

# Narrative Report: A Sociological Exploration of the Impact of Hate Crime on the Health and Wellbeing of People with Learning Disabilities in Scotland

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## **Introduction**

This narrative literature review focuses on hate crime, learning disability and wellbeing in Scotland. This review forms part of an ongoing piece of research linking hate crime to health and wellbeing for people with learning disabilities. Coverage and awareness of hate crime targeted at disabled people in general and people with a learning disability in particular have recently become much more prominent both in the mass media and in academic literature. There has for example been a great deal of publicity around a relatively small number of very serious and high profile hate crimes such as those targeted at Fiona Pilkington and Brent Martin (see Quarmby 2013). This has been accompanied by an increase in media coverage about the rising number of reported cases of disability hate crime. This increase in coverage notwithstanding there is evidence to suggest that a large number of disability hate crime incidents go unreported and that the statistics greatly under-represent the size of the problem and despite increased media attention directed towards disability hate crime it continues to receive relatively limited academic and policy attention in comparison to other forms of hate crimes (Sin 2014). In addition we know very little about disability hate crime by impairment group and there is very poor recording of hate crime by type of impairment.

A report published by the Equality and Human Rights Commission (EHRC 2011), claims that 1.9 million disabled people were victims of hate crime in the UK in 2009-10 yet only 1942 such crimes were reported in England, Wales and Northern Ireland in 2011, with the number of convictions as low as 523. In 2011-12, 68 incidents were reported across Scotland, 39 of which went to court (Scottish Government 2012). Recent Crown

Office and Procurator Fiscal Service figures (COPFS 2015) show that from 2014 – 2015 there were 177 reported charges 'with an aggravation of prejudice relating to disability' indicating a 20% rise from the previous year. As in England and Wales, the COPFS report does not distinguish between impairment groups and as such does not provide a nuanced picture of what hate crime might mean for diverse groups of disabled people in Scotland.

The failure to record such statistics means that we do not know precisely how or indeed if hate crime varies across different impairment groups but there is some evidence to suggest that people with a learning disability are more often subjected to hate crime than those from other impairment groups. In their report published in 2000 *Living in Fear* Mencap claim that 88% of people with a learning disability had experienced a hate crime in the past 12 months and that 66% of those were frequent victims and nearly a third were bullied on a daily or weekly basis. More recently Mencap report that people with a learning disability are less likely to report hate crime than people with other impairments (Mencap 2010). In the baseline survey on hate crime carried out by the Equality and Human Rights Commission (EHRC) Coleman et al (2013) report that in Scotland 66% of people with a learning disability worry about being the victim of a hate crime.

What is clear from the literature is that there is very little research that examines the impact of hate crime, bias crimes or targeted harassment on the health, well-being and life chances of people with learning disabilities in Scotland. Mikton et al (2014) in a systematic review into violence and disability argued that violence against disabled people should be seen as a public health issue. The review identified the need for further exploration of the consequences of violence and the impact that this has on the health and wellbeing of disabled people. In this paper we bring together a range of evidence and make the case for further qualitative research co-produced with people with learning disabilities in order to make this topic visible in academic and public health forums.

The review forms part of the ongoing research by the Scottish Learning Disability Observatory into the health and wellbeing of people with learning disabilities in Scotland. Whilst we know that some of the discrepancy in life expectancy is the result of poor access to health care there is also evidence to suggest that social determinants of health and the oppression and systemic exclusion of people with learning disabilities from the mainstream of society adversely impacts on their overall health and wellbeing (Emerson & Hatton 2014, see also Iganski et al. 2011). Targeted harassment, violence, hate crime and bullying will all play a role here and these have remained under-researched and their impact on the health and wellbeing of people with learning disabilities in Scotland has not been well documented.

## **Background**

There are a great deal of methodological problems in trying to collate evidence around disability and hate crime. Not only are disabled people not reporting the full extent of crime they experience (Mencap 2010, Coleman et al 2013) but definitions of both violence and disability are contested and vary widely across different jurisdictions and cultures (Hughes et al 201). Despite this there is now a substantial body of evidence to support the claim that disabled people experience higher levels of targeted violence and harassment than the general population. A 2012 systematic review and meta-analysis of 26 studies, published in *The Lancet*, reported that disabled adults are 1.5 times more likely than their nondisabled peers to be subject to violence (Hughes et al. 2012). The review found that disabled people are more likely to be at risk of what they called 'interpersonal violence' as a result of social exclusion, a failure to meet the additional support required by those with complex needs. The reports highlights not just the extent of the violence experienced by disabled people but also the extensive barriers faced by disabled people in reporting violence including communication barriers, legal barriers and the multiple forms of discrimination and exclusionary practices experienced by disabled people in all aspects of their lives (Hughes et al. 2012).

Both Hughes et al (2012) and Sin (2014) point out that whilst there has been some research around mental distress and violence there has to date been very little exploration of how hate crime affects those with other forms of impairments in particular learning disabilities. Both Hughes et al (2012) review and a subsequent systematic review into preventing violence against disabled people called for more robust evidence and research into violence against people with a learning disability, in particular women (Mikton et al. 2014). A further critique laid out by Hughes et al. (2012) was the tendency to homogenise disabled people, by treating disabled people as a single group explorations into disability and violence often failed to specify which populations of disabled people they were referring to. Different groups of disabled people experience different forms of violence and harassment influenced by their impairment, gender or social class.

### **What is hate crime?**

Hate crime is generally considered to be a crime motivated by malice and ill-will towards a particular, protected, social group. In Scotland and England and Wales, hate crimes are those targeted at people on grounds of:

- Race
- Sexual orientation
- Disability
- Religion/faith
- Gender/transgender identity

In Scotland 'hate crime' against disabled people was first legally defined in the Offences (Aggravation by Prejudice) (Scotland) Act 2009. This added disability and LGBT to

previous legislation which covered racial hatred, racially aggravated harassment and offences aggravated by religious prejudice. Under the 2009 statute, an offence is 'aggravated by prejudice relating to disability' if:

- (a) at the time of committing the offence or immediately before or after doing so, the offender evinces towards the victim (if any) of the offence malice and ill-will relating to a disability (or presumed disability) of the victim, or
- (b) the offence is motivated (wholly or partly) by malice and ill-will towards persons who have a disability or a particular disability<sup>1</sup>.

The prejudice may have been demonstrated before, during or after the offence was committed and it is considered immaterial whether the malice was based on any other factor. Disability as a category is not very tightly stipulated and is defined in reference to physical and mental impairments which are categorised as any medical condition which has a long term or progressive nature. It includes learning disabilities, mental illness, physical disabilities and sensory impairments.

### **Range and kinds of crimes that constitute hate crime**

A wide range of 'abuse' of disabled people has been reported in the literature (and the press), including verbal insults, bullying and cyber bullying, financial exploitation, institutional abuse, denial of care and support, physical and sexual harassment and violence and, in extreme cases, torture and murder (UKDPC undated, Sherry 2010, Quarmby 2011, Hague et al. 2007, Mencap 2006, Sin et al 2011). Such incidents often persist and can escalate over time (Callanan 2010, Sherry 2010). The CPS (2012) notes the prevalence of sustained attacks and excessive use of violence in crimes against disabled people compared to crimes against other protected groups.

Crimes against disabled people often involve several perpetrators (Quarmby 2011). The CPS (2012) notes that when multiple perpetrators are involved, crimes have been filmed on mobile phones and sent to social networking sites.

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<sup>1</sup> <http://www.legislation.gov.uk/asp/2009/8/section/1>

### ***Mate Crime***

One of the key concerns in relation to violence and harassment perpetrated towards people with learning disabilities is that they are far more likely to be subject to 'mate crime' than any other population (Thomas 2011). 'Mate crime' is a distinct form of hate crime in that it is harassment or violence perpetrated by someone that the person knows, lives with, is related to or is cared for by, what is often termed an insider. Thomas (2011) argues that people with learning disabilities' need for and often dependence on meaningful relationships and friendships can be exploited by 'insiders' and this can make reporting such crimes very difficult.

Here the targeted aspect of violence and the issue of vulnerability critically come to the fore, where 'hostility' may not be present in the legal sense, 'insider' crime is targeted and has hostile outcomes and negative impacts on disabled people. Similarly, this remains an under-researched issue, particularly in the lives of people with learning disabilities. The EHRC (2011) have highlighted the 'culture of disbelief' that surrounds harassment targeted at disabled people and this has far reaching consequences for a person's likelihood to expose the fact that they are being targeted particularly if the harassment is perpetrated by an 'insider'. As such disabled people and particularly people with learning disabilities are likely to become more withdrawn, isolated and alienated from support networks or means of reporting and more likely still is the possibility that the person has no mechanism for reporting as they rely on the perpetrator for support or the perpetrator acts as a gatekeeper. Moreover, the EHRC (2011) maintain that a disabled person may not want to expose 'insider' harassment or violence as they need to maintain their relationship with the perpetrator.

### ***Sexual violence***

This neglect of people with learning disabilities have had a long history of exclusion from mainstream discourses and academic research focusing on sexual identity and sexual citizenship (McCarthy & Thompspon 1996). People with learning disabilities, especially women and children are particularly at risk and in the UK are more likely to

be subject to sexual violence than physically impaired peers (Hollomotz 2009, see also Hughes et al. 2012, McCarthy & Thompson 1996). Statistics on the prevalence of sexual violence against people with learning disabilities are varied, inconsistent and dependent on the research study (Hollomotz 2009 and 2011). Cambridge (2007) for example suggest that they range anywhere from 10 to 80%. McCarthy & Thompson (1997) undertook a prevalence study involving 185 people with learning disabilities referred for sexual education and found that of the women who participated 61% had experienced sexual violence and 25% for participating men with learning disabilities.

Mencap (2001) have argued that there is a causal relationship between learning disability and the probability of sexual violence, which Hollomotz (2009) argues is linked to perceptions of vulnerability anchored to people with learning disabilities. Balderstone (2013) and Sherry (2010) both suggest that the low social status and 'de-humanized position' of disabled people is linked to their increased threat of sexual violence and assault. The particular experiences of domestic and intimate partner violence for people with learning disabilities is woefully neglected. She points to research undertaken by Walter-Brice et al. (2012) who mirrored Sherry (2010) and Balderstone's (2013) assertion that women with learning disabilities experienced multiple and intersecting forms of intimate violence which involved the use of weapons and also crucially that Police and Social Services responses were limited and often poor leaving women with disabilities in threatening and vulnerable circumstances

### **Recognising the Impact on Health and Wellbeing**

It is argued that, as a group, victims of hate crime experience a higher degree of psychological and emotional harm and as such has been suggested that hate crime perpetrators:

*Deserve more punishment because they are more blameworthy; that they are more blameworthy because they have done greater wrong; and that they have done greater wrong because they have (typically) caused more harm, namely, the psychological traumatization of victims (Hurd and Moore 2004:1087).*

There is a great deal of evidence to support the contention that intense harm to wellbeing has been caused (Iganski and Legou 2015). Victims of hate crime are more emotionally affected than victims of similar crimes that are not linked to hate or social identity, they are more likely to describe their crimes as serious and experience long term effects such as depression or fear of venturing out (Garofalo 1997, McDevitt et al 2001, Smith et al. 2012). Recovery from hate crime is also more prolonged and sometimes fear of it happening again will never subside (Herek et al 1997). Craig-Henderson and Sloan (2003) argue that Hate Crime is so damaging because not only is it an attack on a victim's core identity, something that they cannot change, but also because it is targeted directly at them on the basis of who they are or what their characteristics are. Consequently the effects of hate crime extend beyond the immediate victim and can affect their families, friends and their shared social group including all those who share that characteristic (Noelle 2002). As a consequence hate crime impacts on both an individual's and a community's sense of wellbeing, leading to high levels of depression, anxiety, fear and a reduced feeling of safety by those who share the community identity (McDevitt et al 2001). There is evidence to suggest that hate crime causes victims and those with shared characteristics to withdraw from society (Ehrlich 1992).

Iganski (2008) argues that the effects of targeted violence or hate crime are even more enduring than the same crimes experienced by nondisabled peers. As Balderstone (2013) maintains, the British Crime Survey indicated that disabled people experienced higher rates of depression, anxiety and difficulty in sleeping after an incident of hate crime, between 7 and 17%. We also know that impact of sexual and domestic violence can result in substance misuse (Resnick et al. 2005) and suicide (Golding 1999).

## **Conclusion**

In general however we know little about how people with a learning disability experience hate crime, the impact it has on their lives, their sense of well being or on their feelings of security and wellbeing and neither do we know how it intersects with



other social categories or its communal impact. Hate crime against disabled people in general and people with a learning disability in particular has to date not received the same level of attention as the other hate crime categories. However, there are fractured indications of what these might be which uncover a great need for further examination

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