able to build a better picture, identify how big the problem is, and what we need to do to tackle this problem.
3.2 Produce regular reports on levels, trends and patterns of disability hate incident and distribute them to the relevant forums including Disability Hate Incident Steering Group, Learning Disability Partnership Board and make the report available on our website. This monitoring data will enable us to direct future prevention and development work.
3.3 Map and analyse hotspots for disability hate incidents to assist in problem solving and to assess the effectiveness of work undertaken.
3.4 Housing (in partnership with other social landlords) to develop appropriate policies and procedures to minimise potential risk of housing/placing disabled people and people with learning disabilities in vulnerable locations.
Outcome Sought 4
Prevent and deter offenders, bring offenders to justice wherever possible and reduce re-offending through improved rates of detection, prosecution and effective court outcomes
Actions
4.1 To review policies and practices relating to the recording and referral of disability hate incidents within Sussex Police and the Crown Prosecution Service, identify gaps and develop plan to address them. Monitor police and other criminal justice agency records to ensure early identification and tagging of disability hate incidents.
4.2 Monitor and increase the number of disability hate crimes recorded and detected along with the number of arrests, cautions, prosecutions and convictions. Increase the number of successful prosecutions and reduce the number of discontinued cases. Monitor the use of special measures to the victims of disability hate incidents.
4.3 Work towards developing early intervention programmes with young people in young people's settings.
4.4 Develop a mechanism to identify and manage risk presented by offenders persistently targeting disabled people.
4.5 Develop and monitor tracking of criminal cases to check progress and provide feedback to the victims and communities.
4.6 Work with perpetrators and their families to address their prejudices against disabled people by effective interventions and referral to appropriate services.
Outcome Sought 5
Increased public awareness and improved understanding of hate incidents against disabled people
Actions
5.1 Develop a city wide awareness campaign relating to disability hate incidents. Promote greater understanding of hate incidents against people with learning disabilities in Brighton & Hove.
5.2 Develop easy to read information and posters targeting general public, also specifically targeting people with learning disabilities. Translate the information and make it available in different formats.
5.3 The Partnership Community Safety Team and statutory partners of the Community Safety Partnership to regularly consult and engage with disabled people, their carers and organisations working with disabled people in developing priorities and services. Continue to facilitate the disability hate incident steering group.
5.4 Address safety concerns of disabled people and raise awareness of risks, reporting mechanisms and support available.

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5.5 Prioritise promotion of clear and consistent disabled friendly messages and raise awareness of disability hate incidents in young people's settings using a variety of young person friendly media and training.

¹ Borsay, A. (2004) Disability and Social Policy in Britain since 1750. Basingstoke: Palgrave in Developing Appropriate Strategies for Reducing Inequality in Brighton and Hove. Phase 1 Identifying the challenge Oxford Consultants for Social Inclusion (OCSI) and EDuce Ltd.

² See also 'Policy for Prosecuting Cases of Disability Hate Crime' CPS 2007 and its revision in March 2010 for fuller explanation of Section 146 and when it might apply. In May 2010, CPS clarified that people living with HIV have the same legal hate crime protection as other disabled people. How these changes will affect people with other long term condition is still to unfold.

³ British Council of Disabled People, 2007

⁴ DRC. (2003) Attitudes and Awareness Survey.

⁵ Ibid.

⁶ Mind. (2007) Another Assault

⁷ Equality and Human Rights Commission. (2009) Promoting the safety and security of disabled people.

⁸ The learning disability commissioning strategy, Brighton & Hove 2009 – 2012. People with mild learning disability or Aspergers Syndrome /higher functioning Autism may not be in receipt of services and exclusion of children and young people under 18 accounts for the disparity in numbers.

⁹ This information is obtained from the Office for Disability at

<http://www.officefordisability.gov.uk/resources/background0101.asp> - website accessed on 02/01/09