

# Disability Rights UK

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## **Let's Stop Disability Hate Crime**

**A guide for setting up third party reporting centres**

**In association with:**



Office for Disability Issues

HM Government

# **Disability Rights UK**

Disability Rights UK – formed through a merger of Radar (The Royal Association for Disability Rights), Disability Alliance and National Centre for Independent Living on 1 January 2012. Our vision is a society where all disabled people can participate equally as full citizens. We aim to be the largest national pan-disability organisation led by disabled people.

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## **Disability Hate Crime Third Party Reporting Standards**

To truly tackle disability hate crime Disability Rights UK believes that disabled people's organisations need to work in partnership with public authorities (police, local councils, schools etc.) and other local services (transport providers, housing organisations etc). By working together with disabled people at the centre of any solution we can bring down the prejudice and hostility that leads to disability hate crime.

Disability Rights UK's Let's Stop Disability Hate Crime guidance would not have been possible without partnership working. We wanted to ensure that the guidance reflected what disabled people wanted while making sure that it was an accurate account of the criminal justice system.

At the centre of the work were the disabled people who shared their experiences of either reporting disability hate crime or the reasons why they did, or could, not report it. We must thank all of them for sharing their experiences and particularly those who allowed us to use quotes to illustrate the guidance and draw attention to the lived experience of disability hate crime in the UK today.

Disability Rights UK also worked with a wide range of organisations including disabled people's organisations, disabled people's third party reporting sites, police forces, the Crown Prosecution Service, Ministry of Justice and Home Office. This ensured that the guidance was genuinely co-produced.

Disability Rights UK must also thank both Stephen Brookes and Anne Novis who both advised the Let's Stop Disability Hate Crime Project Board.

Disability Rights UK must also thank the Minister for Disabled People and the Office for Disability Issues for providing the staff resource to undertake this important project.

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## Introduction

- 1.1** What does disability hate crime say about the society that we live in? That a minority of the population can be so much in fear of disabled people that they make them the scapegoat for their own inadequacies. This is not confined to a specific part of society. It permeates society from the top to the bottom. From politicians who barrack one of their number to the average person on the street who believe that disabled people should be seen and not heard.
- 1.2** At its most simple, a disability hate crime is a crime that is motivated by hostility, or prejudice, because the victim is a disabled person, or is perceived as a disabled person (**See Annexe One for the Criminal Justice System's definition of disability hate crime**). If the crime is shown to be a disability hate crime in court the judge must treat it as an aggravating factor in the crime (**See Annexe Two Section 146 of Criminal Justice Act 2003**).
- 1.3** Reporting disability hate crime will not change the prejudice and hostility that exists but it will highlight that there is a need to address that prejudice. We know that disabled people can be victims of harassment for the large part of their life. It has been shown in some cases that a second and possibly a third generation of perpetrators have continued the harassment started by their parents and grandparents.
- 1.4** The Life Opportunities Survey states that 2% of the population have been the victim of all types of hate crime that equates to around 1,200,000 people. It goes on to say that of that 27% of adults with impairments who experienced a hate crime reported that a health condition, illness or impairment, or disability was the motivation. And yet in 2010 the police only recorded 1,569<sup>1</sup> hate crimes in England, Wales and Northern Ireland. The Crown Prosecution Service took 1,200 cases to court in the three years to March 2010<sup>2</sup>.
- 1.5** We believe that recorded crime figures are only the 'tip of the iceberg' and that this needs to change. One way of making that change is to make sure that disabled people have somewhere, or someone, that they can go to report a disability hate crime.

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<sup>1</sup> ACPO Recorded Hate Crime – January to December 2010

<sup>2</sup> CPS Hate crime and crimes against older people report 2009- 2010

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## **Overview**

### **1.6 The Case for Disability Hate Crime Third Party Reporting Sites**

This chapter explores the case for improving the reporting of disability hate crime and the key drivers that disabled people can use to bring about change:

- Public sector Equality Duty;
- UN Convention on the Rights of Persons with Disabilities
- The Localism Agenda; and
- Equality and Human Rights Commission Inquiry into Disability-related Harassment.

### **1.7 Partnership Working**

This chapter sets out the case for partnership working and looks at some of the organisations that a third party reporting site must engage with, for example, the police and local authorities. It also considers some organisations that it might be useful for a third party reporting site to connect with, for example, schools, community safety partnerships, transport companies.

### **1.8 Standards and Good Practice**

This chapter sets out the issues and standards that a third party reporting site should consider when taking reports of disability hate crime. It looks at the reporting site; pre-reporting interview actions; the reporting interview; and post reporting interview actions.

### **1.9 Barriers to reporting Disability Hate Crime**

To increase reporting of disability hate crime it is essential that the barriers to reporting are broken down. This chapter deals with some of the main barriers disabled people tell us stop them from reporting disability hate crime.

### **1.10 Annexes**

Annexe One	Definition of disability hate crime
Annexe Two	Section 146 of the Criminal Justice Act 2003
Annexe Three	Public Sector Equality Duty
Annexe Four	UN Convention On the Rights of People with Disabilities
Annexe Five	EHRC Inquiry Seven Core Recommendations
Annexe Six	Access, reasonable adjustments, and special measures

**1.11** This guidance is intended to provide a general overview of the law to assist disabled people's organisations to set up third party reporting sites. It does not provide a full and authoritative interpretation of the law. Where a dispute arises it may be advisable to obtain independent advice.

## **The Case for Disability Hate Crime Third Party Reporting Sites**

**2.1** When setting up a third party reporting site you may have to convince your local authority, police force and other organisations that there is a need for the service. And that they should be involved in its setting up and running. There are two main drivers for achieving this:

- The case for improving the reporting of disability hate crime in your catchment area; and
- Rights legislation and conventions that public authorities need to take account of in the way they work:
  - The public sector Equality Duty;
  - The UN Convention on the Rights of Persons with Disabilities;
  - Localism agenda;
  - EHRC Inquiry in to disability-related harassment.

### **Key facts**

**2.2** There are over ten million people with a limiting long term illness, impairment or disability in the UK<sup>3</sup> this equates to 1 in 20 children; 1 in 7 working age people; and 1 in 2 people over state pension age<sup>4</sup>. The British Crime Survey (2009/10) tells us that disabled people are significantly more likely to be victims of crime than non-disabled people. This gap is largest amongst 16-34 year-olds where 38 per cent of disabled people reported having been a victim of crime compared to 30 per cent of non-disabled people.

**2.3** There is a major discrepancy between the number of disabled people who have been the victim of disability hate crime and the number of disability hate crimes that have been recorded. The Life Opportunities Survey showed that 27% of disabled adults who had experienced hate crime reported that a health condition, illness or impairment, or disability was the motivation for that crime<sup>5</sup>. And yet in 2010 the police only recorded 1,569 hate crimes in England, Wales and Northern Ireland<sup>6</sup>.

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<sup>3</sup> Family Resources Survey 2009/10

<sup>4</sup> *ibid*

<sup>5</sup> The Life Opportunities Survey 2010

<sup>6</sup> ACPO Recorded Hate Crime – January to December 2010

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**What would help disabled people report disability hate crime**

“A contact number to phone for advice on whether a crime has been done and advice and support to help with the next step.”

“A point of contact that is independent & non-judgemental.”

“If there was a specific number to call or if there was support attached to calling for help.”

“If there was an anonymous site or phone line where you could talk to someone privately.”

“A Hate Incident Reporting Centre.”

**Disability Rights UK Let's Stop Disability Hate Crime Survey  
2010**

**2.4** Research undertaken by the Disability Rights Commission found that approximately half of the disabled people surveyed (47%) had experienced disability hate crime<sup>7</sup>. These levels may seem extreme, however, Scope's discrimination survey found that 56% of disabled respondents had felt that a stranger had acted in a hostile, aggressive or violent way towards them because they were disabled<sup>8</sup>.

**2.5** The DRC research went on to say that 90% of those surveyed would tell someone about an attack; however, only 40% of those would inform the police<sup>9</sup>.

**2.6** This is backed up by anecdotal evidence from the Disability Rights UK Let's Stop Disability Hate Crime Survey which found that one of the key reasons why a disabled person would not report a disability hate crime to the police was because they felt they would not be treated with respect. There was also evidence that when disabled people told friends, family and those that work for them about a disability hate crime the person they told did not recognise the event as a disability hate crime, or did not know what to do about it.

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<sup>7</sup> Disability Rights Commission and Capability Scotland, Hate Crime against Disabled People in Scotland: 2004

<sup>8</sup> Scope NDPP survey February to March 2011

<sup>9</sup> Disability Rights Commission and Capability Scotland, Hate Crime against Disabled People in Scotland: 2004

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**Why disabled people don't report disability hate crime (1)**

"People who have their confidence knocked can find it very difficult to then try and explain what has happened to an often less than sympathetic third party."

"Experience tells me I will be treated a simply a nuisance or a moaner."

"Because it would have been my word against theirs and I was afraid."

"Scared of being involved with the police."

"They make excuses and make you feel worse about the situation. I have been made to feel this is our fault in the past."

"Because it could make it worse, possible revenge attacks. Other incidents are too minor to report, although just as hurtful."

"I was frightened of comebacks, and more of the same. Who would believe me anyway?"

**Disability Rights UK Let's Stop Disability Hate Crime Survey  
2010**

**2.7** There is a strong case to say that there are considerably more disability hate crimes committed than are reported, and recorded, by the authorities. There is evidence from pan-equality third party reporting sites that the number of disability hate crime reports they receive is second only to race hate crime. They also found that the number of disability hate crimes had increased exponentially over the last three years.

## **Rights**

**2.8** If more than half of all disabled people would not report a disability hate crime and the relevant public authorities are not providing an alternative method for reporting disability hate crime, it could be argued that the public authorities are not meeting the general duties set out in the public sector Equality Duty, in the Equality Act 2010 and Article 15 and 16 of the UN Convention on the Rights of Disabled People.

**Why disabled people don't report disability hate crime (2)**

"A feeling of hopelessness that they (Local Authority) didn't care."

"Doesn't seem much point, no one is going to do anything about it and it will only make things worse if I do."

**Disability Rights UK Let's Stop Disability Hate Crime  
Survey 2010**



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## **Public sector Equality Duty**

**2.9** The public sector Equality Duty (**Annexe Three**) requires public authorities to 'pay due regard to the need to' eliminate discrimination, harassment and victimisation, advance equality, and foster good relations. This means they should consider these factors when developing all of their policies or carrying out their functions.

**2.10** A key part of advancing equality is that they should take steps to take account of disabled people's impairments and, sometimes, should consider treating disabled people more favourably than non-disabled people.

**2.11** This supports the Equality Act measure to make reasonable adjustments for disabled people, which public authorities should consider proactively in respect of how their services are delivered.

**2.12** So, for example, in order to advance equality, the police, and / or local authorities, should make sure that disabled people have appropriate facilities to report disability hate crime and incidents. This might take the form of:

- providing a third party reporting facility;
- making police stations more accessible;
- better disability confidence training for staff; or
- raising awareness of disability hate crime and how to report it among disabled people.

## **UN Convention on the Rights of Disabled People**

**2.13** The UN Convention sets out internationally recognised benchmarks for disabled people's rights in all areas of life. The United Kingdom ratified the UN Convention in July 2009. By ratifying the Convention the government agreed to comply with its provisions when they are carrying out their work. This includes work carried out by public bodies such as local authorities, and police forces.

**2.14** The Convention does not form part of British domestic law but may have an influence when issues are being considered. For example, if a public authority is being held to account because they are not complying with their duty to eliminate harassment of disabled people article 15 of the UN Convention which gives disabled people the right to not be subjected to inhuman or degrading treatment could also be cited to support that claim.

**2.15** The Convention is particularly relevant to the protection and treatment that disabled people are entitled to. There are two key articles in the UN Convention which might be used as drivers to support the setting up of disability hate crime reporting centres.

**2.16** Article 15 (**Annexe Four**) is about protecting human dignity. There are many situations where disabled people can be the victim of inhuman or degrading treatment. Almost all instances of disability hate crime would be inhuman or

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degrading treatment. This article also requires that all public bodies take all effective measures to prevent disabled people being treated in this way.

- 2.17** Article 16 (**Annexe Four**) sets out detailed steps of how to prevent or address exploitation, violence and abuse. Public bodies have a duty to make sure that disabled people are not treated in an inhuman or degrading way.

### **Localism agenda**

- 2.18** The localism agenda is defined, by Government, as people working together for the common good to achieve collective goals in ways that are more diverse, more local and more personal. This community method of working is nothing new for disabled people's organisations. It is not uncommon for disabled people's organisations to work together to instigate change on a local, regional and national level.
- 2.19** Voluntary and community groups will have the right to challenge local authorities over their services. The Government believes that all public services should be open to diverse provision. It should empower communities by giving them a right of challenge to run local authority services. This means that local communities will be able to get more involved in the delivery of public services and shape them in a way that will meet local preferences.
- 2.20** The agenda will still require services to be regulated to make sure that they benefit those people who use and pay for the service. However, this will not favour any particular service provider so all providers have the opportunity to prove their worth. If a new provider can deliver the outcomes for the service as well as or better than the public sector then they should be able to retain their values and methods to achieve those outcomes.
- 2.21** For example, if a local authority provided an in-house hate crime reporting service that disabled people did not use, then a disabled persons' organisation could put a case forward to taking over the reporting service for disabled people. They will be judged on the outcomes they achieve and not how they achieve them.

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## **Equality and Human Rights Commission Inquiry into disability-related harassment**

The Equality and Human Rights Commission Inquiry into disability-related harassment found that there was a systemic failure by public authorities to recognise the extent and impact of harassment and abuse of disabled people, take action to prevent it happening in the first place and intervene effectively when it does.

### **Hidden in Plain Sight Inquiry into disability-related harassment – EHRC**

**2.22** The Equality and Human Rights Commission's (EHRC) Inquiry makes a compelling case for public authorities, and society to tackle disability-related harassment and hate crime. The report (Hidden in Plain Sight) examined a wide range of evidence including ten cases of abuse, nine of which resulted in the death of the disabled victim.

**2.23** The evidence that has been collated demonstrates the failure of public authorities to deal with disability harassment and hate crime. It found that the true extent of harassment is not recognised by public authorities, despite disabled people saying it is a commonplace experience. They found that public authorities deal with incidents in isolation, rather than as a pattern of behaviour, and sometimes the focus is on the disabled victim's behaviour rather than the perpetrators.

**2.24** The report makes seven key recommendations (**see Annexe Five**). The full report can be found at

[www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/inquiry-into-disability-related-harassment/hidden-in-plain-sight-the-inquiry-final-report/](http://www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/inquiry-into-disability-related-harassment/hidden-in-plain-sight-the-inquiry-final-report/)

### **Other Useful information**

**2.25** Recommendation 16 of the Stephen Lawrence Inquiry report also highlighted the need for police services and local authorities, in consultation with other agencies and local communities, to encourage reporting and that should include the ability to report at locations other than police stations.

### **Conclusion**

**2.26** Quantitative, qualitative and anecdotal evidence suggests that almost half of disabled people have been the victim of some sort of disability hate crime or incident. Local public authorities are failing disabled people by not taking enough action to tackle disability hate crime. In the vast majority of cases authorities are not complying with their basic duties under the Equality Act 2010 to eliminate harassment and victimisation. The EHRC Inquiry has pointed out that public authorities should come under greater public scrutiny to ensure their compliance.

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**2.27** However, using the failures of the public sector to bring about change is a blunt instrument that should only be used as a final option. A more appropriate approach is to agree where there are problems and explore how disabled people's organisations can work in partnership with local public authorities to provide a cost-effective service which tackles the barriers and enables disabled people to report.

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## Partnership Working

- 3.1** Recent high profile cases have shown that there are a wide range of organisations that may be involved with the victim of a crime or an incident. A report into one case showed that there were over eleven agencies working on a single case, however, they also discovered that there was little sharing of information, even between different parts of the same organisation.
- 3.2** All too often this lack of a joined up approach between different public authorities has led to disabled people being let down by the people that are supposed to be standing up for their rights. Therefore, it is essential for the successful running of any third party reporting site that it works in partnership with a range of public authorities.
- 3.3** Which organisations the reporting site works with will depend on the nature of the problem in their local area. However, all reporting sites will need to work with the police and their local authority and organisations providing victim support services. As well as handling the reporting of hate crimes, the service should be ensuring the victims receive appropriate support, for example, Victim Support or another organisation that can provide the required support.
- 3.4** Other public authorities and organisations that may be useful to form partnerships with include Social Services; housing authorities; transport organisations; and schools. However, there may be others that are appropriate for your area.
- 3.5** Some organisations will need to be involved all the time, for example, the police or local authority. Others might only need to be involved on an occasional basis. In all cases it is probably worth having a service level agreement that sets out what services the third party reporting site will provide and what they can expect in return for that service.

“An information sharing protocol must be established between the third party site and the Police so that those using the site are confident about what will happen with the information they provide and that it will remain secure.”

**Hate crime: Delivering a Quality Service – ACPO 2005**

- 3.6** There should also be a robust communication network between each facet of the partnership. This will mean that information is not overlooked and lost, and that repeat offences are more likely to be recognised especially where they are reported to different partners. The communication network will need to be set out in any service level agreement so that there are adequate safeguards for the protection of personal information, for example, Data Protection Act provisions, and that there is a requirement to seek consent before any personal data can be shared with other agencies.
- 3.7** Working with these partner organisations should not have an impact on your own organisation's ability to campaign for change within the local community. Working in partnership is not a tacit agreement to accept everything that the other organisation

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says. It should be more of an opportunity to create good working relationships with your local public authorities and organisations. To make the partnership work, there must be a free flow of ideas, debate and information between all parties that may include disagreeing with each other's ideas.

**The work on disability hate crime in Blackpool is a positive example of partnership working.**

There is a base working group of key volunteers and staff from:

- Blackpool Disability Information and Support;
- the Equality and Diversity Unit of Blackpool Council;
- The Diversity Group of the Western Division of Lancashire Police;
- Community Safety teams;
- Victim Support; and
- Blackpool Advocacy and learning disability steering groups.

Additional support and input is supplied on an as required basis from Blackpool Council's Transport and Education Departments and the local Council for Voluntary Services.

Key to the success of this scheme has been their communication structure. The close links between the work of both the voluntary and statutory groups has meant increased confidence in recognising disability hate crime and increased numbers of incidents being reported.

## **Public authorities you will need to work with**

### **Working with the police**

"The aims of having third party reporting sites are to increase reporting of hate crime and to increase the flow of intelligence from the community. These are achieved by providing members of the public with an alternative point of contact."

**Hate crime: Delivering a Quality Service – ACPO 2005**

**3.8** The reporting site's relationship with the local police force is essential for the success of any reporting site. By providing the police with reports of disability hate crimes and hate incidents you are enabling them to get a better picture of crime in your area. This could mean that further crimes, including disability hate crimes, are prevented because the police have a better understanding of the amount of crime in their area and they can use that information to better tackle it.

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- 3.9** You will need to agree with the local police force how you are going to pass on information, including anonymous information. You will also need to consider the security of that information.

It is important that you agree the format of the reporting form that you use. This will make sure that the information you pass to the police is pertinent to any action that they take. You could use the True Vision website reporting form.

[www.report-it.org.uk/your\\_police\\_force](http://www.report-it.org.uk/your_police_force)

- 3.10** As a 'minimum standard', you should report every crime to the police. If the victim cannot be encouraged to pass details to the police then it must be reported anonymously with yourselves acting as the communication link. This will allow the police to see any emerging trends of criminality.

### **Working with your local authority**

- 3.11** Your local authority is responsible for a range of local services including housing, transport, care, health, and schools. Each of these functions may come across and deal with hate crime or be part of a solution to hate crime.

- 3.12** It is essential that the appropriate function is aware of, and can take responsibility for, any hate crimes or incidents that occur within its brief. They should also work in conjunction with other appropriate authorities. For example, if a disabled tenant is persistently a victim of disability hate crimes or incidents, then not only should the police be informed but the housing department. If the victim lives in premises managed by Registered Social Landlords then they should be informed as well.

“We have no confidence in the local police and even now after many promises to do so we know that harassment letters were never sent to the offender and the housing association did not act quickly enough so we have no confidence they would do so again.”

**Disability Rights UK Let's Stop Disability Hate Crime Survey 2010**

- 3.13** Although it may not be practical to form direct partnerships with each of these separate teams: any partnership with a local authority must include access to these functions.

- 3.14** The police have primary responsibility for the investigation of crimes so they would always be informed, however, responsibility for, or 'ownership' of non-crime incidents is less defined. The circumstances will be agreed by the

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partnership but a common-sense approach is required. By way of example, if a person reported an incident of non-criminal abuse on a bus at a health appointment then the health authority would be the best placed to respond and address the abuse as they see fit. It is this authority that has the moral and legal duty to respond.



## **Others you might want to work with**

### **Community Safety Partnerships**

- 3.15** Community Safety Partnerships are made up of representatives from the police service and police authority, the local council, and the local fire, health and probation services. They also work closely with local housing and youth services.
- 3.16** They work together to develop and implement strategies to protect their local communities from crime. They are tasked with working out local approaches to deal with issues including antisocial behaviour, drug or alcohol misuse and re-offending. They can also work with community groups and registered social landlords.
- 3.17** By engaging with them on disability hate crime and incidents you will have the opportunity to influence the local agenda.

### **Schools**

"I told the police because I needed support. At school I told teachers but no action was taken."

**Disability Rights UK Let's Stop Disability Hate Crime Survey 2010**

- 3.18** Bullying of disabled young people in schools, and out of schools, is an issue that needs to be addressed as well. Partnership working with schools can have several benefits. It allows for more accurate recording and engagement with non-disabled young people about disability issues.

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## Transport companies

**3.19** Disabled people experience a range of disability hate crimes and incidents when they use public transport. This has been highlighted in the EHRC report which found that public transport was a key area where abuse was experienced<sup>10</sup>.

“I have also been physically knocked down when using London Underground for getting in someone's way because I cannot walk quickly. I am also sometimes threatened when going up staircases where no alternative exists.”

**Disability Rights UK Let's Stop Disability Hate Crime Survey 2010**

**3.20** There has been some success where disabled people's organisations and/or the police have worked with public transport operators to raise awareness amongst transport companies' staff and drivers to tackle disability hate crimes and incidents.

**3.21** Forming partnerships around reporting hate crimes, or incidents, on public transport will require partnerships with:

A police force has been holding a series of road shows about disability hate crime to break down barriers between the police and disabled people. At one of these road shows there were a lot of comments about incidents on buses. As a result of these comments the police force worked with the bus companies on this issue. Now the bus drivers are more confident to intervene when incidents take place on their buses. The police also keep an eye on the buses and occasionally travel on the buses to deter incidents.

- the British Transport Police who are responsible for policing the rail network. They also police the London Underground, Docklands Light Railway, the Midland Metro tram system, Croydon Tram link and the Glasgow Subway; and
- the local police authority that is responsible for policing the bus networks and taxis.

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<sup>10</sup> EHRC Disabled people's experiences of targeted violence 2009

## **Standards and Good Practice**

### **Standards for taking reports of disability hate crime**

- 4.1.** Being the victim of disability hate crime is a traumatic experience. There needs to be a balance between the feelings of the victim and making sure that the third party reporting site achieves the highest quality of evidence in the report of the alleged disability hate crime.
- 4.2.** These standards set out the key issues that a third party reporting site should take account of to achieve that balance. The standards are based on face to face contacts. Where other forms of contact are also being used, for example, telephone, textphone, or sms text the site may need to consider how to adapt the standards.
- 4.3.** **These standards should not be treated as an authoritative list of actions for all third party reporting sites.**
- 4.4.** They have been compiled using input from experienced third party reporting sites, the police and local authority guidance to cover the widest range of issues that a third party reporting site might need to think about.
- 4.5.** We would suggest that they should not be followed slavishly and should be adapted to take account of the local area and what your organisation is able to provide.
- 4.6.** The standards are divided into 4 sections:
- The reporting site;
  - Pre-reporting interview actions;
  - Reporting interview; and
  - Post-reporting interview actions.
- 4.7.** Each of the standards will set out the standard and some bullets on what needs to be considered to achieve that standard. There will also be some text explaining the reasoning behind those standards.

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## The Reporting Site

**Standard** – the reporting site must be accessible to all

- Is the reporting site accessible to all disabled people who may want to report a disability hate crime?

**4.8.** Disabled people have told us that one of the major barriers to reporting is inaccessible police stations. Therefore, it is important that the reporting site is accessible to all disabled people who might want to use the service. As a service provider you are under an anticipatory legal duty to make reasonable adjustments. Therefore, the site should have all it needs in place to enable the site to serve all disabled people without any delay (**See Annexe Six**).

**4.9.** Accessibility goes beyond making physical features accessible. It is about providing a service that caters for the disabled victim's requirements so that they are able to give an accurate account of their experience.

**4.10.** The experience of established disability hate crime third party reporting sites makes it clear that disabled people are more likely to report a disability hate crime if the reporting centre is somewhere they are comfortable and confident they will be treated with respect when they are reporting a crime.

**Standard** – the reporting site should use the True Vision reporting facility on [www.report-it.org.uk](http://www.report-it.org.uk), or an agreed form with their local police force or other relevant authority for passing the information of a crime on.

- Has the reporting site agreed a standard format for reports with relevant local authorities?

**Standard** – the reporting site should have a database of local contacts that is regularly kept up-to-date with contacts details and information that may be used to support a disabled victim of disability hate crime.

- Has the reporting site set up a database of local contacts and information on support services;
- Does the reporting site regularly update, and check, the database to make sure it is current?
- Where the reporting site is near the border of two local authorities has it included contacts for both authorities?

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- 4.11.** The third party reporting centre's response to disability hate crime will vary depending on the sort of crime, or incident, which has taken place. When taking a report you will need to record as much information as possible. To make the service compatible with your local police force we would recommend that the True Vision form is used.
- 4.12.** People will have a range of different reactions to being the victim of a disability hate crime or incident. It is likely that they will require further support beyond simply recording and reporting their experience.
- 4.13.** If your organisation cannot provide further support, it is essential that you are able to refer the victim on to an appropriate service. At its most simple, it may just mean giving details of Victim Support. It is more likely to require referrals to a variety of services, including arranging for medical attention, advocacy support for the victim, communicating with the local housing authority or private landlords about maintenance, and security related to the hate crime or incident.
- 4.14.** The quality of the support that the third party reporting site provides will be an issue that impacts on how it is perceived by the local community, and whether they are confident in the services the site provides.

**Good Practice** – It is worth forming partnerships with third party reporting sites in your catchment area that take reports for other equality strands.

- Has the reporting site formed partnerships with other local equality strands third party reporting sites?
- Does the reporting site have contacts for the other third party reporting sites to advise them on specific issues and support?

- 4.15.** Disabled people can be the victim of other types of hate crime. Not all crimes that are reported to a disability hate crime third party reporting site will be disability hate crimes. A disabled victim of hate crime might perceive that the crime was motivated by a different characteristic other than disability. They might think that there was more than one reason why the crime was committed, that might include two different characteristics for example, race and disability, or it might be because of domestic violence and disability.
- 4.16.** The cross-characteristic issue is highlighted in the Life Opportunities Survey which tells us that of the disabled people surveyed who had experienced hate crime: 10% believed it was motivated because of their age; 6% because of their gender; 27% because of their ethnicity; 11% because of religion; and 9% because of their sexual orientation.
- 4.17.** It is worth forming partnerships with third party reporting sites in the reporting site's local area that deal with other equality strands and organisations that deal with domestic violence and other similar issues. If you take a report from a victim

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that is not primarily disability hate crime, the other sites should be able to advise you on what local support is available for the victim.

- 4.18.** The reporting sites will also be able to exchange information and good practice.

**Good Practice** – the reporting site should prepare information for report takers on the key issues that need to be addressed for the main or most-reported types of disability hate crime.

- 4.19.** Different types of hate crime may require different responses by the reporting site. Some may need to be dealt with as an emergency, while other cases may require a more measured approach and different information may need to be included in the report.

- 4.20.** It would be good practice to set out information on some types of hate crime, including disability hate crime, which can be used by the person taking the report from the victim, particularly if they have not taken that type of report before or for some time, so that they are well informed on the issues and best able to help those using the site.

- 4.21.** The example below is based on the Community Security Trust guide to fighting hate crime. This is available publicly via the True Vision website at: [http://report-it.org.uk/third-party\\_reporting\\_support](http://report-it.org.uk/third-party_reporting_support). It is important that the reporting site prepares their own information and makes it relevant to their particular catchment area.

**Assault**

- If the crime is on going then call the police emergency number (999);
- If the crime is over check if the victim needs medical attention or any other support;
- Use the True Vision report form to take details of the perpetrator and make sure that a full description of the perpetrator is taken;
- Confirm that the victim wants to be named in the report;
- Pass the report on to the reporting sites police liaison officer and take a crime incident number;
- Refer the client to appropriate support services for example:
  - Victim Support;
  - Advocacy services; and
  - Women's Refuge.

- 4.22.** You should also make sure that the services you recommend are accessible to the person reporting the disability hate crime. All service providers are under a duty to provide reasonable adjustments.

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**Good Practice** – the reporting site should take reports of non-disability hate crimes as well if the victim does not feel confident to report it to the police

- 4.23.** We know that disabled people are more likely to be the victim of crime than non-disabled people. They are also less likely to see the criminal justice system as fair.

Disabled people are significantly more likely to be victims of crime than non-disabled people. This gap is largest amongst 16-34 year-olds where 38 per cent of disabled people reported having been a victim of crime compared to 30 per cent of non-disabled people.

Disabled people are less likely than their non-disabled peers to think the criminal justice system is fair. This gap is largest amongst 16-34 year-olds, where 49 per cent of disabled people think that the criminal justice system is fair compared to 65 per cent of non-disabled people.

**British Crime Survey 2009/10**

- 4.24.** We know that disabled people are less likely report a disability hate crime, because they are concerned that they will not be treated with respect or they feel or have been told they should just ignore it. It could be argued that they might not report other crimes for the same reasons.
- 4.25.** Anecdotal evidence from the Disability Rights UK Let's Stop Disability Hate Crime survey tells us that a large proportion of disabled people might not recognise some crimes as disability hate crime. The survey highlighted several reasons for this including the victim not perceiving the crime as a disability hate crime, the victim not understanding what a disability hate crime is, or the victim not linking a series of incidents together as a hate crime.
- 4.26.** Reporting sites should therefore consider whether they should also take reports for non-hate crimes particularly if they believe the victim will not report the crime or that it might be a disability hate crime.

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## Pre-reporting interview actions

**Standard** – assess the immediate risk to the victim and take appropriate action

- Has the report taker considered whether the victim is still at immediate risk?
- Has the report taker considered whether the victim requires any medical treatment?
- Has the report taker considered whether the victim is at risk of further violence, harassment etc?
- Does the victim need to be moved to a place of safety?
- Has the report taker addressed any concerns the victim may have about reporting?

**Standard** – assess the victim's access and welfare needs

- Has the report taker considered whether the victim's access needs have been met for the reporting interview?
- Has the report taker noted down the victim's access needs to pass on to the police force, or other agency so they are aware of any adjustments they may have to make?

**4.27.** When a victim wishes to report a disability hate crime the first thing the reporting site needs to consider, before taking that report, is whether the victim is still at any immediate risk and whether they need treatment for any injuries they have sustained.

**4.28.** If the victim is still at direct risk of further violence, intimidation, or needs medical attention then it is advisable to call the emergency services directly using 999.

**4.29.** If the victim is not at immediate risk before taking the report, it is essential to assess the victim's safety and welfare needs. Does the victim have any concerns about reporting the disability hate crime, which need to be addressed before the report is taken? For example, fear of reprisals, that they won't be believed, fear of safeguarding action and loss of their independence, or uncertainty about whether it is, or is not, a disability hate crime?

**4.30.** Does the victim need a reasonable adjustment – for example, an advocate, interpreter, personal assistant, or a loop system to be able to give an accurate account of their experience?

**4.31.** If the person reporting the disability hate crime requires an adjustment, you should note this down and pass the information on to the police. They will then be able to provide appropriate adjustments or special measures as appropriate (**See Annexe Six**).



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**Standard** – The report taker must make sure that any support worker (advocates, Interpreters etc.) that is required for the disabled victim is appropriate to ensure the quality of the report.

- Has the report taker made sure the Support worker is fully qualified?
- Has the reporter familiarised themselves with the way the support worker operates?

**4.32.** Where a disabled victim of disability hate crime needs a support worker it is important that the report taker is familiar with how the particular support worker works. This will make sure that the support worker is used most effectively to achieve the best outcome for the report.

**4.33.** The support worker should always be qualified. If the report taker uses someone who is not qualified there is a risk that the evidence may be contaminated. For example, the support worker might interpret the report taker's question or the disabled victim's reply which could mean the police do not receive an accurate report of the disability hate crime.

**Standard** – the report taker must make sure that the victim understands the process and what will happen to the report once they have agreed it.

- Has the report taker explained the reporting process to the victim?
- Has the report taker explained their role to the victim?
- Has the report taker explained about confidentiality to the victim?

**4.34.** The report taker role is to make sure that the report contains all the necessary information about the alleged crime and is a true account of the victim's experience.

**4.35.** The report taker must clearly explain the process of reporting the disability hate crime to the victim. The victim will need to understand the role of the report taker in the process, for completing the reporting form, reporting the crime to the police and signposting the victim to appropriate advice and support should they require it.

**4.36.** It must be made clear to the victim that the detailed information of the report will stay confidential and will only be shared with other agencies (police, local authorities etc.) with the victim's agreement or where the victim is in immediate danger.

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**Standard** – the reporting site should make sure that the disabled victim's right to confidentiality is adhered to and that they understand that the hate crime will still be reported to the police anonymously for intelligence purposes.

- Has the report taker explained the confidentiality choices to the victim?
- Has the report taker made clear to the victim the risks of reporting anonymously?
- Has the report taker explained that anonymous reports will still be passed to police for intelligence purposes about disability hate crime?

**4.37.** Victim confidentiality should be assured to everybody who reports a hate crime or hate incident. A victim of disability hate crime does not have to give their personal details to either you or the police if they don't want to. So they are entitled to report the crime, or incident, anonymously. However, if the report taker believes the victim is in a life-threatening situation, then they will have to share the report with the appropriate authority.

**4.38.** The victim must understand that if they do not give their details, the police will be unable to contact them if they need more information and may not be able to investigate the crime fully.

**4.39.** The report taker must make the victim understand that the many positive reasons for reporting disability hate crime: i.e. that it would help ensure that the person who committed the crime is caught and brought to justice, and that disability hate crime does not happen to someone else. As noted above, reporting anonymously will make it more difficult for the police to take action against the person committing the crime.

**4.40.** If the victim only wants to report the crime anonymously, it is important that the report is passed on to the police because the intelligence from the report will help them to get a better picture of the area. It is not for the reporting site to decide what does and doesn't get forwarded to the police. This could mean that further crimes, including disability hate crimes, are prevented because the police have a better understanding of the amount of crime in their area and they can use that information to better tackle it.

**Standard** – reports should always be taken in a location that is free from disturbance and interruption.

- Is the reporting area free from distractions?

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**Standard** – make sure that the environment that the report is taken in puts the victim at their ease and is conducive for them to recall as much detail as possible about the crime or incident.

- Has the report taker made sure that the victim feels safe in the reporting environment?
- Has the report taker offered the victim the option of having someone else, for example, a family member, in the reporting environment to support the victim?
- Has the report taker offered the victim time to prepare for the reporting interview?

**Standard** – a minimum of an hour should be put aside to take the report.

- Has the report taker made sure that the victim has enough time to give an accurate account of their experience?
- Does the report taker have a minimum of an hour to take the report;
- Can the report taker write up the report immediately after the reporting interview?

**4.41.** When taking a report of disability hate crime the victim must be confident that the person taking the report is concentrating on the detail of the report. The report should always be taken in private where there are no distractions. It is essential that the victim feels safe in the reporting environment otherwise there is a risk that the victim, or the report taker, may miss essential information needed for the report.

**4.42.** The victim may well be feeling sensitive about the crime. The report taker will need to take this into account. For example, the victim may not wish to be alone with the report taker; they may not be comfortable having people too close to them; or they may need some time on their own in a safe place to prepare to report the crime.

**4.43.** Taking a detailed report will take time so it is essential that the report taker has enough time to take the report. The report taker should leave a minimum of an hour to take the report and at least 20 minutes afterwards for writing up the report.

**Good Practice** - It is never good practice to pass a victim of hate crime, other than disability hate crime, on to another hate crime reporting site without checking all the facts.

- Has the report taker discussed what the victim believes to be the motivation for the hate crime?

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**4.44.** The victim of a hate crime might perceive that the crime was motivated by a different characteristic other than disability. Alternatively, they might think that there was more than one reason why the crime was committed. When taking a report of a hate crime it is always important to record the victim's perception of the motivation for the crime. This may mean recording details of more than one motivating factor on a report.

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## Reporting interview

**Standard** – the methods which the reporting site uses to deliver its services is a matter for their discretion. However, report taking should not be treated as simply a form-filling process.

- Has the report taker given the victim enough time to process the experience so they can give an accurate account of their experience?
- During the reporting interview has the report taker covered:
  - What happened?
  - When it happened?
  - Where it happened?
  - Whether the victim was injured and what were the injuries?
  - Details of any property that was stolen or damaged during the incident?
  - Why does the victim think it was a disability hate crime?
  - How many people were there?
  - Does the victim know the offenders who are they and where do they live?
  - If they don't know them, what did they look like?
  - Was there anything about them that made them stand out, for example, a tattoo or coloured hair?
  - Did they use a car and if they did what sort of car was it and what colour was it?

**Standard** – The report should always contain details of previous hate crimes or incidents which are relevant to the current report.

- Has the report taker ascertained whether there have been earlier incidents that do or may relate to this report?
- Has the report taker recorded any relevant information about the previous hate crimes, or incidents, which are relevant to the current case?
- Has the reporter recorded the crime numbers, the name of the person who has been dealing with the case etc. which could be used to link the crimes, or incidents?

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**Standard** – the report taker must make sure that any evidence relating to the report is preserved and, where possible, copies included in the report.

- Has the report taker preserved any relevant evidence for the crime, for example:
  - a diary of all the incidents and crimes that the victim has been the victim of, recording the times that they happened and what happened?
  - printed copies of any letters, e-mails, social networking posts, texts etc. which are relevant to the crimes or incidents?
  - photographs of any damage to their property?
- Has the report taker taken copies of all evidence and included it in the report?
- Has the victim been advised to keep the originals?
- Has the report taker recorded the date, time and where texts, social networking posts etc have originated from?

**Standard** – the report should always include anything that the suspect said before during and after the offence, which may signify the hostility and motivation.

- Has the report taker accurately recorded what the victim reports was said before, during and after the offence by the suspect?

**4.45.** It cannot be overemphasised that taking a report is not simply a case of form filling. Although, there is a need to obtain as much information as possible, the person taking the report must be aware that the victim might have been through a traumatic experience and needs time to process the details.

**4.46.** So although a True Vision form or other agreed reporting form should be used for the final report that is passed to the appropriate authority, it should be used as a guide during the reporting interview and not the process of the report. Victims may relate information in an unorganised way, and the report taker needs to be sensitive to this.

**4.47.** If there is any evidence of the disability hate crime, it is important that it is preserved for any investigation by the police. For example, the victim may have a malicious letter, texts, or posts from a social networking site. Handling exhibits in a way that preserves the evidential value is important. Unnecessary handling can destroy forensic evidence and a lack of 'continuity' evidence can lead to an exhibit being unusable in court. You should always seek the advice of local police contacts if you are unsure.

**4.48.** The report taker should take copies of all the evidence and include it in the report. The victim should be advised to keep the originals, as they will be needed

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for any investigation that may take place as a result of the report. If the evidence might have fingerprints on it, for example a letter, the report taker needs to find out whether other people have touched it and place it in a plastic bag to prevent further contamination. Fingerprints are one of the key ways of identifying a suspect.

**4.49.** Where the evidence relates to text messages or social networking sites, copies of text messages can be included in the report but they will also require the time, date and telephone number that the text originated from. The victim should also retain the text. Malicious posts on social networking sites should be printed off and attached to the report with relevant information about the date, time and user account the posts came from. They should not be deleted in case they are required as evidence.

**4.50.** The report needs to record as accurately as possible anything that the suspect said before, during, or after the crime. It is important that any verbal abuse is recorded accurately as this may determine whether the crime was a disability hate crime.

**Good Practice** – the report taker should never assume that a deaf person does not know what was said. They may have been able to lip read, or they may have been told by someone who witnessed the disability hate crime. If a witness told them the report taker will need to note down the name and details of the witness.

**4.51.** The report should also record accurately any gestures, or physical posturing, of the suspect as this may indicate whether the crime is a disability hate crime.

**4.52.** The report should also, where possible, accurately record the timeline of events that led up to the crime, or incident, which is being reported. This may include information about previous crimes, or incidents. Where possible, these should also include information like:

- A crime number, if one had been issued by the police;
- The person who dealt with the crime, previously either at the reporting site, the police officer or the local authority officer who has been assigned to the crime/incident; and
- Why the victim believes the crimes or incidents are connected.

**4.53.** There is evidence that some hate crimes and incidents are part of a longer series of events. They must be linked together to make sure that the seriousness of the crime can be truly assessed and the appropriate authorities do not incorrectly perceive a series of incidents as separate events and then treat them as such.

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**Standard** – the report taker must ask pertinent questions to achieve the best quality report and to confirm information in the report.

- Has the report taker qualified their understanding of the victim's experience?
- Have they asked pertinent open and closed questions?

**Standard** – the report must be objective and a true account of the victim's experience in their own words

- The report taker should not lead the victim or assumed anything about the crime so it is a true account of the victim's experience;
- Has the reporter recorded the report in the victim's own words?

**Standard** – the report taker must not influence the victim or the content of the report in any way.

- Has the report taker asked leading questions?
- Has the report taker pre-judged anything that the victim has said during the reporting interview?
- Has the report taker maintained a neutral position?
- The report taker has not tried to justify the suspect's behaviour;
- The report taker has not implied that the victim may have provoked the crime;
- The report taker has not made judgements about any part of the crime; and
- The report taker has not commented about blame, or responsibility for the crime?

**4.54.** The victim should be encouraged to give as much detail as they possibly can. The information may not come out in the same way as prescribed by the form. It is important that the report taker takes notes. This will have to be explained to the victim so that they realise that they are being listened to. It is always essential to let them know that they will have the opportunity to read and check the completed report and add anything that they might think has been missed.

**4.55.** To get the highest quality of information for the report, the report taker must listen to what the victim is saying. They must also give the victim time to talk. They may need time to process, and consider, what happened: it is important that they have this time. Therefore, the report taker must fully understand and be sensitive to the victim's situation and circumstances, and not automatically ask a question if the victim pauses.



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- 4.56.** The report taker may need to ask probing questions to clarify information or gain specific information from the victim. They should use open questions (How, why, what) to achieve this.
- 4.57.** The report taker should also use closed questions when they want to make sure they have understood what the victim has said. It is also a useful way to summarise what the victim has said to check understanding and accuracy for the report.
- 4.58.** However, the report taker's questioning must not be leading. The report must be an accurate account of the victim's experience. It may be used as evidence in criminal, or legal, proceedings. Therefore, the report taker must not impose their own views or pre-judge anything that the victim says. For this reason, it is important that they keep a neutral position and report the victim's own words.
- 4.59.** The report taker must make sure that they do not:
- justify the suspect's behaviour;
  - imply that the victim may have provoked the crime;
  - make judgements about any part of the crime; or
  - comment about blame, or responsibility for the crime.

**Standard** – the report taker must confirm with the victim that the report is an accurate account of their experience.

- Has the report taker completed the reporting form immediately after the reporting interview?
- Has the report taker allowed the victim to read the final report and make any amendments?
- Has the victim agreed the report is an accurate account of their experience?
- Has the victim signed and dated the report?
- Has the reporter offered the victim a copy of the final report?

- 4.60.** The Report taker must complete the third party reporting form as soon after they have finished talking to the victim as possible. When they are finished they must go through it with the victim to make sure it is an accurate account of the crime.
- 4.61.** The report taker must make sure that the victim is content for the report to be passed on to the appropriate authority and state this agreement on the form. The victim must then sign the report.

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- 4.62.** The report taker should offer the victim a copy of the signed reporting form for their own records and retain the original should it be required for evidence.
- 4.63.** The reporting site should have a facility for secure storage of all material including interview notes that may be needed for 'disclosure' in future court proceedings.

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## Post reporting interview actions

**Standard** – the report taker must explain to the victim the next steps in the process.

- Has the report taker confirmed that the victim is content for the report to be passed to the appropriate authority?
- Has the report taker explained who the report will be passed to and how they will assess whether any action will be taken?
- Has the report taker made it clear that the appropriate authority will then have to investigate and acquire any appropriate evidence before any decision can be made as to whether the case can go forward?
- Has the report taker made it clear to the victim that they may have to make a statement to the relevant authority as part of an investigation?

**Standard** – the report taker must never raise the victim's expectations about action relating to the report.

- Has the report taker maintained a neutral position and not given any opinion about any actions relating to the report?
- The report taker should not unduly raise any unrealistic expectations about what will happen to the report;
- The report taker should not make any commitment that the authorities will investigate the report;
- The report taker should not give the victim any expectations about the potential outcomes of any investigation?

**Standard** – the report taker must review the victim's welfare and safety and reconsider whether any further support may be needed.

- Has the report taker made sure that the victim is no longer at risk of further violence, harassment etc?
- Has the report taker discussed appropriate support for the victim?
- Has the report taker made appropriate referrals to that support service with the agreement of the victim?

**4.64.** The report taker must explain to the victim what may happen next. They must also be careful that they do not raise any unrealistic expectations about what will happen; or give the victim any ideas about what the possible outcome of any case resulting from the report.

**4.65.** The report taker must make clear that the victim has the option of reporting anonymously, but that this will limit the ability of the police or other appropriate

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authority to further investigate the reported incident/crime. A reluctant victim may be willing to report if they know that a supporter will accompany or assist them in their interactions with the police

- 4.66.** The victim must understand that the report will have to be investigated and any appropriate evidence acquired before any decision can be made about whether the case can be taken forward. The victim may need to make a formal statement to the police as part of any investigation although this can be a recorded interview in certain circumstances.
- 4.67.** The report taker must give the victim their name and contact details to the victim in case they want to speak to them again.
- 4.68.** Before the report taker closes the interview, they must review the victim's safety and welfare, whether there is further support that the victim wants or needs.

**Standard** – the reporting site should be available to support the victim with communication between the police and the victim and be available to offer further advice and support as required.

- Has their report taker given the victim their name and contact details to the victim so that they can contact the reporting site should they need further support?

- 4.69.** Once the report has been taken, the reporting site should ensure the victim is referred, as required, to appropriate support and that the police are informed of the hate crime. The reporting site should take responsibility for making sure that there is on going communication between the investigating officer from the police or other authority and the disabled victim.
- 4.70.** The reporting site should also be prepared to provide or facilitate further advice and support for the victim should the reported hate crime lead to a charge and prosecution and proceed to court.

## **Barriers to reporting Disability Hate Crime**

### **Introduction**

**5.1** For a third party reporting site to make a real difference it must take reports of all disability hate crime and incidents from any of those people who might wish to make a report. This means that the site needs to break down the barriers that disabled people face in reporting hate crimes or incidents.

**5.2** There are four key barriers that need to be addressed. These are:

- Awareness of what a disability hate crime, or incident is;
- Understanding the importance of reporting all disability hate crime and incidents;
- Understanding how the criminal justice system works; and
- The options that are available to disabled victims to make sure that the system works for them.

**5.3** Therefore, to increase reporting of disability hate crime third party reporting sites must understand the barriers and put in place strategies to overcome them.

### **Barriers**

#### **Awareness of what is a disability hate crime, or incident**

**5.4** The law has allowed for 'enhanced sentencing' for disability hate crime since 2005 and the criminal justice agencies agreed a common definition of hate crime in 2007, however there is still a lack of understanding of what a disability hate crime is amongst disabled people, their family, friends and those people who work for, or with, them.

**5.5** Research tells us that almost half of all disabled people have been the victim of disability hate crime. The vast majority of those victims would tell family or friends about their experience, however, only 40% of those would tell the police. And yet, in 2010 the police only recorded 1,569 disability hate crimes. Whilst this is increasing year-on-year, the low figures signify that disability hate crime goes largely unreported.

**5.6** Why do disabled people not feel able to report hate crime? How do we change this attitude to reporting? To be able to tackle the fundamental causes of disability hate crime we must get a true picture of the prevalence of disability hate crime. At its most simple, if disability hate crimes are not reported little can be done to deal with

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the causes of disability hate crime.

**5.7** Most people when asked what a disability hate crime is, have a broad idea about it but there is also a certain amount of blurring between hate crime and discrimination. The first objective of promoting reporting of disability hate crime is overcoming that blurring.

**5.8** Disability hate crime needs to be understood by families, friends, and those people who work for and with disabled people. This will include a wide range of people, some who work for the disabled person on a daily basis (for example, employers, personal assistants, teachers etc) and those that might only work on an occasional basis or as needed (for example, police officers, debt counsellors, doctors, security guards, social services etc.).

“They told me that if I was going to go out in public I had to expect things like that to happen. They said the police weren't going to like being bothered because "you people" are oversensitive”.

“They didn't see it as a hate crime just a stupid or snide comment made by someone of very low intelligence.”

“They spoke to the youths involved. In my opinion it wasn't enough as it hasn't totally stopped the crime.”

**Disability Rights UK Let's Stop Disability Hate Crime  
Survey 2010**

**5.9** Promoting awareness by professionals, family and friends is essential to breaking down barriers to reporting, particularly where the victim of a disability hate crime does not recognise, or remember, that they have been the victim of hate crime.

“I wish I could but with brain injury cannot remember.”

**Disability Rights UK Let's Stop Disability Hate Crime  
Survey 2010**

## **Increasing awareness of disability hate crime**

**5.10** There is no right, or wrong, way for achieving a greater awareness of disability hate crime. How a third party reporting site goes about raising awareness may depend on the local environment (for example, whether they are based in a town, or a rural area) or their constituency (for example, the groups of people they serve, what authorities are responsible for services in their area). There needs to be some form of engagement with local communities to improve awareness and the need to report.

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**5.11** As part of Disability Rights UK's discussions with disabled people's organisations, we highlight below some of the work that has already had some success in changing attitudes to reporting disability hate crime:

- Providing training courses for local organisations, including social services, housing associations etc;
- Providing road shows / presentations for disabled people in your local area;
- Presenting to local disabled people's organisations and groups; or
- Preparing documentation that explains what disability hate crime is and how to report it.

**5.12** In most of these examples, one of the key criteria for their success has been that the work has been completed in partnership with other local organisations and authorities. They have also taken account of the local circumstances.

**5.13** Disability Rights UK has prepared guidance on raising awareness of disability hate crime both for service providers and disabled people. This can be obtained from:

<http://www.radar.org.uk/people-living-with-health-conditions-disability/disability-hate-crime/>

**5.14** The options, or the guidance, might not be appropriate in every circumstance. However, the priority must be to raise awareness of disability hate crime as widely as possible.

## **Other barriers to reporting**

**5.15** Understanding what does, and does not, constitute a disability hate crime is not the only barrier that disabled people told us they face when they have been the victim of disability hate crime. Other barriers to reporting highlighted by our survey include:

- a feeling that it was something that they just had to put up with  
a feeling that if they reported it to the police, or another authority, they would not be treated with respect; and  
They were scared that if they reported the crime it would lead to escalation or reprisals.

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**Putting up with disability hate crime**

"I thought it was something I would have to get used to; I thought it may make the situation worse or bigger if I responded."

"No point. Don't feel confident that anything would be done about it."

"I felt it was not worth it - it was verbal only, and the only harm done was to my feelings."

"I moved house to get away from verbal abuse directed at my daughter on a regular basis."

**Disability Rights UK Let's Stop Disability Hate Crime Survey  
2010**

**Lack of respect when reporting**

"People who have their confidence knocked can find it very difficult to then try and explain what has happened to an often less than sympathetic third party."

"Because it would have been my word against theirs and I was afraid."

"I would not expect them to be sympathetic or have any understanding of the issues faced by disabled people."

"They make excuses and make you feel worse about the situation. I have been made to feel this is our fault in the past."

**Disability Rights UK Let's Stop Disability Hate Crime  
Survey 2010**



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**Fear of reprisals**

“Because it could make it worse, possible revenge attacks. Other incidents are too minor to report, although just as hurtful.”

“I was frightened of comebacks, and more of the same. Who would believe me anyway?”

“Doesn't seem much point, no one is going to do anything about it and it will only make things worse if I do.”

**Disability Rights UK Let's Stop Disability Hate Crime  
Survey 2010**

- 5.16** This is not an exhaustive list of barriers that disabled people face to reporting. However, they have been shown to be some of the main reasons why disabled people will not report disability hate crime.

**Putting up with repetitive incidents**

- 5.17** Anecdotal evidence tells us that disability hate incidents can escalate into more serious disability hate crimes. Therefore, it is important to record incidents as well as crimes, so that action can be taken to address it before it becomes a disability hate crime. Too often disabled people suffer in silence or engage strategies to avoid potential incidents for example, not going out at night, taking a longer route home to avoid being targeted, or in more extreme cases moving home.
- 5.18** It is unacceptable that anybody, whether disabled, or non-disabled, should have to alter the way they live because of another's prejudice. At its most simple, persistent harassment is a criminal offence and a contravention of the disabled person's basic human rights.
- 5.19** The UN Convention on the Rights of People with Disabilities sets out some key principles that Government and public authorities should follow. Although the rights are not enshrined in law, they still carry weight that may be considered during legal proceedings against an authority.
- 5.20** The Convention requires that disabled people are treated with dignity and respect. Article 16 requires that disabled people are free from exploitation, violence and abuse. Harassment is a crime, but would also be contravening the disabled person's human rights under the Convention.

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**5.21** It is important that all incidents are recorded and reported to the appropriate authority however minor they may seem. By recording incidents it will build up a map of low level occurrences in your local area. This information as a whole may help the police to tackle the problems. It might also highlight persistent issues before they escalate into hate crimes.

## **Fear of reporting**

**5.22** Disabled people need to be reassured that the police and other agencies take disability hate crime seriously and should be approached to report hate crimes when they occur. However, the police and other appropriate authorities are not the only option for reporting a disability hate crime. There are several different ways that a disability hate crime can be reported, not least third party reporting sites.

**5.23** The main benefits of reporting to third party reporting sites for disabled people are that they give people the opportunity to report hate crime in locations other than police stations, which might make them uncomfortable. The sites can also be better tailored to the requirements of disabled people and offer a more supportive and encouraging environment to report the disability hate crime.

**5.24** By providing a reporting service that is more conducive to reporting disability hate crime, this should help remove the barriers disabled people perceive around accessibility, being treated with respect, confidentiality, and the person taking the report having a better understanding of what requirements they may have to give best evidence.

## **Reprisals**

**5.25** This is one of the most difficult barriers associated with the reporting all forms of hate crime that needs to be overcome. At its most simple, there is a balance that needs to be achieved between the potential for reprisals as a result of the victim reporting the hate crime or incidents, and the hate crime or incidents continuing indefinitely because nothing has been done to tackle them.

**5.26** If a disabled person does report the hate crime, or incident, they must understand that this in itself does not necessarily bring the incidents to an immediate end. There may always be a risk that the perpetrator might continue, or increase, their offending behaviour. By reporting it, there is a higher probability that something can and will be done to tackle it.

**5.27** When promoting a third party reporting site, sites must do everything they can to ensure that disabled people are confident that everything will be done to balance reporting the crime, or incident, with ensuring their future safety and that they are not put at further risk of hate crimes.

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**5.28** However, they must be realistic in what they say. If a crime is reported and investigated, victims needs to be aware that this will lead those investigating the reported incident to question the alleged perpetrator, who in turn would become aware that a report has been made. Strategies must be put in place to address this situation and the potential for reprisals.

## **Annexe One Definition of disability hate crime**

**6.1** The following common definitions were agreed across government and all Criminal Justice System agencies in November 2007, and set out those hate crimes that will be monitored, including clarifying the distinction between hate incidents and hate crimes and the issue of which 'strands' of victims should be included in the definition. However, they are designed to be broader, recognising the perception-based recording principle.

### **Hate Motivation**

**6.2** 'Hate crimes and incidents are taken to mean any crime or incident where the perpetrator's hostility or prejudice against an identifiable group of people is a factor in determining who is victimised.'

### **Disability Hate Incident**

**6.3** A disability hate incident is defined as:

'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.'

This includes any disability including physical disability, learning disability, mental health or any long-term limiting illness. It would include someone living with HIV.

### **Disability Hate Crime**

**6.4** A disability hate crime is defined as:

'Any criminal offence 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.'

### **Hate Crime Prosecution**

**6.5** 'A hate crime prosecution is any hate crime which has been charged in the aggravated form or where the prosecutor has assessed that there is sufficient evidence of the hostility element to be put before the court when the offender is sentenced.'

## **Annexe Two Section 146 of the Criminal Justice Act 2003**

**6.6** Section 146 of the Criminal Justice Act 2003 sets out that hostility demonstrated towards disabled people in a crime against someone who is disabled or presumed disabled must be treated as an aggravating factor in the crime.

### **S146 Increase in sentence for aggravation related to disability or sexual orientation**

(1) This section applies where the court is considering the seriousness of an offence committed in any of the circumstances mentioned in subsection (2).

(2) Those circumstances are:

(a) that, at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on –

- (i) the sexual orientation (or presumed sexual orientation) of the victim, or
- (ii) a disability (or presumed disability) of the victim, or

(b) that the offence is motivated (wholly or partly) –

- (i) by hostility towards persons who are of a particular sexual orientation, or
- (ii) by hostility towards persons who have a disability or a particular disability.

(3) The court –

- (a) must treat the fact that the offence was committed in any of those circumstances as an aggravating factor; and
- (b) must state in open court that the offence was committed in such circumstances.

(4) it is immaterial for the purposes of paragraph (a) or (b) or subsection (2) whether or not the offender's hostility is based, to any extent, on any other factor not mentioned in that paragraph.

(5) In this section "disability" means any physical or mental impairment.

## **Annexe Three      Public Sector Equality Duty**

The public sector Equality Duty, in the Equality Act 2010, sets out certain parameters that public authorities need to abide by in the way they work. These are called the general Equality Duties. One of the general equality duties require that a public authority needs to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

This requires them to address the behaviour and attitudes of those who carry out disability hate crimes and incidents. They must also take steps so that disabled people can live in safety and security. For example, the police, and or local authorities, should make sure that disabled people have appropriate facilities to report disability hate crime and incidents. This might take the form of making police stations more accessible, better disability confidence training for staff, raising awareness of disability hate crime and how to report it among disabled people or providing a third party reporting centre.

If you think that a public authority (for example, the police, local authorities, schools or transport authorities) is not doing enough to eliminate harassment and victimisation of disabled people. You can ask them to explain how they are complying with the general equality duties.

If you are concerned that a public authority is not complying with the Equality Duty you can talk to the Equality and Human Rights Commission who are responsible for enforcing the public sector Equality Duty.

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

A challenge can be made through an application to the High Court for judicial review. The application could be made by a person, or group of people with an interest in the matter, or by the Commission.

[www.hmcourts-service.gov.uk/cms/1220.htm#one](http://www.hmcourts-service.gov.uk/cms/1220.htm#one)

## **Annexe Four UN Convention on the Rights of People with Disabilities**

### **Article 15 Freedom from torture or cruel, inhuman or degrading treatment or punishment**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

### **Article 16 Freedom from exploitation, violence and abuse**

States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.

In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

## **Annexe Five EHRIC Inquiry Seven Core Recommendations**

**There is real ownership of the issue in organisations critical to dealing with harassment. Leaders show strong personal commitment and determination to deliver change.**

Our evidence shows the most critical factor in organisations improving their performance is the level of commitment and determination to address the issue shown by their leaders. It is, after all, senior officers and executives who set the priorities for organisations. If there is a real and visible commitment to change at the most senior level then it is likely that this will drive real change throughout the organisations which they lead.

In addition to showing leadership within their organisations, we would expect leaders to embrace public accountability. Transparency over performance is one aspect to this – which involves a real commitment to share data which shows how their organisation is performing. Another aspect is the display of a personal willingness to be publicly accountable for any serious instances which occur in their area. Finally, we would expect this personal commitment to be formally recognised within public authorities core objectives, either within their governance structures or otherwise.

**Definitive data is available which spells out the scale, severity and nature of disability harassment and enables better monitoring of the performance of those responsible for dealing with it**

While our inquiry has uncovered a great deal about disability-related harassment, there remains much which we don't know. Without comprehensive data, across all agencies, it will be impossible for our society to properly respond. In the interests of transparency, we also need public authorities to publish their performance so that the public can assess how they are performing.

We recommend that all data systems in these agencies:

- are able to record whether the victim is a disabled person (and/or has another type of protected characteristic)
- are able to determine:
  - whether the incident was motivated by the victim's disability and/or any other form of protected characteristic
  - the clearly identified lead officer who will take the issue forward
  - whether or not this is a first instance of harassment or part of a more general, or escalating, pattern
  - the priority status accorded to each incident in relation to risk to the victim or, if known, motives and circumstances of the perpetrator
  - where harassment of offending persists, whether and to what extent priority status should be given to a situation
  - which other local agencies have been alerted to the problem or, if this has not occurred, why not and under what circumstances should such agencies become involved. Also what appropriate partnership arrangements should be in place



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- enable identification of all on going or repeat instances to avoid the risk that such instances of behaviour will become progressively more serious
- share data across agencies and identify solutions to effective data sharing, particularly where lives may be at risk, to ensure that all involved have a comprehensive picture.

**The criminal justice system is more accessible and responsive to victims and disabled people and provides effective support to them**

Another major requirement of the general response to disability-related harassment, and other forms of crime and antisocial behaviour, is that victims feel adequately supported by all the agencies involved and that these agencies, more generally, respond to their concerns effectively.

Wherever a disabled person first reports an incident, the route to reporting, including ultimately the criminal justice system, needs to be clear and unhindered.

We recommend the following:

- all agencies involved with dealing with the issue should review, and, where necessary, remove all obstacles to the reporting of disability-related harassment. This will, in particular, involve seeking the views of disabled people and their representatives.
- the police and prosecution services should always establish whether a victim is disabled, and if they are, should consider themselves whether that may be a factor in why the crime/incident occurred. They should not rely solely on the victim's perception. They should reconsider this at several stages throughout the investigation. Crimes against disabled people should rarely be considered motiveless.

**We have a better understanding of the motivations and circumstances of perpetrators and are able to more effectively design interventions**

One fundamental issue in dealing with the problem of disability-related harassment, and other forms of abuse, is to understand why it occurs.

The most urgent issue is getting a better understanding of the characteristics and motivations of those who commit acts of disability-related harassment.

In addition, there needs to be more awareness of the general structures and attitudes (and the interactions between them) which give rise to the problem in the first place.

To address these issues, we recommend that:

- targeted research is undertaken in collaboration with the National Offender Management Service and local authorities in Scotland to build a clearer picture of perpetrator profiles, motivations and circumstances and, in particular, to inform prevention and rehabilitation.
- criminal justice agencies support bodies that commission research to stimulate and support studies that look into why harassment occurs in the first place and broader attitudes towards disabled people.

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**The wider community has a more positive attitude towards disabled people and better understands the nature of the problem**

With the possible exception of some of the cases which are given a high profile by the media, disability-related harassment does not seem to be perceived as serious or widespread by the public. It is, as we describe, hidden in plain sight. Changing wider public attitudes towards the seriousness of such harassment, and more general social attitudes towards disabled people, forms an important part of a wider solution.

In order to initiate change in this area, we recommend that public authorities:

- review the effectiveness of current awareness raising activities concerning disability-related harassment where they exist and assess where gaps in their campaigns could usefully be filled;
- use the public sector equality duty as a framework for helping promote positive images of disabled people and redress disproportionate representation of disabled people across all areas of public life;
- encourage all individuals and organisations to recognise, report and respond to any incidences of disability-related harassment they may encounter.

**All frontline staff who may be required to recognise and respond to issues of disability-related harassment have received proper training**

It is clear from our evidence that reporting of and responses to harassment would both be improved substantially with better training for frontline staff providing public services. The cases show that even staff such as environmental health officers may come across instances of harassment and the ability to make appropriate safeguarding referrals could make a significant difference to people's lives.

To address these issues, we recommend that:

- all frontline staff working in all agencies, whether public authorities or voluntary and private sector, where disability-related harassment, antisocial behaviour or other similar forms of activity are likely to be an issue, are trained in how to recognise and ensure appropriate safeguarding;
- more generally all agencies should consider whether their wider staff training and development processes and appraisal and promotion systems should be amended to ensure such knowledge becomes embedded and an incentive for better job performance;
- staff gain an understanding of disability equality matters and appropriate engagement with disabled service users.

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**Promising approaches to preventing and responding to harassment have been evaluated and disseminated**

There is much in what many public bodies are doing which might emerge as good practice and create vital learning which other bodies can follow to help reduce the problem. However, many of these promising approaches are in their infancy and as yet we do not know conclusively what works and what doesn't.

Therefore, we recommend that public bodies conduct rigorous evaluation of their response and prevention projects over a three year time frame so that we can build a shared knowledge of the most effective routes to take to deal with harassment and reduce its occurrence. All evaluations should then be widely and openly shared so that all bodies can learn from them.

## **Annexe Six    Access, reasonable adjustments and special measures**

### **Access**

Different disabled people will have different access requirements. Some access requirements may be complex, for example, changes to the physical environment to meet relatively easy requirements, for example, making sure a disabled person can see your face when you are talking to them, or other people in the room. As a provider of a service (third party reporting site) you will have an anticipatory duty under the Equality Act 2010 to make reasonable adjustments. So you will have to consider what adjustments need to be made before disabled people use your service.

Providers of public functions (for example, the police and local authorities) also have a duty to provide reasonable adjustment. The police, crown prosecution service and courts must also consider special measures when investigating crimes as well.

### **Reasonable adjustments**

The Equality Act 2010 places a duty of reasonable adjustment on service providers and those people exercising a public function (for example, the Police, CPS and courts). There are three parts to this duty:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage compared with those who are not disabled, to take reasonable steps to avoid that disadvantage;

Provision, criterion or practice will include the way an organisation works so may require changes to the organisation's policies, practices and procedures etc. For example, changing a policy that requires all users of the service to provide a driving licence as proof of who they are. This may be difficult for some disabled people and the service provider should change the policy so that other more appropriate proof could be used.

- Where not providing an auxiliary aid puts disabled people at a substantial disadvantage compared with people who are not disabled, to provide that auxiliary aid.
- Auxiliary aids include special equipment or service that would assist the disabled person to access the service or function. For example, it may include providing information in accessible formats (audio for people with visual impairments, BSL video for deaf people, or easy read for people with learning difficulties). It might also include providing a sign language interpreter, an advocate, a personal assistant, an induction loop etc.

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- Where a physical feature puts disabled people at a substantial disadvantage compared with people who are not disabled to avoid that disadvantage or adopt a reasonable alternative method of providing the service or exercising the function.

Physical features will include stairways, parking areas, building entrances and exits, doors, counters, service desks, lighting, lifts, floor coverings, furniture etc.

What is reasonable will depend on a range of factors including: how much an adjustment would cost; how practical the changes are; and the organisations resources.

Service providers have an anticipatory duty which means they have to consider what adjustments all disabled people may need before they access the service.

It should be noted that there are exceptions to the duty for those exercising a public function the duty will not apply to someone who is exercising a judicial function.

[www.equalityhumanrights.com/uploaded\\_files/EqualityAct/servicescode.pdf](http://www.equalityhumanrights.com/uploaded_files/EqualityAct/servicescode.pdf)

### **Special Measures**

The Police and CPS have a range of support that they can use to make sure that the victim, or witness, of a disability hate crime is able to give the best evidence they can during criminal proceedings. The Youth Justice and Criminal Evidence Act 1999 sets out who is eligible for specific support during criminal proceedings and a range of special measures that can be used to aid the disabled victim or witness.

Not all disabled people will be entitled to the special measures. The law states that only witnesses over 17 with learning disabilities; physical disabilities; or mental health issues will be eligible for support.

The special measures include:

- Examination of the victim, or witness, through an intermediary, who may assist them to give their evidence during the investigation or in court. For example, this could be a personal assistant, or advocate, who is present during an interview to make sure that a witness with a learning disability can understand questions asked by detectives;
- Screens may be made available to shield the witness from the defendant;
- A live televised link to enable the witness to give evidence during the trial from outside the court;
- Evidence given in private;
- Exclusion from the court of members of the public and the press (except for one named person to represent the press) may be considered in cases involving sexual offences or intimidation;
- Removal of wigs and gowns by judges and barristers;
- A video recorded interview with the witness before the trial may be admitted by the court as the witness's evidence;

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- A video recorded cross examination can also to be considered if the witness has already been permitted to give their evidence on video prior to the court case; and
- Aids to communication may be permitted to enable the witness to give best evidence whether through a communicator or interpreter, or through a communication aid or technique, provided that the communication can be independently verified and understood by the court.

[http://lcjb.cjsonline.gov.uk/area15/library/intermediaries/Intermediary\\_Procedural\\_Guidance\\_Manual.pdf](http://lcjb.cjsonline.gov.uk/area15/library/intermediaries/Intermediary_Procedural_Guidance_Manual.pdf)

If special measures are not allowed, or the witness or victim does not want or need them: they might want some other form of support to make their appearance in court less stressful. For example, taking someone (a friend or supporter) with them to sit in the courtroom while they are giving their evidence. The police will need to let the CPS know what support would help so that they can ask the court to allow it.

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