Fostering A Victim Centred Approach To Hate Crime In Scotland

Victim Support Scotland

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Victim Support Scotland

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VSS Involvement Highlighted in grey

Foreword

There is considerable public debate about Hate Crime and its impact on society. I am pleased to introduce this report as a contribution to the debate and hope that it will have the impact it deserves. There is a general consensus that the time is right for us all to review how the law deals with these offences and how victims and communities are affected.

Victim Support Scotland is keen to play its part in fostering well-informed and effective debate. We have therefore offered to host a conference on Hate Crime to bring together key stakeholders and we hope the outcome of this gathering will help assist the work of Lord Bracadale, who is leading an important review of the law dealing with conduct motivated by hatred and prejudice.

Victim Support Scotland is developing specific training on hate crime for both our staff and volunteers which will be available for interested parties outside our organisation. Dealing with Hate Crime forms a significant part of the work our volunteers and staff do to assist victims and witnesses with across Scotland. We are keen our experience and knowledge in this area is used to best effect as we consider, together, how to address this issue.

I hope the information in this report will be a valuable contribution to a better understanding of the issues and help as we continue to work in partnership across the criminal justice sector.

Alastair MacDonald
Chair
Victim Support Scotland

1.   Introduction

Hate crimes are pernicious because they attack a person's core identity, while also negatively impacting on the victim's wider community and weakening social cohesion. Last year, an independent report commissioned by the Scottish Government argued tackling hate crime should be "a priority concern for the whole of society" (Scottish Government, 2016: 5). However, most of the policy and research relating to hate crime focuses on the perpetrators and the criminal justice response (for a comprehensive overview of hate crime interventions and demographics of perpetrators, see Hamad, 2017). Whilst this is valuable work, Victim Support Scotland (VSS) is primarily concerned with how we can foster a *victim centred* approach to understanding and addressing hate crime in all its forms, and our vision is to ensure the 'victims' perspective' (Kees et al, 2016) is kept at the forefront of all discussions. This gives a voice to the lived experiences of victims and is responsive to their needs.

This report has been produced to coincide with the independent review of hate crime legislation, which is currently being conducted by The Right Honourable Lord Bracadale. This process aims to ensure the suite of laws covering hate crime offences in Scotland is fit for purpose and provides the most effective approach to deal with the issue[1]. The report has been published at the same time as Victim Support Scotland host a conference on hate crime which will bring together a number of notable speakers, including Parliamentarians, academics and legal figures.

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[1] The review was announced by Annabelle Ewing, Minister for Community Safety and Legal Affairs on the 26th January 2017 and is expected to last around twelve months. It will consider: whether current laws are appropriate and consistent, if hate crime legislation needs simplified, rationalised or harmonised and if new categories of hate crime for characteristics not currently legislated for, such as age and gender, need to be created (Scottish Government, 2017a).

2.   Scope And Structure

2.1   This report is evidence based and draws upon a wide range of policy and research literature to explore the context of hate crime in Scotland today, considering a general understanding of hate crime, exploring what hate crime is, (including definitional issues, an overview of the protected characteristics and the present legislative framework), and looking at the nature and extent of hate crime in Scotland across all five of the protected characteristics that relate to hate crime in Scotland. Issues relating to online hate crime and the concept of intersectionality will be considered, culminating in an overview of the causes of hate crime and the motivations of offenders.

2.2   The report discusses fostering a victim centred approach to hate crime. Chapter 7 brings together a broad range of research detailing the harms of hate crime, including the impact it has on individual victims and their wider communities.

2.3   Victim Support Scotland is an inclusive organisation and we aim to provide support to *all* victims of hate crime, including the marginalised whose voices often go unheard. Therefore, Chapter 8 considers whether policy and legal responses to hate crime should be extended to include victims who currently 'fall between the cracks' of existing legislation because they do not possess one of the protected characteristics presently covered by hate crime legislation.

2.4   Chapter 9 moves on to look at the issue of underreporting, identifying the reasons why victims of hate crime often do not report their experiences to the police or third party reporting centres and exploring a number of measures to improve reporting rates. Chapter 10 is concerned with the support needs of victims, identifying why a significant number of victims do not seek professional support, exploring how barriers to accessing support can be addressed and suggesting measures which would ensure the provision of effective support to victims.

2.5   The report concludes with a number of recommendations towards a victim centred approach to tackling hate crime in Scotland.

2.6   It is hoped this report will be informative to practitioners and organisations working with victims of hate crime and to a variety of stakeholders who are actively involved in this field. The report focuses on the landscape of hate crime in the Scottish context, but, where appropriate, it draws upon UK wide research and research from further afield. The report uses the umbrella term 'hate crime' to refer to hate incidents and prejudicial attitudes/discrimination, as well as acts considered criminal under hate crime legislation. We are aware there are definitional issues around the use of the term 'hate crime', which will be discussed in the next chapter.

2.7   To ensure the voices of victims are afforded the priority they deserve, included throughout the report are quotes and case studies from victims of hate crime. Police Scotland contributed to this report by detailing the work they are doing to tackle hate crime and to encourage reporting. To highlight the practical work Victim Support Scotland does to support victims of hate crime, we have also included examples of case studies handled by our support workers, and interviewed some of our support staff and volunteers about the invaluable work they do.

2.8   In summary this report asks:

❑   What is the extent and nature of hate crime in Scotland and what are the causes?

❑   What are the harms of hate crime and what impact does hate crime have on victims and their wider communities?

❑   What can be done to ensure that *all* victims of hate crime receive support and legal protection, including victims who fall through the cracks of existing responses to hate crime?

❑   Many hate crimes go unreported. How can we improve reporting rates, including third party reporting?

❑   How can those who work directly with victims of hate crime be responsive to their needs and ensure support provision reflects best practice?

❑   How can a victim centred response to hate crime be fostered through legislation, policy and practice?

3. Executive Summary

3.1 Definition of Hate Crime

3.1.1   The Scottish Government defines hate crime as "crime motivated by malice or ill-will towards a social group". Police Scotland follow the definition of hate crime provided by Sir William MacPherson in his 1999 report for the Stephen Lawrence murder enquiry, that hate crime is: "any offence which is perceived by the victim or any other person as being motivated by malice or ill will towards a social group" (Police Scotland, 2017). This victim centred definition means the police must take seriously the possibility a crime may be motivated by hate if the victim perceives this to be the case. The police also record hate incidents which are: "any incident which is perceived by the victim, or any other person, as being motivated by malice or ill will towards a social group, but which does not constitute a criminal offence". Victims and witnesses are encouraged to report both hate crimes and hate incidents.

3.2 Legislative Framework and Independent Review

3.2.1   The Equality Act (2010) includes five protected characteristics related to hate crime, namely race, religion, sexual orientation, transgender identity and disability. These groups are particularly vulnerable to prejudice, and, in legal terms, a hate crime is any offence committed where there has been an aggravation based on prejudice on any of these five characteristics which are protected by law.

3.2.2   The current legislative framework on hate crime in Scotland includes the **Criminal Law (Consolidation) (Scotland) Act 1995,** the **Public Order Act 1986,** the **Crime and Disorder Act 1998,** the **Criminal Justice (Scotland) Act 2003,** the **Offences (Aggravation by Prejudice) (Scotland) Act 2009** and the **Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.**

3.2.3   The Right Honourable Lord Bracadale is currently conducting an independent review of hate crime legislation, aimed at ensuring the suite of laws covering hate crime offences in Scotland is fit for purpose. Lord Bracadale is expected to report to Ministers in early 2018. The review will consider a range of issues, including whether changes need to be made to the current laws, whether existing offences should be extended to cover other groups such as older people or refugees and asylum seekers and whether all hate crimes should be brought together under one consolidated piece of legislation.

3.3 Nature and Extent of Hate Crime in Scotland

3.3.1   The Crown Office and Procurator Fiscal Service (COPFS) publish statistics on the number of hate crimes reported to them each year. These figures cover all reported offences regardless of outcome in the criminal justice system. In 2016-17, a total of 5,325 charges were made in relation to race, religion, sexual orientation, transgender and disability hate crimes. When including charges brought under the **Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012**, there were a total of 5,708 charges in the 2016-17 period. This includes 3,349 racial hate crimes, 673 religious hate crimes, 1,075 LGB hate crimes, 40 transgender hate crimes and 188 disability hate crimes.

3.3.2   Interpreting official statistics can be challenging, as they rarely represent a true picture of crime levels. There is widespread belief that the real levels of hate crime are far higher than those detailed in official statistics and a significant number of hate crimes continue to go unreported.

3.3.3   Racially motivated attacks are the most commonly reported form of hate crime in Scotland, followed by sexual orientation aggravated crime. There may be overlap between racial and religious hate crimes, as Islamophobic and anti-Semitic incidents can contain elements of both racial and religious prejudice. There has been a rise in Islamophobic attacks in recent years, particularly following major terrorist incidents such as the Paris attacks in 2015, and the attacks in London and Manchester in 2017. Muslim women are more likely to be targeted in Islamophobic attacks than Muslim men, due to their increased visibility of those who wear Islamic dress such as the hijab.

3.3.4   Disability hate crime has unique features which makes it distinct from other forms of hate crime. Disabled victims are more likely to have a personal relationship with the perpetrator, a phenomenon known as 'mate crime' (Thomas, 2013), where the perpetrator befriends the disabled person with the intention of exploiting them financially or sexually. The perpetrator may also be a carer or relative of the victim and domestic abuse is often a component of disability hate crime. The 'protectionist paradigm' refers to circumstances where disabled people are removed from the situation because they are seen as vulnerable and in need of help, rather than proper action being taken against the perpetrator to seek justice and redress. Disabled victims are often encouraged to ignore the perpetrator rather than involve authorities.

3.4   Online Hate Crime

3.4.1   Online hate crime is a rapidly growing problem, with online offences now far outnumbering offences in the physical world. Whilst it is difficult to monitor online hate crime, it can have harmful effects on victims. The Scottish Government has identified the internet as one of three key areas requiring change to tackle hate crime, along with public transport and the workplace.

3.5   Intersectionality

3.5.1   This concept refers to the interplay of different aspects of a person's identity. A victim of hate crime may be targeted as a result of more than one aspect of their identity and a perpetrator may hold numerous prejudices. A person's experience of victimisation is shaped by their possession of various protected characteristics and other factors, such as their age, gender, socio-economic status and educational background. For example, there is a gendered dimension to Islamophobia due to the greater visibility of Muslim women who wear the veil; while a woman's sexual orientation also makes her more vulnerable to victimisation, as there is a greater risk of her experiencing sexual violence than that of a male victim. It is argued current hate crime legislation oversimplifies the victim experience because it does not recognise the fluid nature of identity or the aspects of inequality that overlap one another. An intersectional approach to hate crime involves an awareness of this interplay in both the experience of victimisation and in the commission of the offence. It also requires consideration for the provision of effective support. More research into intersectionality is required in order to better understand the lived experiences of hate crime victimisation.

3.6   Causes of Hate Crime and the Motivations of Offenders

3.6.1   Current policy and legal approaches propose largely psychological and individualistic causes to the prejudice which underpins hate crime offending and some researchers argue there should be greater emphasis placed on the structural causes of hate crime, such as the role of socio-economic status. It is also suggested analysis of the causes of hate crime should focus on intergroup relations rather than the characteristics of apparently prejudiced individuals.

3.6.2   Many hate crimes are carried out by 'ordinary' people in the context of their 'everyday' lives. Most perpetrators are young, white males, who are often unemployed or in low income employment, with a history of substance use and previous convictions for general offending. For some perpetrators, hate crimes are committed out of banal motivations, such as boredom, jealousy and convenience. There appears to be a link between alcohol consumption and some hate offending.

3.6.3   Hate crimes can also be understood as an attempt by the dominant group to reassert their hegemonic identity when they feel the subordinate group are a threat to their 'way of life'. Political and media ideology can feed the prejudice which underpins hate crime. Structural factors also increase the likelihood of a person experiencing hate crime victimisation. For example, most hate crimes take place in economically disadvantaged areas, whilst affluence can buy protection, such as the ability to drive or take taxis rather than use public transport.

3.7   Restorative Justice

3.7.1   The Scottish Government is developing statutory guidance to ensure that, where restorative justice processes are available, they are delivered in a coherent, consistent, victim-focused manner across Scotland and in line with the EU Victim's Rights Directive.

3.7.2   The guidance is intended for restorative justice practitioners and facilitators, as well as restorative justice service providers, and may be useful for those referring to restorative justice services. It aims to provide both an overview of restorative justice principles and key factors which should be considered by practitioners and facilitators and more detailed best practice guidance regarding the provision of restorative justice services.

3.7.3   The potential benefits of restorative justice measures to tackle hate crime offending need to be explored further. There is limited research into the effectiveness of restorative justice measures on hate crime offending and concerns have been raised that the widespread use of restorative justice measures will lead to further victimisation. It is fundamental that practitioners involved in restorative justice have an in-depth understanding of the nature of hate crime, its impact on victims and how to respond effectively to the needs of victims.

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3.8 The Harms of Hate Crime

3.8.1 A thorough understanding of the impacts of hate crime can be utilised to inform the provision of effective support for victims and to enhance the training of those who work directly with them. Hate crime negatively impacts not just on individual victims, but on whole communities and social groups. It is also damaging for community relations, creating mistrust and suspicion between communities and weakening social cohesion. Harms can be direct and indirect.

3.8.2 The harms of hate crime include:

- ❑ The direct harms (e.g. physical injuries from being attacked or damage to property)
- ❑ Emotional and psychological harms
- ❑ Housing, employment and financial issues
- ❑ Impact on life outcomes (wider social harms and inequalities)
- ❑ Impact on sense of identity
- ❑ Hyper vigilance, resulting in victims adapting their behaviour and 'managing' visibility in public
- ❑ Restriction of movements and isolation
- ❑ Community harms through vicarious victimisation
- ❑ The normalisation of recurrent 'low level' hate incidents

3.8.3 'Hate hurts more' (Iganski, 2001) because the emotional and psychological harms of hate crime are more severe and enduring than the harms experienced by victims of comparable crimes not motivated by prejudice. Victims often report post-traumatic stress type symptoms such as depression and panic attacks, and psychosomatic symptoms, such as difficulty sleeping. The greater harm caused by hate crimes is thought to be because the attack targets the victim's core identity, which highlights to the victim they are vulnerable to further victimisation in the future. Suicidal ideation is particularly prevalent among transgender victims of hate crime.

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3.9 Impact on Life Outcomes and Identity

3.9.1 Hate crime can impact on life outcomes when prejudice combines with structural barriers to produce wider social harms, such as resistance to engaging with statutory services leading to reduced health, wellbeing and longevity. This has been found with the Roma community in Glasgow. Victims can also experience conflict about their identity, for example, those who experience anti-Muslim hate sometimes report they have a reduced sense of British identity following victimisation.

3.10 Adapting Behaviour, Managing Visibility and Increased Isolation

3.10.1 Victims may adapt their behaviours and manage their visibility in public in an attempt to reduce their risk of further victimisation. Victims have reported changing routine activities and habits and limiting their mobility. Victims of anti-Muslim crime may attempt to appear less 'visibly' Muslim by removing their head coverings. Members of other religions have also reported altering their behaviour, personal appearance or daily patterns due to fears about experiencing hate crime. LGB victims may avoid holding hands with their partner in public in order to hide their sexual orientation.

3.10.2 Victims can also restrict their movements by sticking to perceived 'safe spaces' in public, or they can become completely isolated. Hate crime can constrain the overall freedom of individuals and can result in them being afraid to leave their homes. Isolation can create mistrust of wider society, resulting in alienation and deterioration of social cohesion. Isolation also impacts on the mental and physical health of individuals.

3.11 Community Harms

3.11.1 Community harms refer to those who share the same identity characteristics as the original victim feeling victimised as a group and experiencing vicarious trauma. The symptoms of vicarious victimisation are often very similar to those experienced by the original victim (psychological and emotional impacts, isolation etc.). This can cause entire communities to retreat into themselves and limit their interactions to only their 'own' communities, resulting in segregation between communities through the creation of invisible 'boundaries' across which members of minority groups are afraid to cross.

3.12 The Insidious Nature of 'Low Level' Hate Incidents

3.12.1 A significant number of victims report that 'low level' hate incidents are such a regular occurrence in their everyday lives that they become normalised. There becomes an expectation that a certain amount of abuse is just 'part of life' and an accepted consequence of their 'difference'. This suggests victims have internalised the prejudice they experience. There is a need for greater understanding of the routine, everyday nature of many experiences of hate victimisation and the impact this 'drip-drip' prejudice has on victims.

3.13 The Marginalised Victims of Hate Crime

3.13.1 Some of the most vulnerable victims of hate crime are excluded from existing policy and legislative frameworks. These marginalised groups include the elderly, homeless, asylum seekers/refugees and Gypsies/Travellers. These groups are situated as 'undesirable', 'criminogenic' or 'less worthy' than more 'legitimate' or historically oppressed victim groups and they lack adequate lobby group support and political experience required to advocate on behalf of their rights. As such, their experiences of victimisation tend to 'fall between the cracks' of existing scholarship and policy frameworks. By

stringently conceptualising hate crime as involving particular categories of victims, encompassing singular constructions of identity, it is argued a divisive and hierarchical approach to understanding hate crime has developed. Instead, it is suggested by some researchers that an approach utilising concepts of 'vulnerability' and 'difference' would allow these overlooked and vulnerable victims of hate crime to receive the recognition they need, which would also enable them to access a greater range of support services.

3.14   The Underreporting of Hate Crime

3.14.1   There is broad consensus that many hate crimes go unreported. Transgender and disability hate crimes have particularly high levels of underreporting. There are numerous barriers that might prevent a victim from reporting a hate crime. This can include fear of retribution, believing the incident is not serious enough to report, the financial cost of any legal process, fear of reprisals or concerns the police will not take the matter seriously. The frequency of 'low level' hate incidents can mean it would be impossible for a victim to report them all or this form of victimisation can become normalised and not something the victim would choose to report. Some victims may not realise what happened to them was a crime.

3.14.2   Asylum seekers and refugees can be fearful of reporting hate crimes due to a lack of trust in authorities as a result of persecution they have experienced in their countries of origin, or they may fear deportation as a consequence of reporting a hate crime. LGBT victims may be apprehensive about disclosing their sexual orientation and/or gender identity to authorities. Transgender victims may fear becoming the subject of salacious media attention if their case is made public. Disability hate crimes are thought to be underreported because there is often a relationship between the victim and the offender and the fear of losing the friendship can deter the victim from reporting. The victim may also be dependent on the perpetrator for day to day support which can make them afraid of losing their limited independence if they report the perpetrator. There can also be accessibility issues for disabled people at reporting centres, such as poor wheelchair access or a lack of interpreters.

3.14.3   Victims can create coping strategies to deal with victimisation which do not include contacting justice agencies or support services. Victims may also have a lack of confidence in the police. Some victims have had a negative experience reporting a previous incident which deters them from reporting again in the future, with some victims feeling the police did not take the matter seriously enough or that they were not treated fairly or with respect.

3.15   Third Party Reporting Centres

3.15.1   Police Scotland maintain a network of third party reporting centres. These are situated within third sector organisations and are designed to help victims and witnesses report hate crimes and incidents, as well as accessing support. However, these centres often struggle to deal properly with reports due to resourcing issues and they are unevenly distributed across the country. There is also a lack of awareness of the existence and purpose of third party reporting centres among the general public. Police Scotland have conducted an internal review of the third party reporting process and identified a number of areas for potential improvement.

3.16 Measures to Increase Reporting Levels

3.16.1 The Scottish Government is setting up a multi-agency delivery group, the remit for which includes addressing barriers to reporting and ensuring third party reporting is widely available and publicised. There is a need to increase trust and confidence in agencies handling victims' reports to ensure victims have a positive experience of the reporting process. This can be aided by providing comprehensive training to frontline staff. There is also a need for more effective communication between victims and the criminal justice system throughout the process. The Scottish Government is arranging a public awareness campaign aiming to increase understanding and knowledge around what hate crime is and how to report it.

3.17 Supporting Victims of Hate Crime

3.17.1 To ensure a truly victim centred approach to hate crime, addressing reporting barriers must occur alongside the provision of effective support which meets the needs of victims. Research suggests support is not always offered to those reporting to the police, while the majority of victims are unlikely to seek support themselves. Victims may not know where to go for support or may feel suitable support is not available to them. LGBT victims may be concerned about encountering homophobia or transphobia from support workers, while victims in rural communities may find it difficult to access appropriate support. Barriers to accessing support services must be identified and addressed.

Understanding the Unique Needs of Victims

3.17.2 Support organisations should have well trained staff providing support and assistance with an understanding of the unique needs of hate crime victims. This includes appreciating how the nature of hate crime, and the experience and harms of victimisation can vary depending on which aspect of a person's identity has been attacked, and depending on any potential intersectionality involved. Organisations should identify they are LGBT friendly, to help this community overcome any trepidation they feel about reaching out for support. The unique nature of disability hate crime also needs to be understood. An intersectional approach means realising victims do not fit neatly into one "box", as miscategorising victims' identities can mean they struggle to access appropriate support or they may be deterred from continuing with support. Intersectionality can make victims experiences more complex, which can also have consequences for the provision of support.

Effective Training

3.17.3 For support to be effective, training needs to be comprehensive and specialist.

3.17.4 Victim Support Scotland is launching a hate crime training course that is designed to provide comprehensive specialised training on hate crime, including how to provide effective support to victims with a focus on the ways in which hate crime impacts victims, witnesses and communities across Scotland.

Collaborative Working and a Public Health Perspective

3.17.5   Setting up a multi-agency support system would aid collaborative working between different organisations, facilitating the provision of effective support. Some researchers suggest hate crime ought to be approached from a public health perspective, which emphasises prevention and promotes a more holistic approach rather than simply a 'narrow' criminal justice response.

Guidelines for Supporting Victims

3.17.6   Kees et al (2016) have put together guidelines for those supporting victims of hate crime. This includes first of all helping with the most urgent and immediate needs of victims (such as providing temporary housing or security measures), believing victims (not doing so can result in secondary victimisation) and listening to them in order to validate their experiences. Victims should be supported to articulate their needs and support should also help victims to identify resources to overcome the consequences of hate crime. Support should address needs specific to the victim's social identity (for example, they may have distinct faith and cultural needs, or require communication aids if they have a disability, or extra care may be required when communicating with an LGBT service user if they are not 'out' to their family and friends). Kees et al also promote a 'victims' perspective' for best practice, which involves a set of skills and values to utilise in the provision of support, including a non-judgemental approach, advocacy and empowerment, emotional support, signposting etc.

3.17.7   More research into the support needs of victims of hate crime in Scotland is required, which could then be utilised to develop guidelines for all those who come into direct contact with victims.

3.18   Recommendations

3.18.1   A number of recommendations are made at the conclusion of this report to foster a victim centred response to hate crime. These include:

❑   Conducting more qualitative research into the lived experiences of hate crime victimisation, to provide a richer understanding beyond what is provided by official statistics on hate crime alone. Research into the support needs of hate crime victims, online hate crime, Islamophobia in Scotland, and intersectionality, would also be valuable

❑   Developing and promoting the 'victims' perspective' (Kees et al, 2016) in the provision of support to hate crime victims

❑   Developing guidelines for best practice in the provision of effective support

❑   Prioritise and develop an intersectional approach to hate crime

❑   Make visible and give a voice to the experiences of marginalised victims of hate crime, such as the homeless, elderly, asylum seekers/refugees and Gypsies/Travellers

❑   Address the insidious nature of low-level prejudice underpinning hate crime incidents

❑   Address the role of the media in fuelling hostility and prejudice towards minority groups

❑   Develop knowledge of the full spectrum of harms caused by hate crimes and use this information to inform the provision of effective support

❑   Identify and remove barriers to reporting hate crime and to accessing professional support, particularly in relation to disability and transgender hate crime, as these groups are particularly likely to struggle with reporting incidents and accessing support

❑   Develop comprehensive specialist training on hate crime. Victim Support Scotland has developed a new course specifically concerned with hate crime in Scotland and the effective support of victims

❑   Restorative Justice Measures should be carefully implemented with a victim centred focus to benefit the victim and avoid secondary victimisation

❑   Policy responses should give greater consideration to structural dynamics which shape the perpetrating of hate crime and experiences of victimisation, particularly the role of poverty and socio-economic status

❑   Consideration should be given to the rural context and how to ensure support is accessible to victims in rural areas

❑   Long term, hate crime ought to be approached from a public health perspective involving collaborative working between different organisations to support victims and their communities

4. What Is Hate Crime?

4.1 Definition of Hate Crime

4.1.1   The Scottish Government defines hate crime as "crime motivated by malice or ill-will towards a social group" (Scottish Executive, 2004:2). An alternative definition provided by Perry (2001: 10) is widely cited in relevant literature because it captures the structural dimension inherent to hate crime:

"It involves acts of violence and intimidation, usually directed towards already stigmatised and marginalised groups. As such, it is a mechanism of power and oppression, intended to reaffirm the precarious hierarchies that characterise the given social order. It attempts to recreate simultaneously the threatened (real or imagined) hegemony of the perpetrator's group and the 'appropriate' subordinate identity of the victim's group".

4.1.2   Police Scotland follow the definition of hate crime provided by Sir William MacPherson in his 1999 report for the Stephen Lawrence murder enquiry, which is, "any crime which is perceived by the victim or any other person as being motivated by malice or ill will towards a social group" (Police Scotland, 2016). This definition requires the police to take seriously the possibility that a crime may be motivated by hate if the victim perceives this to be the case. It also includes situations where a victim has been attacked because someone presumed them to hold a particular characteristic, for example, assuming the individual was of a particular race or religion, even if the perpetrator is mistaken.

4.1.3   Police Scotland also record 'hate incidents', which constitute, "any incident that is not a criminal offence, but something which is perceived by the victim or any other person to be motivated by hate or prejudice" (Police Scotland, 2016). Recording such occurrences enables the police to monitor the situation in communities and take preventative measures in areas where it appears these may be required.

4.1.4   Academics and stakeholders have raised a number of issues with the terminology used to define 'hate crime'. There are concerns the term obscures the prevalent and arguably more insidious low-level prejudice experienced by minority groups in the course of their everyday lives - experiences which are often not recognised as criminal offences by victims themselves or the wider public.

4.1.5   There are also suggestions that current policy and legal definitions overlook the structural dynamic involved in hate crime by focusing on the individual nature of offending (McBride, 2016), whilst a purely criminogenic focus on hate crime may also detract from addressing the prejudicial attitudes, which are the underlying cause of hate crime. Moreover, there is now recognition that many people would not consider themselves capable of committing a 'hate crime' and do not recognise themselves as perpetrators, with many offences carried out by 'ordinary' people in the context of their 'everyday' lives (Iganski, 2008).

4.1.6   The Scottish Government (2016) has noted a number of issues with the language of 'hate crime' that need to be addressed and have stressed the importance of having clear definitions and a common understanding. The independent advisory group on hate crime has advised the Scottish Government to lead discussion on the development of clearer terminology around hate crime, prejudice and community cohesion. They have suggested public education is required to improve understanding of the nature and

extent of hate crime among the general public. In response, the Scottish Government has stated their intention to create a public education campaign in the near future (Scottish Government, 2017b) and Lord Bracadale will consider definitional issues during the course of his legislative review.

4.2 The Protected Characteristics

4.2.1 Research consistently shows that some social groups are more often victims of harassment and crime and that much of this is motivated by prejudice against those groups (Scottish Executive, 2004). **The Equality Act (2010)** sets out nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Of these characteristics, five relate specifically to hate crime legislation in Scotland as follows:

- ❑ **Race**
- ❑ **Religion**
- ❑ **Sexual orientation**
- ❑ **Transgender identity**
- ❑ **Disability**

4.2.2 In legal terms, a hate crime is any offence committed where there has been an aggravation based on prejudice on any of the five characteristics protected by the law. Chapter 8 of this report considers whether our policy and legal responses to hate crime should be extended to include other groups, including the most vulnerable and marginalised (such as older people, the homeless, refugees and asylum seekers).

4.3 What Constitutes a Hate Crime?

4.3.1 Examples of what can constitute a hate crime are wide and varied and they include:

- ❑ Murder
- ❑ Physical assaults
- ❑ Bullying or intimidation
- ❑ Verbal abuse
- ❑ Threats of violence
- ❑ Emotional, psychological or financial abuse
- ❑ Hoax calls, hate mail, abusive phone calls, text messages or emails
- ❑ Online bullying or abuse
- ❑ Displaying or circulating discriminatory literature/posters
- ❑ Harm or damage to a person's home, pet, car
- ❑ Damage to property (arson, graffiti, vandalism etc.)
- ❑ Fly tipping or dumping rubbish at someone's door
- ❑ Putting dangerous materials through a letterbox
- ❑ Malicious complaints
- ❑ Deliberate dog fouling

4.3.2   There are three areas where hate crimes have been found to be particularly problematic. These are public transport, the internet, and the workplace. The Scottish Government has committed to tackling hate crime in these key areas (Scottish Government, 2017b).

4.4   The Legislative Framework

4.4.1   There is no specific formal offence of '*hate crime*' in Scotland, instead Criminal law deals with 'prejudice' rather than 'hate'. Offences motivated by prejudice based on a person's membership of a specific group are considered aggravated and subject to more severe penalties as a result (Scottish Government, 2016: 13).

4.4.2   The current legislative framework on hate crime in Scotland includes the **Criminal Law (Consolidation) (Scotland) Act 1995,** the **Public Order Act 1986,** the **Crime and Disorder Act 1998,** the **Criminal Justice (Scotland) Act 2003,** the **Offences (Aggravation by Prejudice) (Scotland) Act 2009** and the **Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.**

4.4.3   Race hate crime is defined as any charge of racially aggravated harassment and conduct in terms of Section 50A of the **Criminal Law (Consolidation) (Scotland) Act 1995** or Section 18, 19 or 23(1)a of the **Public Order Act 1986** or any racial aggravation in terms of Section 96 of the **Crime and Disorder Act 1998.**

4.4.4   A provision for the statutory aggravation of an offence by religious prejudice came into force in 2003 as s.74 of the **Criminal Justice (Scotland) Act 2003.**

4.4.5   The legislation relating to sexual orientation, disability and transgender hate crime is the **Offences (Aggravation by Prejudice) (Scotland) Act 2009.** The 2009 Act ensures that where it can be proven an offence has been motivated by malice or ill-will based on the victim's actual or presumed disability (section 1) or sexual orientation or transgender identity (section 2), the court must take that motivation into account when determining sentence. The Act puts hate crimes against lesbian, gay, bisexual and transgender (LGBT), and disabled people, on the same level as racist incidents.

4.4.6   The **Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012** criminalises behaviour which is threatening, hateful or otherwise offensive at a regulated football match, including offensive singing or chanting (section 1). It also criminalises the communication of threats of serious violence and threats intended to incite religious hatred, whether sent through the post or posted on the internet (section 6). The Act only criminalises behaviour likely to lead to public disorder, which expresses or incites hatred, is threatening or is otherwise offensive to a reasonable person.

4.4.7   There is no legal definition of 'sectarianism' under Scots Law. Therefore, although the 2012 Act was introduced to tackle sectarianism, the remit of the 2012 Act covers all offensive or threatening behaviour at football matches, regardless of whether it is sectarian. In terms of threatening communications, the emphasis is on threatening or inciting serious harm intended to cause fear and alarm, or threats that incite religious hatred, regardless of whether the communications are of a sectarian nature or not. In 2016, the Scottish Parliament voted to repeal the 2012 Act due to controversy surrounding its effectiveness and criticism from the legal profession and judiciary. However, the Scottish Government

does not support a repeal of the 2012 Act without a viable alternative[2]. Annabelle Ewing has stated the repeal of s.6 would leave an unacceptable gap in Scottish legislative protection, as there is no specific offence in Scots law which criminalises threats made with the intention to incite religious hatred (Scottish Government, 2017a).

4.5   The Review of Hate Crime Legislation

4.5.1   The Right Honourable Lord Bracadale is currently chairing an independent review of the suite of laws covering hate crime offences in Scotland. This review began in January 2017 and is expected to last for around twelve months. Current hate crime legislation has developed in a piecemeal manner over a number of years and the review will consider whether the current mix of statutory aggravations, common law powers and specific hate crime offences provides the most appropriate, effective and consistent protection for Scottish communities. It will look to identify "*gaps, anomalies and inconsistencies*" (Scottish Government, 2017a) in the current legislation, as well as considering how the laws can be simplified.

> The review will look to identify gaps, anomalies and inconsistencies in the current legislation

4.5.2   It is hoped that the review will give rise to change to ensure those who find themselves the victim of hate crime have appropriate legal protection. As part of his review, Lord Bracadale is considering whether changes need to be made to the current laws, whether existing offences should be extended to cover other groups such as older people or refugees and asylum seekers, and whether all hate crimes should be brought into one consolidated piece of legislation. The review will include a public consultation with key stakeholders and is expected to report to Ministers in early 2018.

4.5.3   It is expected other issues will be explored in the review, including the growing problem of online hate crime, definitional issues, intersectionality, the effectiveness of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 and the underreporting of hate crime.

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[2] The effectiveness of the 2012 Act is an issue Lord Bracadale will consider as part of his independent review of hate crime legislation, which will enable the 2012 Act to be considered in the context of all hate crime legislation, ensuring the overall legal coverage offered to minority communities is appropriate.

5. The Nature and Extent of Hate Crime in Scotland

This chapter explores the nature and extent of hate crime in Scotland across each of the five protected characteristics - race, religion, sexual orientation, transgender identity and disability. Additionally, it looks at the growing problem of online hate crime and establishes why it is crucial to develop an intersectional approach to understand and address hate crime effectively.

5.1 Official Statistics on Hate Crime

5.1.1   The Crown Office and Procurator Fiscal Service (COPFS) publish statistics on the number of hate crimes reported to them each year. Their figures cover all *reported* offences regardless of outcome in the criminal justice system (whether they are dropped, convicted or disposed of by a court through other means). The figures relate to the number of charges reported rather than the number of individuals charged or the number of incidents resulting in charges. Where a charge has more than one hate crime aggravation, it is included in the overall figures for each type of hate crime under which it falls. Last year, a total of 5,325 charges were made in relation to race, religion, sexual orientation, transgender and disability hate crimes. When including charges brought under Section 1 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 (377 charges) and Section 6 of the 2012 Act (6 charges), there were a total of 5,708 charges brought in the 2016-17 period (ibid).

5.1.2   Interpreting official statistics can be challenging, as they rarely represent a true picture of crime levels. Increased reporting does not necessarily mean that more crime is occurring, but can simply mean there is more confidence in reporting to the police, while decreases in reporting may reflect changes in reporting (McBride, 2016: 19). An increasing public intolerance of prejudice may also result in an increase in third party reporting by witnesses of hate crimes. It should be noted hate crimes and acts of prejudice tend not to be static events (as they can appear to be in statistics on crime), but are often recurrent. However, there is widespread agreement that the real levels of hate crime are far higher than those detailed in official statistics and a significant number of hate crimes continue to go unreported. Victim surveys, such as the British Crime Survey, regularly report higher levels of hate crime than those found in official statistics on reported hate crimes. Factors contributing to low reporting of hate crime and measures which could address this will be covered in Chapter 7 of this report. More qualitative research is required into victims' experiences of hate crime to provide additional insights beyond the official statistics and to increase understanding of the lived experiences of hate crime victims (ibid: 5).

5.1.3   The following sections work through each of the protected characteristics relating to hate crime, outlining the extent and nature of each category.

5.2 Racial Hate Crime

5.2.1   Racially motivated hate crimes are those carried out because of someone's racial or ethnic origin or their presumed race. It was the 1998 inquiry into institutional racism in the Metropolitan Police following the

racist murder of Stephen Lawrence (and the resulting MacPherson report published the following year), which produced a "watershed moment" and acted as a "catalyst for change" regarding "police-minority relations, public attitudes towards issues of race and in the definition, reporting and recording of racist incidents in Britain" (Chakraborti and Garland, 2015: 20). However, despite the progress made, racist hate crime continues to be a problem. In Scotland, racist hate crimes are the most commonly reported form of hate crime. There were 3,349 racist charges reported in 2016-17 - this is a decrease of 10% compared to 2015-16, and is the lowest total since 2003-04 (COPFS, 2017). The latest figures from the charity *Show Racism the Red Card* (SRtRC), which provides anti-racism education, found 37% of children in Scotland say they have suffered racial abuse - up 11% from 2016.

5.2.2   Research has found people from ethnic minority backgrounds are twice as likely as people from white backgrounds to fear violent crime (EHRC, 2010: 190). In one study conducted with ethnic minorities in Glasgow, participants described the prevalence and repetitive nature of the low level racial abuse they experience. One participant explained, *"We have problems with neighbours who say it is not our place to be here. They tell us to go back. We get that a lot. A lot of people drink and come and kick at your door"* (Netto and Abazie, 2012: 9). One housing provider participating in this research acknowledged that racial harassment was a regular occurrence, mostly in the form of verbal abuse, and that underreporting is likely to be common.

5.2.3   Most racial incidents are perpetrated by individuals from the majority white population against ethnic minorities (Chahal, 2007) and researchers have argued this pattern of victimisation should be understood in the context of unequal power relations between majority and minority ethnic populations (Chahal, 1999). Black victims of racist crime experience the incident more severely than white majority group victims because the crime serves as a painful reminder of discrimination and stigmatisation experienced in the cultural heritage of their identity group (Craig-Henderson and Sloan, 2003: 485). This means anti-black racist crimes bring up dormant feelings of anger, fear and pain which victims of white racist crime will not experience because they do not have this same cultural heritage of discrimination.

5.2.4   However, racism against white minority groups is perhaps not given adequate attention. Some victims of racist hate crime are less visible than others, with prejudice against 'undesirable forms of whiteness' (Neal, 2002) such as Gypsies/Travellers, asylum seekers and Eastern European migrant workers receiving little attention (Chakraborti and Garland, 2015). Research carried out by the Guardian utilising a freedom of information request to establish the numbers of hate crimes directed towards Polish people in the UK, discovered a tenfold increase from 2004 to 2014, which they attributed to anti-Polish feeling stirred up by political stereotyping and negative media coverage and intensified by Government austerity measures and a lack of job opportunities (McDevitt, 2014).

5.2.5   The Equality and Human Rights Commission has raised concerns that Brexit could cause an increase in racist hate crime, particularly against EU nationals (Connolly, 2017). According to official Home Office figures, race and religious hate crimes rose 41% in England and Wales after the EU referendum (Forster, 2016). However, this situation does not seem to have been replicated in Scotland, with Police Scotland reporting there was no rise in racial hate crime following Brexit (Hamilton, 2016).

5.3   Religious Hate Crime

5.3.1   There were 673 charges with a religious aggravation reported to the Procurator Fiscal in 2016-17, 14% more than in 2015-16 and the highest number of charges reported over the last four years. Including charges that are now reported under the Offensive Behaviour at Football legislation, there were a total

719 religious related charges, up 12% from 2015-16 (COPFS, 2017). The figures for 2012-13 onwards cannot be directly compared with the figures for earlier years, because some charges that would previously have been reported with a religious aggravation may now be reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

5.3.2   According to Foster and Myant (2017), Catholicism was the religion most often the target of reported religious aggravation, with 384 charges (over half of all the religiously aggravated charges recorded) for 2016-17. This is followed by Protestantism (165 charges) and Islam (133 charges), with Judaism the subject of 23 charges. As with previous years, the highest concentration of charges relating to religious aggravation occurred in Glasgow, which was the location for 203 charges (30% of total charges) and the highest charges per head of population.

5.3.3   Jewish communities have reported a rise in anti-Semitism in recent years, which has led the Scottish Government to fund research into experiences of anti-Semitism in Scotland (Scottish Council of Jewish Communities, 2014 cited in McBride 2016: 23). Stakeholders in McBride's research have reported conflation between Judaism and Israel, with anti-Zionism sometimes viewed as an acceptable justification for anti-Semitic prejudice (ibid: 25). Evidence suggests that during the last decade and a half, anti-Semitic incidents in the UK have been on the rise, with particular spikes observed during times of conflict in the Middle East (Community Security Trust, 2015). A survey of Jews carried out across Europe claims that 18% of those surveyed in Britain had considered emigrating in the previous five years because they did not feel safe in Britain as a Jew (Fra, 2013a).

5.3.4   There can be overlap between racial and religious hate crimes. Islamophobic and anti-Semitic incidents can contain elements of both racial and religious prejudice and it is not always clear whether a victim has been targeted because of their race or religion (McBride, 2016: 37). Research carried out in Glasgow argues Islamophobia is a form of cultural racism, because of the role visibility plays in the racialisation of Muslim women (Harris, 2016). Harris suggests the hijab becomes a "signifier" of difference, where Muslims disrupt the conventional "language of race", and contends that *"Islamophobia – despite its name – draws on understandings of race, albeit in complex and sometimes contradictory ways, and functions as a form of racism"* (ibid). Evidence suggests Islamophobia is becoming racialised and affecting other minority groups such as Sikhs, Hindus, non-religious ethnic minorities including those of African descent and Eastern Europeans, who are mistaken for Muslims and subjected to Islamophobia as a result (Paterson, 2015).

5.3.5   McBride highlights that issues of whether a hate crime is composed of a religious or racial element is also relevant to those of an Irish background in Scotland, "whose experiences of discrimination typically are framed in terms of 'sectarianism'" (2016: 37), which can be problematic as this is not necessarily how victims themselves would define their experiences. For this reason, she is critical of the use of "generic terms" such as "sectarianism" which can be misleading (ibid: 6). The Scottish Government's independent advisory group on hate crime has also noted dissatisfaction with existing terminology, such as "sectarianism", stating this can potentially create a misunderstanding of the issues faced by a particular group. Their report noted, "This is particularly the case in relation to the Irish community in Scotland, as it has been argued that such focus on the religious characteristic means that victimisation based on ethnic origin or cultural difference is not paid sufficient attention" (Scottish Government, 2016: 28).

5.4   Islamophobia

5.4.1   Given the current political climate and the sharp rise in hate crimes against the Muslim community in recent years, it is pertinent to provide an additional focus on Islamophobia[3] in this section. Islamophobic hate crimes increase following major terrorist incidents, such as the Paris attacks in 2015 (Mortimer, 2015), and the attacks in London and Manchester this year (Dodd and Marsh, 2017). In 2016, the COPFS figures for religious hate crime showed an 89% increase in Islamophobic offences in Scotland over the previous year (Davidson, 2016), and Scottish politician Humza Yousaf has spoken out about increasing levels of Islamophobia in Scotland, claiming it is now as severe as it was immediately following the 9/11 attacks (Yousaf, 2015).

5.4.2   Muslims are frequently subjected to verbal abuse on the streets, in the workplace, in or near mosques or around people's neighbourhoods (Copsey et al, 2013). Insults reported include references to 'Pakis', rape, paedophiles, incest, jihad, terrorists, bombs, 'muzzrats' and various animals, including dogs and pigs (ibid: 16). A recent survey conducted with more than 100 Muslim school children in Edinburgh found more than half have experienced Islamophobic abuse (Smith, 2017).

5.4.3   There is a gendered dimension to Islamophobia, as Muslim women are more likely to be targeted in Islamophobic attacks, and, as previously mentioned, even more so if they are 'visibly Muslim' through the wearing of Islamic dress such as the hijab (e.g. Allen, 2014; Perry, 2014; Zempi and Chakraborti, 2014; Copsey et al., 2013). In one study, over 80% of victims of Islamophobia (of incidents occurring offline) were women who wore the hijab or niqab (Copsey et al, 2013). While other studies have established Muslim women are more likely to be attacked than Muslim men in both the online world and the physical world (Awan and Zempi, 2015). The European Network Against Racism (2016) researched the experiences of British Muslim women and found verbal harassment in public spaces was a common occurrence, with women also reporting being spat at and strangers attempting to rip their veils off, particularly after high-profile terrorist attacks.

5.4.4   The following victim experience is taken from Tell MAMA (2014):

"[A] man came charging towards me with such aggression I thought he was going to punch me in the face. [He] lunged forward and he spat in my face. I also felt it fall onto my left hand…he continued to aggressively rant at me and said something along the lines of 'your people are killing' and something about the 'Middle East' and 'killing Christians'. He spat at me again, it was terrifying I thought he was going to attack me at any second. I cannot make sense of what he was saying or [reconcile] in my mind why he attacked me, but it is clear that I was targeted because I am a Muslim woman…[I] continued to walk to work, tears streaming, I just wanted to wash myself. It wasn't until I saw myself in the mirror in the toilet at work that I saw the spit all over my Hijab and it had seeped through to my underscarf too. I immediately began to wash my headscarf, I was in a total state and very upset and angry at what had happened to me".

5.4.5   Academic research on Islamophobia in Scotland is limited. The tendency has been to focus more narrowly on identity, thereby overlooking Muslim experiences of Islamophobia in Scotland. One notable piece of research is that of Kidd and Jamieson (2011) who have published a comprehensive overview of issues affecting Muslims living in Scotland, including experiences of prejudice and discrimination. They

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[3] The term 'Islamophobia' is attributed to the Runnymede Trust report entitled *Islamophobia: a challenge for us all* (1997); since then, it is a term which has become widely accepted to describe prejudicial attitudes towards Muslims.

suggest there should be further research into the experiences of ethnic minorities in Scotland and in particular the experiences of Scottish Muslims, noting a number of writers have demonstrated differences between experiences in Scotland and England (see for example Hopkins, 2008). The participants in Kidd and Jamieson's research had a range of experiences differing according to place of residence, from frequent physical attacks and regular verbal abuse, to almost never experiencing verbal insults. The relationship with 'place of residence' may tie in with the geographical and socio-economic issues underpinning hate crime, which are discussed in the next chapter.

5.5   LGB Hate Crime

5.5.1   Sexual orientation aggravated crime is the second most common type of hate crime in Scotland, after racial hate crime. In 2016-17, 1,075 charges were reported with an aggravation of prejudice relating to sexual orientation, 5% more than in 2015-16 (COPFS, 2017).

5.5.2   The Scottish LGBT Equality Report (Equality Network, 2015) found that 97% of LGBT people in Scotland have experienced prejudice or discrimination, while according to research by Stonewall (2013a) one in six LGB people have experienced a homophobic hate crime or incident. In this study, one in ten of those reporting such victimisation stated they were physically assaulted and one in five threatened with violence or the use of force. One in eight victims experienced unwanted sexual contact, while one in eight victims have had their home, vehicle or property vandalised. Harassment, insults and intimidation are the most common form of hate crime, reported by more than eight in ten LGB people. The most recent UK wide survey found the number of LGB people who have experienced a hate crime or incident in the last year because of their sexual orientation has risen by 7% from 9% in 2013 to 16% in 2017 (Bachmann and Gooch, 2017).

5.5.3   Of those who reported experiencing homophobic hate crimes, a significant number were often repeat victims. A third of those who have been insulted, intimidated or harassed have experienced this on four or more occasions. More than one in ten who have had their homes vandalised have experienced this four or more times. Almost one in five were threatened with violence were victimised on four or more occasions (Stonewall, 2013a).

5.5.4   The perpetrators of hate crimes against the LGB community are not always strangers - 29% of victims stated they knew the perpetrator or one of the perpetrators, whether it was a neighbour, colleague or a friend or family member (ibid), while hate crimes are frequently reported in the workplace, where victims have reported homophobic bullying from colleagues, or from customers, clients or service users (Stonewall, 2013b). Research has also found young people are more often the target of LGB hate crimes, with more than one in five of 18 to 24-year-olds having experienced a homophobic hate crime (Stonewall, 2013a) and young victims of hate crime are more at risk of physical violence.

5.5.5   The Equality Network also provided us with quotes from their forthcoming report on LGBT hate crime in Scotland to use in this report. Including some of these here helps to give a voice to LGBT experiences of victimisation:

"Elderly woman in the flat beneath us sent letters threatening to have us thrown out, she put bleach under our door and water to flood our hallways, Vaseline on our door handles and stole our doormats. We were great neighbours and everyone else thought so, she just didn't like two boys living together in a flat" (Gay man, 16-24).

"Our house was broken into and trashed. 'We are watching you' and 'we know what you are' were scrawled on the walls. 'Faggot' was sprayed on our mailbox (stupid vandals, since we are women)" (Lesbian woman, 55-64).

5.5.6   The following quotes are taken from Stonewall's (2013a) research:

"My male friend had his jaw broken by a man outside a nightclub because he is gay". (Anne, 35).

"Basically, a neighbour uses my garden as a toilet for his dog. He even opens the gate to let him in. Last week the faeces was right by my front door, so I couldn't ignore it. I have tackled the neighbour directly, but he denies it… the only other people to complain about the same guy, doing the same thing to them, are two openly gay guys living at the other end of the street, which is why I believe it to be gay-related. It's pure intimidation and antisocial behaviour" (Robert, 61).

5.6   Transgender Hate Crime

5.6.1   'Transgender' is an umbrella term to describe those whose gender identity is different from the gender they were thought to be when they were born[4]. When an individual begins the process

"I had to move out of the town I was staying in due to violent, intolerant people in the area"

changing their gender in order to align with their gender identity, this is referred to as 'gender transition'[5]. Transgender people are most vulnerable to hate crime when they are transitioning (Whittle, 2007).

5.6.2   There were 40 charges reported with an aggravation of prejudice relating to transgender identity in 2016-17; ten more than in 2015-16 (COPFS, 2017). This is the highest number of charges reported since the legislation came into force, but it is still a small figure. It is worth bearing in mind that a significant number of hate crimes go unreported and this under reporting is thought to be particularly high in relation to trans hate crime, possibly because this group does not have the longstanding community relationship with the police that other minority communities now benefit from, and the police still only deal with a small number of victims and offenders who identify as trans (Broadstock, 2015).

5.6.3   The few studies of hate crime available, which include transgender participants, suggest that they experience higher levels of hate crime than the rest of the LGBT community. This is perhaps unsurprising, given that hate crimes are rooted in prejudice and discriminatory attitudes towards the trans community remain widespread. For example, a Scottish Government social attitudes survey in 2015 found that prejudiced and discriminatory attitudes remained particularly prevalent in relation to Gypsy/Travellers and transgender people.

5.6.4   A recent UK wide survey found two in five trans people (41%) have experienced a hate crime or incident because of their gender identity in the last 12 months (Bachmann and Gooch, 2017). Research in

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[4] The transgender umbrella also encompasses non-binary gender identities and cross dressing people. Intersex status is now treated as distinct from trans status and there may be a need to update definitions in hate crime legislation to reflect this distinction (from scottishtrans.org).

[5] While transitioning, a person might change their appearance, clothing, name, their official identification documents, or the pronoun used to refer to them ("she", "he" or "they"). Some people will also undergo gender reassignment through hormone therapy and medical procedures so their body physically matches their gender identity.

Scotland has found 62% of respondents had experienced transphobic harassment from strangers in public places. Most of this involved verbal abuse, but 31% experienced threatening behaviour, 17% physical assault and 4% sexual assault. Although 38% did not describe experiencing transphobic harassment from strangers, 23% of respondents have never been perceived to be transgender by strangers, therefore this means that just 15% of respondents who had been perceived by strangers as transgender had never experienced any transphobic harassment; 53% of those who were known to be transgender by some of their work colleagues stated that they have experienced transphobic discrimination or harassment at work (Scottish Transgender Alliance, 2008). Separate Scottish research exploring mental health amongst the trans community found that nearly 19% had experienced sexual harassment for being trans within the last year (McNeil et al., 2012).

5.6.5   Last year, the organisation GALOP carried out a UK wide survey of LGBT hate crime (Antjoule, 2016): 79% of trans people in this study reported experiencing hate crime at some point in their lifetime and they reported higher levels of violence, verbal abuse, threats, sexual violence and online abuse than LGB respondents.

5.6.6   The following quote is taken from the Scottish Transgender Alliance (2008) research and demonstrates the prejudice experienced by one trans participant:

"I had to move out of the town I was staying in due to violent, intolerant people in the area, including my immediate neighbours. I had people physically accost me in the street in the middle of the day, comments made in the supermarket when minding my own business, things smashed up in my back garden. I feared for my own personal safety so much I was restricted to my flat on many occasions for weeks or even months on end".

5.6.7   The following quotes are from the Equality Network's forthcoming research on LGBT hate crime:

"Being called a tranny, freak, having lit cigarette ends thrown at me. I have been verbally, physically and sexually assaulted for being transgender. Silent harassment is also an issue which has a huge impact, whispering, pointing, etc." (Heterosexual trans man, 25-34).

"When a drunk man flirted with me, and I told him I was actually male. He proceeded to feel my chest to check for breasts" (Trans man, 16-24).

5.7   Disability Hate Crime

5.7.1   There were 188 charges reported with an aggravation of prejudice relating to disability in 2016-17 (COPFS, 2017). There is general agreement that disability hate crime continues to be particularly underreported compared to other types of hate crime. Both Police Scotland and COPFS are undertaking a number of measures aimed at increasing the level of awareness about disability hate crime. In earlier years, a relatively high proportion of disability charges were not subjected to any court action in comparison to other categories of hate crime, but the proportion is now similar to other categories (ibid).

5.7.2   Disability hate crime has received minimal research attention. As such, there have been calls for more research to understand the "lived reality of victimhood" for disabled people and to facilitate "recognition of the rights of disabled victims and the responsibility of the state to provide these" (Roultstone and Mason-Bish, 2012: 4). It is only in recent years that the bigger disability charities have started to produce

surveys exploring disability hate crime in an attempt to highlight victim experiences [6]. Activism in this area distinguishes between the medical model of disability and the social model of disability [7] – developing and favouring the latter.

5.7.3   The Equality and Human Rights Commission Scotland produced a report called *'Hidden in Plain Sight'* (2011), which investigated disability-related harassment. It found such harassment is widespread and commonplace, so much so that many come to accept it as inevitable and disabled people do not report it for a number of reasons. The report suggests organisational changes are required among public bodies, but this alone is not enough, as the bigger challenge is to *'transform the way disabled people are viewed, valued and included in society'* (ibid: 3). Many of the victims in this report were socially isolated, which increased their risk of experiencing harassment and violence. It also found that left unaddressed, 'petty' criminal situations had the potential to escalate into more extreme behaviour - an escalation of minor incidents had even led to several deaths. The report was also critical that public authorities sometimes focused on the victims' behaviour, suggesting restrictions to their lives to avoid harassment, rather than dealing with the behaviour of the perpetrators.

5.7.4   In recent years, there have been a number of high profile cases of hate crimes against people with disabilities. Quarmby (2008) details a number of particularly extreme examples of hate crime against people with disabilities [8] and highlights the failings the criminal justice systems response to these.

5.7.5   Academics who have looked at disability hate crime suggest it typically has different nuances in comparison to the other categories of hate crime. The victim and perpetrator are more likely to have a personal relationship, the victim might have difficulty accessing the police and the perpetrator might target the victim based on perceived vulnerability rather than because they are motivated by hostility (Roultstone and Mason-Bish, 2012). There is also what is known as "mate crime" (Thomas, 2011), which refers to a situation where non-disabled people befriend a disabled person with the intention to exploit them, usually financially or sexually. Many disabled people face isolation and a lack of social networks, particularly those with learning disabilities and/or mental disabilities. This isolation can lead some disabled victims of crime to remain in risky situations or suffer repeat victimisation due to a desire to make friends (Petersilia, 2001). The perpetrator may also be a carer or relative of the victim and disabled women are more than twice as likely to experience domestic violence compared to women without disabilities (Hague et al., 2008), this is particularly true for women with learning disabilities (Sin et al., 2009), while sexual crimes may also be more prevalent against women with learning disabilities (ibid).

5.7.6   Verbal harassment is one of the most common offences reported by people with learning disabilities. Victims report being called disablist names (for example 'spacko', 'nutter', 'psycho', etc.), or rumours are circulated about the disabled person in the local area, for example, falsely labelling the disabled person as a paedophile (Sin et al., 2009). It has been suggested thrill seeking' or 'entertainment' may be a motivation behind disability hate crime for many perpetrators who consider it a 'laugh' to target disabled people (Dodenhoff, 2016). Political and media ideology surrounding disability benefit fraud may fuel

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[6] Until recently, most research about the disabled as victims of crime has been concerned with crimes occurring in social care settings, such as residential care homes (Roultstone and Mason-Bish, 2012). However, recently there has been a move towards research focusing on disability crime in a more public, rather than private setting.

[7] A note on terminology: Disability scholars distinguish between the 'medical model' of disability and the 'social model' of disability. The former sees the disabled person's impairment or health condition as the cause of the disability and as a problem which needs to be 'fixed' or 'cured' to remove the disability. The latter, developed by disabled activists, views disability as something which occurs due to the way society is structured; society creates barriers which 'disable' people and it is these barriers which must be removed for so that all people will be able to participate fully in society.

[8] These include Fiona Pilkington and her daughter, Francesca, who died in 2007 after suffering years of harassment; Christine Lakinski, who collapsed on her doorstep after falling unwell and was then attacked by a neighbour who, instead of calling an ambulance, assaulted Christine as she lay dying while friends laughed and filmed it on a mobile phone. Another high profile case in recent years is that of Keith Philpott who was murdered by people he thought were his friends.

such attacks. Further, Dodenhoff suggests disability hate crimes often involve exploitation and domination, where a victim is taking advantage of and where the abuse directed at the victim involves accusations of the disabled person being 'lazy' or 'fake'. Such attacks may be motivated in part by the 'inequality of value' where a disabled person is not seen as equal to a non-disabled person (Sin et al., 2009).

5.7.7   Disabled people are often subject to repeated attacks. The EHRC's research with people with mental health conditions found incidents were often repeated and escalating, including crimes perpetrated by the same person(s) or numerous one off incidents that become part of everyday life for the victims (Sin et al., 2009).

5.7.8   The following quotes from Sin et al (2009) an insight into the lived experiences of disability hate crime:

"We went away that Christmas and when we came back we had a broken window. I was beaten up and spat at by the local kids. We had our front door broken four times and the kitchen window was broken. We had fireworks chucked over the garden and our house was paint bombed".

"There can be gangs of boys who come and take your money…I think because I've got learning difficulties, they take advantage of me - they're not my friends reall.".

"They used to follow me, copying the way that I walk because I walk quite funny. It was always the same people".

5.8   Online Hate Crime

5.8.1   Online hate crime is a rapidly growing issue. The internet, particularly with the advent of social media, has created new arenas for hate crime offending and it has been claimed online hate offences "dwarf" the number of offences occurring in the physical world (Walters et al., 2016a:39). For example, following the Paris terrorist attack in January 2015, the hashtag #KillAllMuslims began 'trending' in the UK and was accompanied by a number of hateful comments targeting Muslims and Islam (Awan and Zempi, 2015). Online abuse is particularly difficult to manage or police but it can have harmful effects on victims just as offline hate crimes do, so it is important effective means of reporting online hate abuse are developed. Some commentators have suggested the internet is facilitating the growth of a 'global racist subculture' (Perry and Olsson, 2009), fuelling those who identify with a white supremacist ideology and providing them with a vehicle to construct a global collective white identity (Perry and Scrivens, 2016).

> The advent of social media, has created new arenas for hate crime.

5.8.2   Online abuse is a commonplace experience for the LGBT community with one in ten LGBT people experiencing homophobic, biphobic or transphobic online abuse directed towards them personally in the last month. This number increases to one in four for trans people (Bachmann and Gooch, 2017). Research for the organisation Tell MAMA found that 74% of the anti-Muslim hostility reported to them occurred on the internet compared to 26% occurring offline (Copsey et al, 2013). The majority of perpetrators of online incidents also made some kind of threat of offline action and repeat offenders became increasingly aggressive. Based on these findings, Tell MAMA stressed the need for further research to establish what frequency of online hate incidents are a precursor to committing real life incidents. Research comparing the impact of online and offline anti-Muslim abuse has found that experiencing online hate crime can have negative effects on victims, including living in fear that attacks

will occur offline in the physical world (Awan and Zempi, 2016; Awan and Zempi, 2015). However, victims of online hate crime have stated a reluctance to report incidents to the police because they were unsure if an offence had been committed.

5.8.3   The Scottish Government's independent advisory group on hate crime has identified the internet as one of three key areas requiring change, along with public transport and the workplace (Scottish Government, 2016). They advised the Scottish Government to undertake work to improve the monitoring of and response to online hate crime and prejudice. In their response, the Scottish Government (2017b) indicated they will look at any recommendations made by Lord Bracadale in his review of hate crime legislation in considering how to tackle online hate crime.

5.9   Intersectionality

5.9.1   Intersectionality refers to the "interconnected nature of social categories" (McBride, 2016: 6), which is the concept that perpetrators of hate crime may hold multiple prejudices and a victim of a hate crime may be targeted as a result of more than one aspect of their identity (Chakraborti, 2014). It is suggested hate crime policy and legislation ought to adopt a more intersectional approach to identity, one which acknowledges that victim groups do not always align neatly with hate crime legislation and policy and which recognises "the interplay of different strands of a person's identity with one another and with other personal, social and situational characteristics" (Chakraborti, 2014: 18).

> Perpetrators of hate crime may hold multiple prejudices and a victim of a hate crime may be targeted as a result of more than one aspect of their identity.

5.9.2   The 'silo' approach to hate crime legislation (Mason-Bish, 2014) refers to the fact that protected groups are added to policy over time. As categories have been added, they have been treated as separate entities, e.g. race, disability, religion, which means an understanding of identities that intersect has been overlooked. Mason-Bish claims this has led to an oversimplification of the victim experience, not recognising their diverse lived experiences and the nuances of the harms they encounter. It also does not appreciate the complexity or fluid nature of identities and the aspects of inequality and oppression which overlap each other.

5.9.3   It is important for those working with victims of hate crime to be aware that protected characteristics do not exist in isolation and an individual may possess more than one, which makes their experiences more complex. For example, it has been found when black LGBT people experienced conflict between different aspects of their identity in relation to hate crime, they would often interpret the violence they experienced as an attempt to punish them for not representing their racial community 'appropriately' (Meyer, 2012).

5.9.4   It is also not just the protected characteristic or characteristics they possess which define an individual's experiences, but also other factors such as their socio-economic status, educational background and personal characteristics. Chakraborti (2014) argues an intersectional understanding is important in order to recognise the reality behind both the experience of victimisation and the commission of the offence, and also for recognising the frequent interplay between hate crime victimisation and socio-economic status.

5.9.5   Mason-Bish (2014) puts forward strong arguments for the gendered experiences of hate crime. As discussed earlier in this chapter, there is a gendered dynamic to Islamophobia which means that Muslim women face a 'double bind' of gender and religious discrimination (European Network Against Racism, 2016); while a woman's sexual orientation makes her more vulnerable to victimisation, as they are at greater risk of experiencing sexual violence or the threat of sexual assault than male victims (Mason-Bish, 2014: 30). Mason-Bish suggests Muslim women and lesbians are perceived to be "doing gender inappropriately" (2014: 30) and this increases their risk of attack and means they are likely to be affected by hate crime in different ways to men. She also points out that a wealthy gay man will experience hate crime differently to a gay man living in poverty. However, she also considers whether it is ever possible to have policy or legislation that adequately reflects each individual's experiences of oppression, given the existence of additional factors that might shape those experiences, such as age, class, weight and appearance (2014: 31).

5.9.6   However, despite offering a richer understanding of the victim experience, an intersectional approach is not without its problems. It would make it more difficult to record statistical evidence on hate crime and to monitor the success or otherwise of policy interventions, while a generic hate crime policy might be 'unwieldy' (Mason-Bish, 2014: 31). The need to further an intersectional approach to hate crime in Scotland has been advanced by McBride (2016) who argues for qualitative research into intersectionality to be conducted.

5.9.7   The following quotes are taken from the Equality Network's forthcoming LGBT hate crime research and illustrate the often intersectional nature of hate crime victimisation:

"On one occasion I was physically assaulted by five individuals for being English, but among insults during the beating were ethnic slurs referring to their perception that I was Black and gay" (Bisexual mixed-race man, 25-34).

"After coming out as bi instead of lesbian, I got hate crime at work (which my boss dealt with), and I got verbal abuse in gay clubs because of being bisexual. I have also been harassed because of my race and disability online and offline" (Bisexual disabled mixed-race woman, 25-34).

6. Causes of Hate Crime and Motivations of Offenders

This chapter briefly summarises the main theories about the causes of hate crime and the common profile of perpetrators. A more in-depth consideration of these factors, and suggested criminal justice interventions, is beyond the scope of this report, which aims to be primarily victim centred. However, exploring the main theories relating to the causes of hate crime is important for providing broader context and understanding of the issue. For further analysis of the causes of hate crime, the characteristics of perpetrators and criminal justice interventions see Hamad (2017), McBride (2016) and Walters et al (2016a).

6.1 Individualistic Explanations for Hate Crime Offending

6.1.1   Most theories in this area propose largely psychological and individualistic causes of the prejudice which underpins hate crime offending. For example, Duckitt (1992: 1190) as summarised in McBride (2016: 16) details a four stage model on the causes of prejudice, involving:

❑   Genetic and evolutionary predispositions - the inherently human potentiality or propensity for prejudice

❑   Societal, organisational and intergroup patterns of contact and norms for intergroup relations (e.g. laws, regulations)

❑   Mechanisms of social influence that operate in group and interpersonal interactions, e.g., influenced by mass media, the educational system, the structure and functioning of organisations such as the workplace

❑   Personal differences in susceptibility to prejudiced attitudes and behaviours, and in acceptance of specific intergroup attitudes

6.1.2   This model is problematic, due to its positivist and psychological nature which neglects socio-economic and political contexts (McBride, 2016: 16).

6.1.3   According to Hamad (2017:6) "offenders tend to minimise and deny the aggravated offending and engage in victim-blaming; have an absence of victim empathy and distorted sense of provocation, leading to a tendency towards violence as a form of conflict resolution, and have a sense of entitlement and alienation, and a poor sense of their own identity, as well as a distorted idea about the victim and perceived difference". Most perpetrators of hate crime are young, white males, who are often unemployed or in low income employment and who often have a history of substance use and previous convictions for general offending (McBride, 2016).

6.1.4   However, McBride suggests it is not the case that lower socio-economic status or deprivation makes people more likely to hold or act on prejudices, but rather, that people living in these areas are more likely to experience higher levels of policing and are therefore at an increased likelihood of coming into the contact with the criminal justice system (ibid:17). She also highlights reports of prejudice from older, educated, middle-class people that challenge the stereotype of the 'typical' hate crime offender, while also providing examples of prejudice based on immaturity or ignorance, such as that of a young person

who was racist towards a member of the travelling community at a youth club, but was unaware the comments he made were racist.

6.1.5   It is also suggested that the common portrayal of hate crime offenders as bigots subscribing to hateful prejudices and targeting victims in premeditated attacks is inaccurate, as much of the data on incidents, although limited, suggests they are carried out by 'ordinary' people in the context of their 'everyday' lives; people who would not necessarily think of themselves as hate crime offenders (Iganski, 2008; Chakraborti, 2014). It appears that for some perpetrators, hate crimes are committed out of banal motivations such as boredom, jealousy, convenience or unfamiliarity with 'difference' (Chakraborti, 2014; Chakraborti and Garland, 2012). Given that not all offenders appear to be motivated by 'hate', McBride (2016: 30) suggests this demonstrates the importance of education in tackling hate crime and prejudice, so as to challenge the 'everyday' nature of prejudice - although she stresses other examples evidently fall into the category of 'direct harm'.

6.1.6   US based research has suggested there are four 'types' of hate crime perpetrators, these are: **thrill seekers** (those who experience thrill and excitement in the commission of the offence); **defensive** (motivated to protect their 'territories' and threatened by those deemed to be outsiders/intruders); **retaliators** (seeking revenge for perceived offences committed against their own group by the out group, e.g. Anti-Muslim attacks following trigger events, such as terrorist incidents in Paris and London attributed to Muslim extremists); and **mission** (rarer than the others, this perpetrator is committed and focused on eradicating 'difference' and may be involved with organised hate groups) (McDevitt et al, 2002 cited in Walters et al, 2016a).

6.2   Alcohol Consumption and Hate Crime Offending

6.2.1   The Scottish data highlights a link between alcohol consumption and some hate crime offending. The accused was described by the police as being under the influence of alcohol in 351 of charges (52% of the total) in 2016-17 (COPFS, 2017). This finding is based on the information recorded in police reports. Therefore, this may underrepresent the link between alcohol and the offending if there were charges where the police did not note that the accused had been drinking. Drug-related charges accounted for 66 charges (10%) in 2016-17, an increase from the 33 charges reported in 2015-16. Hamad (2017: 39) suggests some hate offenders are 'thrill seekers' (McDevitt et al, 2002) who are frequently fuelled by alcohol or other substances. This is evidenced by the COPFS figures, but also ties in with the discussion above, where it is thought a portion of hate crimes arise out of banal motivations, such as an "inability to control language, or behaviour, in moments of stress, anger or *inebriation* [emphasis own], or from a sense of weakness or inadequacy that can stem from a range of emotional or psychological processes" (Chakraborti, 2014: 18).

6.3   Hate Crime Offending - Social and Structural Explanations

6.3.1   A tendency to frame hate crime as a consequence of the poor values of certain individuals, neglects to consider the social and structural causes, such as socio-economic and political contexts - including the decisions of Governments – underpinning prejudicial attitudes and hate crime (McBride, 2016). In an earlier report (McBride, 2015), it is suggested the exploration of the causes of hate crime should focus on intergroup relations rather than the characteristics of apparently prejudiced individuals, "moving away

from an individual pathological approach towards seeing prejudice as a social problem which requires social change" (ibid: 3).

6.3.2   It is claimed the structural causes of hate crime can be understood as an attempt by the dominant group to reassert their hegemonic identity (Perry, 2001; Perry and Alvi, 2011). This suggests the dominant group feel the subordinate group threatens their 'way of life' and so hate crimes serve a purpose - to sustain the hierarchies of the "given social order", through sustaining the privilege of the dominant group while policing the boundaries between social groups by reminding 'the Other' of his/her place and their subordinate identity (Perry and Alvi, 2011: 61). As mentioned earlier, some academics caution against overemphasising hate crime as a mechanism for the subordination of minority groups observing that many hate crimes are not borne out of entrenched prejudice, but are the result of boredom, jealousy and ignorance (Chakraborti, 2014).

6.3.3   However, it has been found that the global and media context appears to intensify prejudice towards minority groups and shapes perceptions of safety and risk within those groups (Scottish Government, 2016). Research into religious hate crime has identified an increase in such incidents following high profile terrorist attacks - such as the 9/11 terrorist attacks in America - among members of the Muslim, Sikh and Hindu communities in Glasgow (Clegg and Rosie, 2005). Recent spikes have been reported following the terror attacks carried out in Manchester and London earlier this year (Dodd and Marsh, 2017).

6.3.4   It is thought these events, and subsequent sensationalist and biased media coverage of them, can lead to the stigmatisation of certain groups in society, which is then linked to a rise in hate crime (Walters et al., 2016a). The Scottish Government's independent advisory group on hate crime has suggested the media play a crucial role in shaping wider social attitudes, stating that: "reporting of international issues or high profile events in the media could have a direct impact on the lives of people in Scotland through a perception that all members of specific minority communities were perpetrators of violence and abuse simply by virtue of cultural or religious association" (Scottish Government, 2016: 10). Research conducted with victims of hate crime found a number of respondents spoke about the need for changes in politicians' attitudes and language, suggesting they are responsible for stirring up hatred - others alluded to anti-immigration policies and statements by politicians which they felt were not adequately challenged in the media. They felt these scenarios contribute towards prejudicial attitudes and hate incidents (SAREC, 2017).

6.3.5   This can also be seen with the media ideology surrounding disability benefit fraud and the impact of the UK Government's welfare cuts on disabled people, which is argued to be behind an increase in disability hate crimes. The welfare reforms have been blamed not only for increasing social inequality and injustice, but have also "exacerbated a culture of hostility towards the people routinely scapegoated for the financial problems of the government. The vocabulary of 'scrounging' and 'shirking' has been powerful in legitimising cuts, with disabled people frequently cast as benefit frauds" (Benedict, 2017).

6.3.6   Briant et al (2011) claims there has been a shift in media coverage of disability in recent years, with an evident 'politicisation' occurring, illustrated by negative stories focusing on disability benefit and fraud, with disabled people being presented as undeserving claimants and the use of pejorative language, such as 'scrounger', appearing more frequently in tabloid articles. The writers found this coverage is impacting on people's views and perceptions of disability related benefits, severely over estimating the levels of benefit fraud. Disability campaigner Paul Dodenhoff (2016) suggests that "in a social environment where disabled people are treated like 'second class citizens' and often viewed with suspicion, acts of abuse, harassment and violence may not simply be senseless acts committed by

deviant individuals, but 'normative' behaviours acted out in a social world where the domination and oppression of disability is considered to be the 'norm'".

6.3.7   Significant evidence suggests the psychological, individualistic focus on offending is not enough to address the underlying causes of hate crime. The structural dynamics of perpetrating, experiencing and addressing hate crime need to be given greater focus (McBride, 2016: 6). Beyond this, measures to reduce prejudice and improve community cohesion will also have the benefit of reducing incidents of hate crime.

6.4   Considering the Social and Structural Dynamic of Victimisation

6.4.1   Not only do social and structural factors explain the development of prejudicial attitudes and the motivations of offenders, but structural factors - specifically socio-economic status and poverty - also increase the likelihood of a person experiencing hate crime victimisation. For example, those living in deprived areas with higher rates of anti-social behaviour are more likely to be victims of hate crime and crime in general.

6.4.2   Researchers have argued for greater recognition of the interplay between hate crime victimisation and socio-economic status. Chakraborti and Garland (2012) observe that many hate crimes take place in economically disadvantaged areas, but suggest the relevance of class and economic marginalisation in the commission of hate crimes has

Many hate crimes take place in economically disadvantaged areas

been largely overlooked by policy makers and scholars. They suggest hate crimes can often be exacerbated by socio-economic positions and some potential victims of hate crime are at less risk of attack because they live a greater distance from prejudiced neighbours or in less 'overtly hostile environments' (ibid: 12).

6.4.3   McBride (2016: 20) has also highlighted that a lot of hate crimes occur in poor geographical areas. She cites the Scottish Household Survey 2013 and 2014, which demonstrates marked differences in experiences of harassment in the most deprived areas compared to the least deprived – 38% of those living in the most deprived areas described harassment from groups or individuals as 'very common' in their neighbourhood, compared to only 3% of those living in the least deprived areas. She suggests economic inequality shapes the context in which hate crimes take place, for example, the dispersal of asylum seekers in deprived areas without community consultation. Similarly, Netto and Abazie (2012) have called for research which explores the way in which ethnicity interacts with deprivation in local urban contexts. Their study reinforces the findings of other research, which has indicated that 'hot spots' for racial hostility are associated with areas of deprivation and social problems associated with drug and alcohol abuse, and a wider culture of violence. As such, this requires complex community based interventions.

6.4.4   Research suggests there is a link between disability hate crime with lower socio-economic status, particularly for certain a type of impairment such as mental health conditions. This can create geographical contexts which further compound disadvantage and the risk factors for becoming a victim of hate crime. For example, the term 'aggregation of disabled people' describes a situation where disabled people are often accommodated in disadvantaged areas with high levels of anti-social behaviour and crime, which can increase their visibility and attract negative attention (Sin et al., 2009).

Further, affluence can buy protection through the ability to take taxis or drive rather than use public transport and by providing more choice about where to live. Living alone and feeling isolated in a disadvantaged area may make a disabled person more vulnerable to abuse, for example, 'mate crime' (Thomas, 2011), where they are befriended by an abuser. An analysis of the UK's Life Opportunities Survey established that disabled adults were significantly more likely to have experienced violent crime and hate crime over the last year than their non-disabled peers (Emerson and Roultstone, 2014). This risk of exposure to hate crime was increased for those disabled adults with mental health problems or learning disabilities, however, these effects were found to be strongly influenced by poverty status, with wealthier disabled respondents not experiencing any increase in risk.

6.4.5   Welfare reforms have severely exacerbated the poverty and isolation experienced by disabled people, which makes them more vulnerable to crime. Since 2010, measures such as the introduction of Personal Independence Payments (PIP), the introduction of the Bedroom Tax, and the abolition of the Independent Living Fund have occurred alongside other cuts to social care, mental health support and legal aid. These cuts are said to have exacerbated the physical, financial and mental vulnerability of disabled people (Benedict, 2017), with their poorer socio-economic status placing them at greater risk of becoming victims of crime. Welfare cuts have also been responsible for a large number of disabled people losing their mobility aids and vehicles, which isolates them further and forces them to rely in public transport. Disabled people are particularly at risk while using public transport - so much so, that this is one of the three key areas (along with the workplace and the internet) identified by the independent hate crime advisory group as requiring urgent change in order to tackle hate crime effectively. The Scottish Government (2017b) has indicated it will develop a transport hate crime charter, which will be modelled on the current 'Together Let's Drive Hate Crime Out' charter, to address disability hate crime in this area. This will be agreed with transport service providers to provide clear, common standards and consistent processes for dealing with hate crime on public transport.

6.5   A Note on Restorative Justice Interventions

6.5.1   Initiatives to tackle hate crime have broadly involved three main approaches: taking action against perpetrators, supporting victims, and preventative action. The victim focused nature of this report means an in-depth exploration of criminal justice responses to hate crime is beyond the scope of this work. However, it would be remiss not to touch upon the proposals to roll out restorative justice interventions in Scotland.

6.5.2   In response to the Independent Advisory Group on Hate Crime recommendations, The Scottish Government (2017b: 20) has agreed to explore the potential benefits of restorative justice measures to tackle hate crime offending. A restorative justice and hate crime pilot is being proposed for Criminal Justice Social Work in Edinburgh (Hamad, 2017).

6.5.3   The Scottish Government is developing statutory guidance to ensure that, where restorative justice processes are available, it is delivered in a coherent, consistent, victim-focused manner across Scotland and in line with the EU Victim's Rights Directive.

6.5.4   The guidance is intended for restorative justice practitioners and facilitators, as well as restorative justice service providers, and may be useful for those referring to restorative justice services. It aims to provide both an overview of restorative justice principles and key factors which should be considered by practitioners and facilitators and more detailed best practice guidance regarding the provision of restorative justice services.

6.5.5   Given the involvement of victims in restorative justice interventions, Victim Support Scotland is concerned with ensuring the use of any such programmes to tackle hate crime give full and proper consideration to the best interests of victims. Although there is some evidence restorative justice can benefit victims by lessening the emotional trauma caused by hate crime (Walters, 2015), there is minimal research into the effectiveness of restorative justice measures with hate crime offending, and concerns have been raised that the widespread use of restorative justice in relation to hate offences will lead to further victimisation.

6.5.6   Walters et al's (2016b) research into the effectiveness of police restorative disposals found only seven out of fourteen victims felt their involvement in the restorative disposal had helped to repair the harms caused by the hate crime. These victims reported feeling pressured by the police to agree to the intervention, which had implications for the voluntariness of the process, while eleven out of fourteen felt apologies from offenders were not genuine (ibid: 23). In contrast, a community mediation initiative was more successful, with most participants indicating they had reduced anger, anxiety and fear after the mediation process. This was attributed to the fact that participants were able to explain to the perpetrator the harms they had experienced - they felt supported by the mediator and felt they were playing an active part in their own conflict resolution (Walters, 2014).

6.5.7   It is fundamental, therefore, that practitioners involved in restorative justice have an in-depth understanding of the nature of hate crime, its impact on victims, and how to respond effectively to their needs.

7.   A Victim Centred Approach to Hate Crime

7.1   The Harms of Hate Crime to Victims and Communities

7.1.1   This stage of the report is concerned with fostering a victim centred approach to hate crime. Much of the literature and policy work around hate crime focuses on the perpetrators and criminal justice responses. There is a scarcity of work bringing together information on the harms of hate crime, which would be valuable in order to build a comprehensive understanding of the negative impact of hate crime victimisation, both to the individual and their communities. There is also a lack of research concentrating on specific categories of victims; instead the harms of hate crime tend to be discussed in generic terms as though victimisation is experienced in the same ways by all victims (Perry, 2012: 171). By focusing on the commonality of impacts, it obscures the diversity of victims' experiences in relation to different protected groups and other social characteristics (Iganski and Lagou, 2015: 5). In order to address this, this chapter brings together a broad range of research and policy on the harms of hate crime. A thorough understanding of these impacts can then be utilised to inform the provision of effective support for victims and to enhance the training of those who work directly with them (Iganski and Lagou, 2014).

7.1.2   Prejudice against minority groups can lead to a number of consequences, ranging from fear of crime and inability to participate in normal social activities, to paranoia and vigilantism. Hate crime negatively impacts not just on individual victims, but on whole communities and social groups. It is also damaging for community relations, creating mistrust and suspicion between communities and weakening social cohesion. The Scottish Government state that "[t]he harms of prejudice, bullying and hate crime to individuals, communities and society are real, long-lasting and deeply damaging" (Scottish Government, 2016: 10). Apart from the direct experiences of harm, prejudice and discrimination they experience, victims of hate crime also experience indirect harms, such as isolation, poor mental health, loss of social networks etc. The level of indirect harms caused by hate crime is not fully monitored (Scottish Government, 2016: 12).

7.2   Emotional and Psychological Impacts

7.2.1   The research covered in this chapter demonstrates why hate crime is so pernicious - because "hate hurts more" (Iganski, 2001). The literature highlights that the emotional and psychological harms of hate crime are more severe and enduring than the harms experienced by victims of comparable crimes not motivated by prejudice. Victims of hate crime are more likely to report suffering post-traumatic stress type symptoms, higher levels of depression and withdrawal, anger, anxiety, panic attacks, nervousness, loss of confidence, difficulty concentrating, fear, increased feelings of vulnerability and reduced feelings of safety (Iganski and Sweiry, 2016; Iganski and Lagou, 2015; Iganski, 2008, McDevitt et al, 2001; Herek et al., 1999). The persistent feeling of fear which can arise following victimisation is thought to be because the attack targets the victim's core identity, which highlights to the victim they are vulnerable to further attacks in the future (Iganski and Sweiry, 2016) and this may also increase the length of time needed to

recover from victimisation (Herek et al, 1997). Herek et al's study with victims of LGB hate crime found the experience of victimisation links the victim's post-crime feelings of vulnerability and powerlessness with her or his sexual orientation and personal identity, once again highlighting the role of identity in exacerbating the psychological and emotional distress which occurs. It is the greater harm caused by hate crimes, justifying the more severe sentences passed down for these offences in comparison to similar crimes which occur without the aggravating factor (Iganski and Lagou, 2014).

7.2.2   In an analysis of the British Crime Survey, it was found that, compared to victims of crime not motivated by hate, victims of hate crime were statistically significantly more likely to say they were emotionally affected by the incident (86% compared to 92%) and more likely to be 'very much' affected (38% compared to 17% of victims of non-hate crimes). Emotional responses included anger (67%), annoyance (50%), shock (40%), fear (39%) loss of confidence/vulnerability (35%), anxiety (23%), depression (20%) and difficulty sleeping (17%) (Smith et al., 2012). Research with victims of hate crime in Scotland found a significant number of respondents reported their mental health suffered following victimisation, including negative changes in their mood and loss of confidence. This was one of the most common effects of victimisation. Other reported effects included constant vigilance while out in public due to anxiety about suffering repeat victimisation and reports of self-harming and suicidal ideation (SAREC, 2017: 21).

7.2.3   Research exploring anti-Muslim hate discovered a range of psychological and emotional responses were reported by participants, including lowered self-confidence and insecurity, depression, loneliness, isolation and anxiety (Awan and Zempi, 2015). Research also found that victims of both online and offline Islamophobic crime suffer from depression, emotional stress, anxiety and fear (Copsey et al., 2013), suggesting the emotional and psychological harms are not just limited to attacks occurring in the physical world. In research with visibly Muslim women (who wear a veil) and their experiences of anti-Muslim victimisation, participants described a wide range of emotions including humiliation, anger, sadness, isolation and disgust (Allen, 2014). Similarly, in another analysis of veiled Muslim women's experiences of Islamophobia, participants reported increased feelings of insecurity and vulnerability, which diminished their sense of belonging, confidence and willingness to integrate into society. Nearly all participants claimed their confidence had been severely affected as a result of their recurring experiences of hate victimisation, with many using terms such as feeling 'worthless', 'unwanted' and stating that they 'didn't belong'. Victims also experienced panic attacks, worry, extreme anxiety and depression, arising from the fear of experiencing further attacks in public (Zempi and Chakraborti, 2015).

7.2.4   Victims of hate crime are also more likely to suffer prolonged psychosomatic symptoms - such as headaches, difficulty sleeping, changes in eating or drinking habits, stomach upset, fatigue, high blood pressure, muscle tension or back pain - when compared with victims of comparable crimes not motivated by prejudice (Kees et al., 2016: 20).

7.2.5   Research into the impact of hate crimes on disabled people has found victimisation can result in the aggravation of existing conditions, with those with mental health conditions most likely to report this. One study found 97% of respondents reported harassment had an impact on their mental health and that this was the most distressing consequence of their harassment (Hunter et al., 2007). Sin et al (2009) established that just under half of participants with a mental health condition reported deterioration in their condition following hostile or violent incidents, including repeated suicide attempts and nervous breakdowns. One respondent described his experience: *"I was so scared from the harassment from these men. I was scared for my life and I could feel myself getting close to having a nervous breakdown"* (ibid: 43). This research also established that people with learning disabilities can also experience a deterioration of mental health following incidents of hostility or violence, with a quarter of these participants reporting an increase in self-harm or an increase in epileptic fits. Another respondent said:

"I sometimes used to shake and cry, I was swearing and cursing, biting my hand, I don't very often bite my hand, but I was doing it then. And biting my kneecap because I was so frustrated; I didn't know what to do about it" (ibid: 44).

7.2.6   In a study of those who had been subjected to transgender-related violence, 18% of participants had attempted suicide (Maguen and Shipherd, 2010). Similarly, Williams and Tregidga (2014) found suicidal ideation was prevalent among transgender victims of hate crime. They identified disabled victims and transgender victims of hate crime were more likely to experience both psychological impacts and physical reactions, suggesting these minority groups are particularly vulnerable to the impacts of hate crime. They also report that disabled and transgender victims of hate crime experienced depression, suspicion of others and the local community, lack of confidence and feelings of shame, embarrassment, isolation and vulnerability.

7.2.7   Transitioning can be a challenging process to undergo due to social stigma and discrimination with the additional distress of experiencing a hate crime setting them back in their transitioning process. This is exemplified by a case study published in the press in 2015. A woman, Nat, describes the impact of prolonged victimisation:

"The abuse I was suffering set me back in my transition journey because I felt like I couldn't be myself. I felt worthless so I started self-harming and became increasingly depressed and anxious. I was working as a welder at the time but because I operated machinery I had to admit to my employer that I was on medication. The next thing I knew, I was being handed my P45".

"I had no money so I would go for days without eating. I was scared to go outside and without a job, I had no reason to leave the flat. I became more and more withdrawn. When my laptop was stolen, I felt even more isolated and I couldn't afford insurance so I couldn't replace it" (Davies, 2015).

7.3   Housing, Employment and Financial Issues

7.3.1   The psychological harms and resulting isolation arising from hate crime victimisation can have wider consequences on the lives of victims. Those who experience a hate crime are more likely to report

> **Victims of hate crime are twice as likely as victims of other crimes to be forced to move home to escape perpetrators.**

significant problems with their job or school work following victimisation (Kees et al., 2016: 19). They can be declared medically unfit for work or lose their jobs due to declining mental health (SAREC, 2017), resulting in financial difficulties and further isolation. One respondent in this research reported "I was unable to work for four years, as I could not leave the house" (ibid: 27). Victims of hate crime are twice as likely as victims of other crimes to be forced to move home to escape perpetrators (Iganski and Sweiry, 2016) and this may be something they are forced to do more than once. Research conducted in social housing schemes in Glasgow found problems with widespread racial harassment – the fear of encountering racial victimisation affected the choices ethnic minorities made when selecting where to live. The researchers reported that in many cases, safety from racist victimisation was the "single most important factor" in housing-related decision-making processes (Netto and Abazie, 2012: 8).

7.3.2   Research in Scotland has established the disruption prejudice can have on the lives of trans people, with 25% of respondents in this research reporting they had to move out of their home (often ending up homeless) due to the transphobic reactions of their families, flat-mates or neighbours; 8% of

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respondents surveyed reported they had been sacked at least once due to their transgender background or identity, while 13% had quit their job at least once due to fear of the possibility of experiencing discrimination or harassment (Scottish Transgender Alliance, 2008).

7.4   Impact on Life Outcomes

7.4.1   Research has established that, when combined with structural barriers, one of the indirect harms of prejudice can be to produce negative life outcomes, resulting in wider social inequalities (McBride, 2016). For example, McBride cites research by Clark (2014) carried out with the Roma community in Glasgow, which found one of the outcomes of experiencing prejudice was a reluctance to engage with services, resulting in poorer standards of health, substandard housing and increased levels of poverty, all of which can significantly impact on their life chances. McBride (2016: 31) also gives the example of victims of prejudiced bullying and harassment having lower confidence, which could then lead them to participate less in their school or local community, eventually having a knock on effect on their life outcomes. The Scottish Government's independent advisory group on hate crime also stated in their report that victims of hate crime can experience a resistance to engaging with statutory services which can lead to wider social harms and inequalities of reduced health, wellbeing and longevity, as well as economic disadvantage (Scottish Government, 2016: 10).

7.5   Impact on Identity

7.5.1   Allen's (2014) research into Muslim women's experiences of Islamophobic victimisation highlights how such crimes not only affect the daily lives of these women and their families, but also affects their sense of belonging to British society while making them re-evaluate how they feel about being British. Half of the women said that the attacks made them question their British identity. None, however, indicated that they pondered the possibility of changing their religious identities as a result of the prejudice they faced. Similarly, victims of anti-Muslim hate in Awan and Zempi's (2015) research also suffered negative feelings about their sense of belonging and safety in the UK. A survey of Muslim school aged children in Edinburgh found over half had experienced Islamophobic prejudice and some reported wanting to change their identity as a result (Smith, 2017).

7.6   Adapting Behaviours and Managing Visibility in Public

7.6.1   Constantly living with the fear of victimisation can impact on the day to day lives of minority groups, leading them to live with constant vigilance and hyper-awareness to potential dangers. For example, in research into Islamophobic hate crimes, participants reporting increased vigilance and 'keeping their guard up', constantly on the alert for risky situations (Awan and Zempi, 2015). In an attempt to manage these feelings of vulnerability and reduce the risk of further attacks in the future, victims may utilise a range of strategies, often through adapting their behaviours or restricting their movements.

"I'm scared all the time"

7.6.2   Victims have reported changing routine activities, habits and ways of existing in the world, reducing their freedom and mobility in the process (Perry and Alvi, 2011). Hate crime victims are more likely than victims of otherwise motivated crimes to describe that they avoid walking in certain places (Iganski and Lagou, 2014; 2015). One respondent in SAREC's (2017: 26) study stated, *"I'm scared all the time",* and went on, *"it makes me feel that Scotland and Glasgow in particular isn't a place where I can be myself. I am constantly vigilant on the street, as is my partner. We just quietly, without even talking about it, modify our behaviour".*

7.6.3   Similar behaviours have been reported by LGB and transgender victims of hate crime, who report modifying their behaviour and altering the way they express themselves to conceal their sexual orientation and thus decrease the possibility of victimisation (Perry and Alvi, 2011). This "highlights the ways in which hate violence can provoke non-victims to engage in avoidance strategies that may ultimately affect self-expression" (ibid: 68). The fear and vigilance invoked in minority communities becomes normative, which then impacts on mobility and identity expression.

7.6.4   For those in the LGB community, while they may not be identifiable as LGB by their appearance alone, there is awareness that their behaviour in public could draw attention to their sexuality and result in potential hate incidents. As a result, they may adapt their behaviour while out in public to hide their sexuality, for example, by not holding hands with their partner or showing public displays of affection. In one survey, more than a third of LGBT people (36%) stated they do not feel comfortable walking down the street while holding their partner's hand. This increases to three in five gay men (Bachmann and Gooch, 2017). One participant in this study describes the automatic way he and his partner will adapt their behaviour in public to 'act straight': *"I hope within my lifetime I will be able to walk down any street in town holding hands with my partner and not be looking around for potential threats and dangers. We are both so conditioned in de-escalating situations that we know without a word to each other when to drop hands and act straight. We do this instinctively, a habit that has evolved from a lifetime of abuse and unwanted attention. Things are so much better than they used to be, but there is still so much to be done"* Teddy, 33 (Scotland).

7.6.5   In another study, a quarter of LGB participants described altering their behaviour so as not to be perceived as gay. One participant in this study states, *"You wouldn't hold hands or kiss in public like heterosexual couples can for fear of abuse or violence. I never feel 100% safe doing this anywhere, even in a gay bar" (Steve, 37)."* Similarly, another responded said, *"I am careful not to show any affection to my partner in public"* (James, 43) (Stonewall, 2013a: 25). This highlights how the fear of becoming a victim of hate crime can impact on an individual's day to day behaviours and prevents them from living their life without fear.

7.6.6   As well as adapting behaviours, victims may attempt to manage their visibility in an attempt to become less noticeable, which reduces the fear of attack (Mason, 2001). Victims of anti-Muslim hate crime may change their routine and lifestyles following victimisation. This includes taking steps to become less 'visibly' Muslim. For example, some participants in Awan and Zempi's (2015) study were converts to Islam, but kept their English name to avoid suffering anti-Muslim hostility, while other participants born into Islam had adopted western names to hide their Muslim identity, especially online. Some Muslim women reported removing their head coverings or dressing in western clothing in an attempt to become less 'visible'. This was also found in Zempi and Chakraborti's (2014) research, with the temporary removal of the veil viewed as a coping mechanism for some participants, reducing their sense of vulnerability and risk of attack, however it was described as a measure of last resort. Other safety measures include walking in numbers, preferably with a male companion.

7.6.7   In SAREC's research, the fear of hate crime pushed some victims to hide who they are, with one respondent stating, *"it certainly made me hesitant to wear clothing that identified me with my faith when outdoors"* (2017: 27). While a survey of Jews carried out across Europe found that 21% of those surveyed reported always or frequently avoided wearing, carrying or displaying things that might help people identify them as Jewish in public, with a further 37% suggesting that they occasionally do so (Fra, 2013a). Additionally, the 2011 National Union of Students (NUS) report found that 43% of Jewish, 37% of Hindu, 36% of Buddhist and 36% of Muslim students surveyed altered their behaviour, personal appearance or daily patterns because they feared encountering prejudice (cited in McBride, 2016). Studies such as these illustrate the constraints placed on victims' identity expression as a consequence of living with the fear of victimisation.

7.7   Spatial Impacts: Restriction of Movements and Isolation

7.7.1   As well as adapting their behaviours and attempting to become less visible, victims may restrict their movements or isolate themselves entirely in an attempt to prevent further victimisation occurring. In a study with ethnic minority participants in Glasgow on their experiences of racism, participants described adapting to the fear of racial crime through restricting movement and remaining indoors (Netto and Abazie, 2012). Other studies have similarly found ethnic minority individuals often have a 'mental map' of safe social spaces, highlighting the impact of racism and the fear of encountering racism (e.g. Hesse et al., 1992).

7.7.2   Mental maps of 'no go areas' are commonplace across many minority groups. In a recent survey, three in ten LGBT people (29%) said they avoid certain streets because they do not feel safe there as an LGBT person (Bachmann and Gooch, 2017). Victims also report being afraid to leave their homes, walk down the street, go to work, pick up their children from nursery or drive their cars (SAREC, 2017). Fear of being alone and fear of going out was the second most common effect reported by victims in SAREC's research, demonstrating how hate crime can constrain the overall freedom of individuals and leave them in a constant state of vigilance and fear when they do have to venture outside.

7.7.3   Research with female victims of anti-Muslim hate demonstrates negative feelings following incidents can be debilitating, in some cases completely altering the women's way of life. Some women report being afraid to leave their homes or go shopping, others report feeling forced to go out in "secret," while several indicate they no longer feel their children can play with the neighbours (e.g. Allen, 2014; Awan and Zempi, 2015). Despite the fact that such Islamophobia is largely manifested in low-level ways it has significant impacts on the everyday lives of its victims. Similarly, victims in SAREC's (2017:17) research also reported being afraid to let their children play outside.

7.7.4   A European LGBT study found half of all respondents avoided certain places or locations due to a fear of being assaulted, threatened or harassed (Fra, 2013b). Scottish research with trans participants found 51% of participants were worried they would have to avoid social situations or places in the future due to fears of harassment, fear of being identified as trans, or being outed. Only 29% of respondents said they would not avoid social situations in the future (McNeil et al., 2013). One of the largest studies of transgender people's experiences in the UK found that fear for their safety led to those not yet living permanently in their new role to avoid going to public spaces in their preferred gender - 50% of trans people who only presented in their preferred gender socially, avoided going to public spaces in that gender role. They would, instead, only attend a safe private venue such as someone else's home (Whittle, 2007).

7.7.5 Unsurprisingly, the tendency to restrict movements and avoid leaving 'safe' spaces such as the home can result in isolation, where members of minority groups withdraw socially and become cut off from the wider community as a result. This goes beyond limiting movements and adapting behaviours, to withdrawing from societal engagement altogether (Awan and Zempi, 2015). Isolation can create mistrust of wider society, creating segregation between groups, resulting in alienation and having the wider effect of breaking down social cohesion. Isolation also impacts on the mental and physical health of individuals.

7.7.6 Victims of anti-Muslim hate have reported a sense of rejection from wider society and the negative psychological impacts of this had long-lasting impacts on victims, making them afraid to engage with other communities and resulting in them feeling like social outcasts (Awan and Zempi, 2015). Veiled Muslim women who experienced hate crimes report a diminished sense of belonging and were less willing to integrate into society, while their families also began limiting their movements and interactions, which amplified their sense of social isolation (Zempi and Chakraborti, 2015). The threat of attack led participants in this study to make significant changes to their lifestyle patterns in order to protect themselves, their children and other family members with these changes increasing their sense of isolation and withdrawal from their local community. The fear of further victimisation meant participants avoided leaving the house alone and avoided public transport in order to negotiate their safety. Participants spoke of confining themselves to their homes as much as possible, with a number of participants stating they would only go out if it was absolutely necessary. One participant in this study states:

"I had to go onto anti-depressants because I'm just so afraid to take my children anywhere. Why do I need my husband to take me to the park? I have to think of everything now like 'Is it safe to go out?' whereas before it wasn't like that. I feel like I'm stopping my children from doing stuff because I'm so afraid to go out" (Yasmine, 28 years old)- (ibid: 48).

7.7.7 Disabled people are particularly vulnerable to isolation. Disabled victims of hate crime have described making changes to their lives in order to avoid the perpetrator(s) or avoid situations which might be risky (Sin et al, 2009). This fear can lead to long lasting effects, where disabled people feel isolated and vulnerable, afraid to leave their homes. Changes reported by respondents in this study included moving house, going out less (often leading to a loss of social networks), avoiding their home if they were being targeted by neighbours and leaving college or employment. Withdrawing socially was frequently mentioned by disabled respondents as a protective measure arising from developing a distrust of people. As one respondent described: "I lost all trust in human beings – it's difficult to describe the depth of that … I had my barriers up all the time. I was terrified of speaking to anyone in the new flat because of my experiences in the old flat. So I thought I'm going to keep myself to myself. So when people started being friendly to me I was worried they might start harassing me, so I was very offish. Very offish and unfriendly. That was just to protect myself I think because I was so frightened" (ibid: 46).

7.7.8 Transgender victims of hate crime have reported feelings of isolation and vulnerability, alongside suspicion of others and the local community (Williams and Tregidga, 2014). Respondents also reported the absence of strong support networks, with victims believing their experiences and subsequent feelings of depression were often exacerbated by the inability to confide in friends or family (who are often unaware of the victim's gender identity). This research suggests a lack of pre-existing support networks can lead to further isolation which, for transgender victims, can lead to suicidal ideation (a high number of participants in this research reported suicidal ideation). It appears incidents of hate crime can interact with pre-existing personal or social factors (the absence of strong support networks or social exclusion) to produce extremely negative effects.

7.8   Community Harms

7.8.1   Beyond the impact on the individual victim, hate crime also inflicts social harm because it is socially divisive. This can create situations in which those who share the same identity characteristics as the original victim (such as friends, family members and the wider community), feel victimised *as* a group, with members constantly fearful of an attack and experiencing vicarious trauma (Perry and Alvi, 2011). This 'wave of harm' (Iganski, 2008) impacts on victims, marginalised communities, societal norms and values.   In the wake of high-profile global events, such as terrorist attacks, members of vulnerable communities report living with increased fear that they will be attacked for belonging to a particular religious or cultural group.   According to the Scottish Government (2016: 10), "some communities reported a sense of helplessness, isolation and retreat from external contact". Such collective harms have been identified in research into anti-Muslim hate, where the threat of Islamophobic victimisation impacted upon notions of safety within the wider Muslim community by reinforcing the fear that all Muslims are vulnerable to attacks due to their group membership (Zempi and Chakraborti, 2015). Due to the concept of *ummah* (the worldwide community of Muslims), Islamophobic hate crimes are commonly understood by Muslims to be an attack on Islam and all Muslims as a group (Chakraborti and Zempi, 2013; Zempi, 2014).

7.8.2   The impact of hate violence can extend far beyond the immediate victim, sending out a "terroristic message to everyone who shares the victim's identity: 'this could be you'" (Iganski and Sweiry, 2016: 105). In doing so, hate crimes can be understood as 'message crimes' (Iganski, 2001), because they send a message to the victim and everyone who share's the victim identity, that they are not welcome, are devalued and reviled, therefore "while all violence is an assault against a person's dignity, hate violence is particularly egregious in terms of violation as it is a discriminatory assault on dignity" (Iganski and Sweiry, 2016: 108).

7.8.3   The impact of hate crimes on vicarious victims has been explored by Perry and Alvi (2011). Their findings concluded that vicarious victims of hate crime (those who are a member of the same minority group as the original victim) react with similar patterns of emotional and behavioural responses to those of the original victim. Vicarious victims experienced a complex mixture of reactions, including shock, anger, fear/vulnerability, inferiority and a sense of the normativity of violence. These vicarious victims also adapted their subsequent behaviours in similar ways to those of the original victim, such as by changing their patterns of social interaction. The vulnerability and risk experienced by vicarious victims leads Perry and Alvi to conclude hate crimes are "symbolic acts performed for specific audiences, paramount among them being the victim's reference community" (ibid: 69). The wider community impacts of hate crime include the weakening of social cohesion through deterioration of the social bonds between communities as mistrust and suspicion spreads. The overwhelming fear of further victimisation (for direct victims and vicarious victims) can lead them to limit their interactions with those 'like' their perpetrators by retreating to their 'own' stores, bars, restaurants, workplaces or to limit their social movements, resulting in isolation and withdrawal. The result is the creation of social and geographical boundaries, or 'emotional geographies' (Awan and Zempi, 2015) between groups.

7.8.4   Retreating to their 'own' communities is the 'safe choice' (Perry and Alvi, 2011) for many victims and vicarious victims to avoid the risk of attack. A number of studies into the impact of anti-Muslim hate has explored this, finding that 'emotional geographies' affects where they live, their vocational pursuits, leisure activities, modes of transport and access to educational opportunities, leading to segregation in housing, transport and education (Zempi and Chakraborti, 2015). The fear of violence reinforces these 'invisible' boundaries across which members of the Muslim community are not 'welcome' to step (Awan and Zempi, 2015: 28). As one example of the impact of such invisible boundaries, it has been found

Islamophobic attitudes are responsible for deterring Muslims in Scotland from political participation because they do not want to appear to be overly politicised (Cameron, 2017), highlighting that the pervasive effect of prejudice can prevent members of vulnerable communities from fully engaging in society.

7.8.5   The desire to retreat to 'safe' places within their 'own' communities is perhaps exacerbated by experiences of 'by-standing'. In SAREC's (2017) research, some victims spoke about the isolation they felt when hate incidents occurred in public but bystanders did not intervene to assist the victim, which made the victim feel the bystanders agree with the perpetrator. The Scottish Government (2016: 12) report similarly found a number of victims raised the issue of by-standing, with members of the public persistently choosing not to intervene in incidents. Awan and Zempi (2015) found participants in their research also spoke of the lack of assistance from bystanders, with other members of the public remaining silent and not assisting victims during a prejudiced attack. Victims did not want direct intervention or action, but stated support with contacting appropriate services such as the police would have helped them immeasurably. For example, one respondent in their research stated: *"I was on the bus and a man shouted to me and my Muslim friends, 'Oh you are terrorists, I'm gonna come to the back of the bus and stab you'. I told the bus driver about this and asked him to stop the bus and call the police, but he refused. He said 'I am driving the bus, I am just the driver, what do you want me to do about it?'"*. The effect of such by-standing can be that a victim does not receive personal support, and if society, as a whole, does not recognise hate crime/incidents as a violation, then victims may become resigned to violence. This means they may only seek professional support if they cannot cope with the multiple impacts of on-going discrimination and violence (Kees et al., 2016). It is also likely to increase the feelings of vulnerability, which results in minority groups retreating to their 'own' communities and restricting their movements.

7.8.6   The fear of victimisation is also found to negatively impact upon the quality of life of disabled people. One study, for example, found that nearly 60% of disabled people felt their disability increased their risk of being a victim of crime and they limited their 'life functioning' as a consequence (Petersilia, 2000). The vicarious fear of victimisation also impacts on the LGBT community. In one study exploring the extent to which the harms of anti-LGBT hate crime spread beyond the immediate victim to impact non-victims, findings suggested that anti-LGBT hate violence can have profoundly negative effects on the psychological and emotional well-being of non-victims who are also LGBT and this can also result in dramatic behavioural changes similar to those made by original victims. The findings also indicate that hate violence negatively affected participants' decisions to disclose their sexual orientation to others (Bell and Perry, 2014).

7.8.7   The Scottish Government independent advisory group on hate crime argues that prejudice and hate can have a huge impact on the quality of life of individuals and the community to which they belong. When people withdraw into 'safe' circles, it results in greater fear and isolation. According to the report, "this degree of isolation and fear is a threat to the basic values of an open democratic society and undermines the rule of law and the principle of equality under the law. The long-term impact of social isolation is only beginning to be understood, but it is already clear that it leads to a degeneration of both the personal mental and physical health and wellbeing and this, in turn, leads to a disintegration of community cohesion. Even worse, alienation can lead directly to radicalisation and violence and contribute further to the instability of society as a whole and the quality of life of everyone" (Scottish Government, 2016:6). In response, the Scottish Government (2017b) is establishing an advisory panel on community cohesion, to provide expert advice on how to strengthen the approach to building cohesive communities and how people can be safeguarded from harm.

7.9 'It's Just Part of Life': The Normalisation of 'Low Level' Hate

7.9.1   A significant majority of victims report that 'low level' hate incidents are such a frequent part of their everyday lives that these experiences become normalised. The result is that many members of minority communities describe a certain amount of abuse as just 'part of life' and come to view it as an expected consequence of their 'difference'. This suggests victims may internalise the prejudice they experience and attempt to cope with it on their own, but even 'low level' incidents can have devastating consequences for victims, especially if they occur frequently (Zempi, 2014: 113).

7.9.2   Zempi and Chakraborti (2014) suggest veiled Muslim women are locked in a circle of repeat and multiple victimisation. Everyday experiences of explicit and subtle manifestations of Islamophobia produced feelings of inferiority, loss of confidence and self-esteem, depression, flashbacks, guilt and self-blame. However, Islamophobic abuse, violence and harassment was often seen as 'normal' and 'natural', which highlights the 'ordinariness' of Islamophobic victimisation in terms of how embedded it is in the lived experiences of veiled Muslim women. Separate research has also established that a majority of victims of anti-Muslim hate perceived offline and/or online abuse, intimidation, violence and harassment as 'normal' (Awan and Zempi, 2015). Since anti-Muslim hostility was understood as a normative part of their lived experiences, some participants had become 'used to it' and therefore felt 'immune' to this victimisation.

7.9.3   In relation to disabled victims of hate crime, research has found they are often encouraged (by people they know and authorities) to minimise the victimisation they experience, which can lead them to view their experiences as part of everyday life rather than criminal behaviour (Sin et al, 2009). The authors argue such an approach is damaging, as it means victims are treated with second-class status. In Stonewall's (2013a) research with LGBT victims of hate crime, there was a common perception that verbal abuse is relatively minor and happens too frequently to report every time. One participant states: *"I do report the serious ones, but the low level name calling is a horrible but everyday occurrence really - it messes with your self-confidence and affects your work and health"* (Michaela, 48) (ibid: 12).

7.9.4   While in Broadstock (2015: 60) a trans participant explains: *"I came out of house - called a name, walked through park - called a name etc., it's commonplace 'background noise' – I wouldn't report"*.

7.9.5   Low-level racial harassment was a feature of life for ethnic minorities participating in Netto and Abazie's study focusing on a number of Glasgow housing schemes. They described the "devastating impacts of sustained low-level abuse on wellbeing, use of public space and ability to integrate within wider society" (2012: 13). One participant stated it was difficult to find accommodation in areas where they felt they would not experience racial harassment, illustrating how commonplace it is.

7.9.6   A number of studies have demonstrated that 'low-level' racist harassment, for example, verbal abuse, staring in an intimidating manner, throwing eggs, blocking driveways with cars or being the subject of racist 'humour', is a regular feature of everyday life for many ethnic minorities (Chakraborti and Garland, 2015). This suggests there is a need for greater understanding of the routine, everyday nature of many experiences of racism and their cumulative effects. It is suggested this "has a 'drip-drip effect that magnifies feelings of vulnerability and imposes severe constraints upon the victim's quality of life, despite seldom being fully recognised as racist behaviour by other members of local communities or by agencies and policy-makers" (ibid: 28).

7.9.7   This normalisation of hate incidents and the feeling that nothing can be done about 'everyday' hate incidents, partly explains the low rates of reporting. Research with victims of hate crime from a number of minority groups also found some respondents had 'learned to live with' being the object of prejudice and 'did not allow' hateful incidents to affect them (SAREC, 2017: 27). However, as the report points out, despite developing strategies to cope at a personal level, there is still a harm and injustice in having 'internalised this oppression and prejudice as a permanent part of their lives' (ibid).

7.9.8   Overall, the reality of hate crime remains hidden to the general public, since many incidents go unreported and with media sensationalism of more serious incidents detracting from the insidious, long term impact of persistent low-level forms of abuse which constitute everyday experiences for many (Chakraborti and Garland, 2015). Recognising the significance of more everyday experiences of prejudice should therefore be a priority for those involved in supporting victims and responding to hate crime.

8.   A Hierarchy of Victims? The Marginalised Victims of Hate Crime

Victim Support Scotland is an organisation which exists to support all victims of crime. This chapter suggests some of the most vulnerable victims of hate crime are excluded from existing policy and legislative frameworks and considers whether further categories ought to be added in order to accommodate them and address this marginalisation.

8.1   Hate crime legislation does not just respond to hate crime as an objective, material entity, but also constructs our understanding of what hate crime *is* – "the categories and labels we use, the norms and subject positions they regulate" (Mason, 2014: 296). Some groups are thought of as dangerous, illegitimate or inferior 'Others'. However, by engaging in "emotional thinking" (Mason, 2007: 249), lobby groups and activists can bring about a change, so that these groups are no longer thought of this way, but, instead, are repositioned as 'undeserving' victims of prejudice. What is included under the hate crime 'umbrella' often depends on which groups are able to lobby and campaign effectively for inclusion, meaning those with greater resources, a powerful voice and public support for their cause are able to lobby more effectively. Therefore, "it is that capacity to 'shout louder' that can sometimes influence who receives protection from hate crime laws, meaning that some victims of hate crime may not receive the recognition they expect or deserve" (Chakraborti, 2014: 17).

8.2   The result of this process is to create and reinforce hierarchies of identity, whereby some victims are deemed worthy of inclusion within hate crime frameworks, while other are excluded (Chakraborti, 2014). There is a need to reconsider how we frame the boundaries of hate crime, with Chakraborti criticising the narrow construction of identity and community, which he suggests has overlooked a range of significant issues: "[a]s long as such issues remain peripheral to the hate crime debate, we risk marginalising the experiences of many victims and thereby reducing the 'real life' impact of hate crime theorising and policy formation" (ibid: 14).

8.3   Chakraborti highlights the homeless, elderly, refugees and asylum seekers as being among those groups who have much in common with the already established victim groups within the hate crime sphere, but who tend to be viewed as 'undesirables', 'criminogenic', or 'less worthy' than more 'legitimate' or historically oppressed victim groups (ibid: 16). These are groups which lack adequate lobby group support and political experience to give a voice to their experiences, therefore their experiences of victimisation "fall between the cracks of existing scholarship and policy frameworks" (ibid: 18). The author observes the victimisation suffered by these groups is likely to 'hurt' every bit as much as that suffered by established hate crime victim groups.

8.4   McBride (2016) also suggests some categories and groups targeted by hate crime are prioritised over others. She observes that even within existing hate crime categories, a 'hierarchy' may exist. For example, she suggests victims with a learning disability are even more underreported and unrecognised than disability hate crime more generally. By strictly conceptualising hate crime as involving particular categories of victims encompassing singular constructions of identity, Chakraborti and Garland (2012) argue criminologists have created a divisive and hierarchical approach to understanding hate crime. Instead of this identity based approach to hate crime, they suggest concepts of 'vulnerability' and 'difference' should be used. They say this would construct a more inclusive conceptual framework which would enable the inclusion of those overlooked and vulnerable victims of hate crime who have to date not received the recognition they desperately need. This approach looks at the risk of certain groups

experiencing prejudice and hate, with a 'spectrum of vulnerability' positioning some people at some times more likely to experience hate crime.

8.5   Chakraborti and Garland (2012) suggest victims of hate crime are often selected because they appear to be 'soft' or convenient targets because they are obviously 'different', (for example, through markers of language, skin colour, dress or culture), or because they seem vulnerable (because of their age, isolation, disability or physical presence). A vulnerability-based approach would, they suggest, acknowledge the risk posed to certain groups or individuals that can arise through a complex interplay of factors, including hate, prejudice, hostility, unfamiliarity, discomfort or simply opportunism or convenience. The authors argue the continued failure to account for the experiences of those who find themselves at the bottom of the hierarchy of victimisation and denied victim status, underlines the relevance of vulnerability to this debate.

8.6   Researchers have suggested understanding hate crime through concepts of vulnerability and 'difference' would enable 'hidden' victims of hate crime to be recognised and would enable them to access a more extensive range of support services (Chakraborti and Garland, 2012). However, others have criticised this approach for the use of the term 'vulnerability', which is particularly problematic for disability activists who are concerned the label 'vulnerable' is paternalistic and disempowering, conflating disability with weakness. The perception that disabled people are 'vulnerable' is partly why a 'protectionist paradigm' exists which positions disabled people as vulnerable and in need of protection, rather than justice and redress (Perry, 2008; Mason-Bish, 2014).

8.7   However, Chakraborti and Garland (2012) argue that a conceptual focus on perceived vulnerability is not to suggest that those in vulnerable positions suffer hate crime as 'an inevitability' or as passive victims, but rather enables the inclusion of those who are currently excluded from existing policy and academic frameworks. They also claim a vulnerability-centred approach to hate crime would recognise the issues of intersectionality, namely, that it tends not to be individual aspects of a person's identity which are targeted, but rather there is interplay of identities with one another and with other personal, social and situational characteristics. However, this is something which should be considered carefully, as extending legislation to a new range of characteristics, and encompassing intersectionality within it, might dilute legislation to the point that it is unwieldy and difficult to apply in practice.

8.8   The Homeless

8.8.1   Policy discourses often concentrate on homeless people as perpetrators of crime rather than victims of crime (Cooper, 2016). It is argued the homeless have long been subject to violence and intimidation (Wachholz, 2009), but this victimisation has been excluded from the social construction of hate crime because the homeless are framed as 'undesirables' and criminogenic, resulting in homeless people receiving little policy attention as victims of crime.

8.8.2   However, the homeless are more likely to be victims than the general population, particularly those who sleep rough. Homeless people are disproportionately subject to violence and intimidation – eight in ten homeless people have experienced violence, abuse or anti-social behaviour (Sanders and Albanese, 2016). This research found they are also 17 times more likely to become victims of violence and 15 times more likely to suffer verbal abuse compared to the general public and women are particularly at risk of sexual abuse while sleeping rough. In more than half of cases, a member of the public was the perpetrator, not another homeless person. While current hate crime legislation in Scotland does not

include protection for homeless victims of prejudice, in the US, some states do classify the status of 'homeless' under the protection of hate crime legislation (Al-Hakim, 2015).

8.8.3 Rough sleeping involves great risk and fear, which can negatively impact on rough sleepers' health and wellbeing (Sanders and Albanese, 2016). This leads to negative patterns of behaviour, such as alcohol and drug abuse and victimisation can impact on rough sleepers' mental health, exacerbate their sense of isolation and lower their sense of self-worth. This makes it harder for them to address their experiences and escape life on the street. Therefore, the complex issues which often impact on rough sleepers can be enhanced by becoming a victim of hate crime.

8.8.4 Quotes from participants in the Sanders and Albanese (2016) study demonstrate they have been targeted specifically because they are homeless:

"It was some guy. He said, 'Are you homeless?' I said, 'Yeah,' and he just kicked me in the head. I was sat on the floor reading my book" – Simon.

"Gangs of young kids, you know about five or six of them that come around on the night time, 2.00 am in the morning. And anyone sleeping in the shop door was done. They used to brick them or worse still. You know a couple of lads that were sleeping on the streets with me got knifed while they were asleep" - Gary.

"I was beaten up once, that was a couple of weeks ago, by the same people I think that burnt my bedding up. I was in my sleeping bag because it comes around up over the shoulders, do you know what I mean? And three of them, and I was sleeping, they came over and started jumping on me, kicking me like" – Jeremy.

8.9   Refugees and Asylum Seekers

8.9.1 Some academics and policy makers have suggested that the arc of hate crime legislation should be extended to include refugees and asylum seekers as a distinct category. Research carried out in North Lanarkshire and six local authority areas in England found that a high proportion of refugees had experienced physical or verbal racial harassment (Evans and Murray, 2009). It appears they are targeted because of their immigration status, rather than simply because of their race, and this is why some have suggested they ought to have their own category under hate crime legislation.

8.9.2 Victim Support Scotland has supported a number of refugee victims of hate crime, including one who is quoted by a case worker interviewed for this report as saying: *"we fled one place to live in terror here".* This same individual also described shutting them self in their flat with the curtains closed out of fear of victimisation. This victimisation is often experienced over and above the destitution and hardship faced by asylum seekers due to the structural barriers they encounter as part of the asylum process when they arrive in the UK. In the previous chapter, it was established that socially isolated individuals, who are socially excluded or lacking in social networks, are particularly vulnerable to negative impacts as a result of experiencing hate crime victimisation. Refugees and asylum seekers are often socially isolated, having been separated from friends and family, therefore they are also likely to experience severe impacts as a result of hate crime victimisation.

8.9.3 Bhatia (2017) conducted research with refugees and asylum seekers in England, to assess the impact of Britain's immigration policies and procedures. He encountered a number of cases involving hate crimes

directed at asylum seekers, and found asylum policies and procedures increased vulnerability to hate crime. For example, a couple from Sudan were placed in the North-West of England and experienced a racial attack. The couple were too afraid of reprisals to report the incident and also lacked trust in the authorities. Rather than report the incident, they stayed indoors and only left the flat when it was unavoidable. They tried to secure a move to a different location, but because they did not have a 'crime reference number' (as they had not reported the attack) they were refused a transfer. Bhatia notes the 'burden of proof' is always passed on to those seeking asylum, who must prove at every stage they are 'genuine', including that they are 'genuine' victims of hate crime.

8.10   Gypsies and Travellers

8.10.1   It has been suggested that Gypsies and Travellers should be included as a specific category within hate crime legislation. The Scottish Government recognises Gypsy/Travellers as an ethnic group, which therefore means they fall under the protected characteristic of 'race' in relation to the Equality Act 2010 (EHRC, 2013). However, there are suggestions the stigmatisation experienced by Gypsies and Travellers would be more effectively challenged if they were given their own distinct categorisation within hate crime legislation.

8.10.2   Gypsies, Travellers and Roma have received little attention in studies of racism. However, they continue to experience many forms of marginalisation in public life. Gypsies, Travellers and Roma are the largest minority in Europe and research has shown they are subjected to disproportionally high levels of hate crime (James, 2015; Council of Europe, 2011), which is rarely challenged in the way it is with other minority ethnic groups. Partly because of national and local vilification from politicians and the press, asylum seekers and Eastern European migrant communities are often the target of racist attacks (Chakraborti and Garland, 2015: 23). Gypsies and Travellers are subjected to overwhelmingly negative media coverage (Amnesty International, 2012) and a Scottish Government (2015) attitudes survey found that prejudiced and discriminatory attitudes are particularly common in relation to Gypsy/Travellers. These communities tend to suffer from a lack of official sites, which results in inadequate housing, have problems accessing healthcare and have a mistrust of health professionals (McBride, 2016) and their experiences of prejudice have been found to increase their reluctance to engage with services (Clark, 2014).

8.11   The Elderly

8.11.1   Elder abuse involves physical assault, sexual assault and harassment, coercion, threats and intimidation, theft and fraud, and neglect (Action on Elder Abuse, 2016). Offences against the elderly are often treated leniently by the courts. Action on Elder Abuse (2016) reference a number of examples of serious abuse and assault which have only received suspended sentences, community service and/or a fine, including the following examples:

"One 88-year-old woman was slapped and, on Christmas Day, another 93-year-old was struck, pinched and had her check twisted. And then she was later punched. [Sentenced to] 180 hours of community service".

"The 'carer' lost her temper and slapped the 86-year-old man, before striking him on the head with a walking aid. [Sentenced to] 200 hours of community service".

"She slapped the 82-year-old woman, twisted her arm behind her back and sprayed her face with water. And she slapped her on the body. Jailed for six months, overturned on appeal. 200 hours community service/2 years' probation" (Action on Elder Abuse, 2016).

8.11.2　The 2007 UK Study of Abuse and Neglect of Older People identified 8.6% of older people living in the community experience elderly abuse (Keeffe et al., 2007). This does not include incidents occurring in social care settings, which Action on Elder Abuse states is not being adequately dealt with either. They argue the criminalisation of elder abuse would provide additional statutory protections to older people and they point out a number of countries have specific legislation in place to protect older people from abuse, including USA, Canada, Japan, South Korea, Israel and Slovenia.

8.11.3　In conclusion, given their vulnerability and the evidence of the prejudice they experience, marginalised groups such as the elderly, homeless, gypsies/travellers and asylum seekers/refugees deserve to be considered for protection by hate crime legislation.

9.   Addressing the Underreporting of Hate Crime

There is broad consensus that many hate crimes go unreported. This is an issue which needs to be addressed to ensure as many victims as possible access legal redress and in order to gain a clearer picture of the scale of hate crime and hate incidents in Scotland. When hate crimes are reported, there is also the opportunity for victims to be referred to organisations for support, where they will have the opportunity to access advice to help them come to terms with their experiences and, where required, receive support on navigating the criminal justice system. This chapter explores reasons for the underreporting of hate crime and looks at measures which might help to increase reporting levels. It also looks at the role third party reporting centres can play in encouraging victims and witnesses to report hate crimes and hate incidents. The chapter concludes with a Victim Support Scotland led Q & A session carried out with Police Scotland, which includes guidance on how to report incidents and information about the efforts they are making to tackle hate crime in Scotland.

9.1   Reasons for the Underreporting of Hate Crimes and Hate Incidents

9.1.1   Reporting a hate crime is an important step for a victim to take, but it can be a challenging one too. There are numerous barriers which might prevent a victim from reporting a crime against them. Commonly expressed reasons for not reporting include: "fear of retribution; fear that the incident would not be considered serious enough to be viewed as an act of criminality, fears about expenses which might be incurred during the legal process and concerns that the criminal justice process may be counter-productive and exhaustive" (Scottish Government, 2016: 13). There are many instances where victims of hate crime have described not reporting incidents to the police out of a fear of making their situation worse through reprisals or because the absence of witnesses made prosecution difficult.

9.1.2   The 2015 Glasgow Household Survey found 74% of those who experienced victimisation over the past 12 months did not report this to the police (Davidson et al., 2015). In an analysis of the British Crime Survey, the most frequently mentioned reason for not reporting hate crime was that the victims perceived the incident to be too trivial, there was no loss, or they believed that the police would or could not do much about it (55%). The second most frequently chosen reason was that it was a private matter or the victims chose to deal with it themselves (19%) (Smith et al., 2012).

9.2   Underreporting Across Different Minority Groups

9.2.1   Research for the Muslim organisation Tell MAMA found that 63% of respondents who had experienced anti-Muslim hate did not report their experiences to the police (Copsey et al, 2013). It has been found Muslim men are unlikely to report an anti-Muslim hate crime for fear of being viewed as 'weak' (Awan and Zempi, 2015: 7). Other commonly cited reasons for this group included fears that they would not be taken seriously by the police and feeling too scared to contact the police. One respondent, Fatima, stated: *"I felt I wouldn't be taken seriously by the police. I also felt embarrassed and it made me feel*

uncomfortable. I also wasn't 100% sure if it was an offence online" (ibid: 21). The notion that online hate crimes are deemed 'less worthy' of reporting (McBride, 2016: 41) is a common issue, which accounts for the low reporting rates of such incidents across all minority groups. Other reporting barriers mentioned by Muslim participants included "shame, embarrassment, fear of retribution, stereotyping from the police and also stigma attached from within communities" (Awan and Zempi, 2015: 32). In relation to the latter, Zempi (2014: 114) suggests sensitive issues such as hate crime are not openly discussed within the Muslim community, and this taboo can increase alienation and vulnerability for victims, preventing them from seeking help, while conventional support services may have sufficient understanding and awareness of victims' distinct cultural norms and religious practices, creating further barriers.

9.2.2 Asylum seekers and refugees can be fearful of reporting hate crimes due to a lack of trust in authorities as a result of persecution they have experienced in their countries of origin, or they may fear deportation as a consequence of reporting hate crimes (Bhatia, 2017). Bhatia argues this group is particularly in need of a safe environment where they can confidently report racial hate crimes.

9.2.3 In relation to LGBT hate crime, according to Stonewall (2013a), three quarters of respondents who experienced a hate crime did not report it to the police and even fewer reported crimes to a third party reporting service, while more than one in five of those who did report the crime or incident did not mention its homophobic nature. A recent UK wide survey found four in five LGBT people (81%) who had experienced a hate crime or incident did not report it to the police (Bachmann and Gooch, 2017).

9.2.4 Common barriers to reporting LGBT hate crime include feelings that it would not produce a result (24%), being unsure if what happened was a crime (22%), feeling that the incident would not be taken seriously by authorities (12%) and fear it would make the situation worse (7%). Some participants were also apprehensive about the prospect of disclosing their sexual orientation and/or gender identity (27%) (Antjoule, 2016). While a survey by Stonewall Scotland (2010) found reasons for not reporting homophobic hate crimes included a lack of trust in the police, believing the hate crime would continue regardless of reporting to the police and fearing that reporting it would only make the situation worse (particularly if the victim lives in a small community).

9.2.5 In Antjoule's (2016) study, trans people were more likely than LGB respondents to be victims of hate crime, yet trans people were among the least likely to report such incidents to the police (at only 22%). Research in Scotland found similar results, with only 15% of transgender respondents stating they had reported any transphobic harassment to the police (Scottish Transgender Alliance, 2008), while over half of trans respondents (52%) in Broadstock's (2015) research did not report the incident to the police. The most common reason was that the victim 'felt nothing could be done', followed by feeling the incident was 'not serious enough'. The Scottish Government (2016: 13) suggests that the notable under reporting of hate crimes by transgender people in Scotland is indicative of a level of isolation and fear. The report highlights that for trans people, there may be fears about becoming the subject of 'salacious media attention' if their case is made public, and this may dissuade many transgender victims from pursuing justice.

9.2.6 Disability hate crimes are believed to be particularly underreported in comparison to other forms of hate crime and conviction rates are also lower than for other forms of hate crime. The Scottish Government (2017b) is implementing an action plan on disability called, *'A Fairer Scotland for Disabled People',* to address the severe rates of underreporting in this group. The most critical factor contributing to the underreporting of disability hate crime is thought to be the presence of a relationship between the victim and the offender (Sin, 2013; Thomas, 2011; Thorneycroft and Asquith, 2015). Incidents of 'mate crime' are less likely to be reported because the relationship takes priority and the threat of losing the friendship can be too difficult for the victim to contemplate (Thorneycroft and Asquith, 2015). The

authors also note that victims may be afraid to report the perpetrator if they are someone they rely on for care and support on a day-to-day basis, due to the threat of losing their limited independence if the carer is removed.

9.2.7   There can be accessibility issues at reporting centres (poor wheelchair access and the lack of interpreters, for example, British Sign Language interpreters), inaccessible information and reporting forms and systems, and a lack of disability equality training by frontline staff and difficulty in verbalising experiences which can also impact on reporting levels for this group (Sin et al, 2009).

9.2.8   Disability organisations suggest a 'protectionist paradigm' (Perry, 2008) exists which positions disabled people as vulnerable. This can result in a paternalistic response to hate crime, where disabled people are removed from the situation, rather than action being taken against the perpetrator to seek justice and redress (Mason-Bish, 2014). In an analysis of quantitative data regarding disability hate crime, it was found there were differences between police and victim support responses to disabled victims depending on the impairment categories of victims, with those with learning difficulties at increased risk of being victimised and less likely to receive support from criminal justice agencies (Macdonald, 2015).

9.3   The Normalisation of Hate Crimes and Hate Incidents

9.3.1   As previously discussed in Chapter 5, hate incidents can occur so frequently that the apparent 'ordinariness' of hate crime shapes what victims themselves perceive to be a hate crime. When it becomes a routine part of their day to day lives, victimisation becomes a normalised consequence of being 'different', and not something they would recognise or report as a hate crime (Chakraborti, 2014: 19). The internalisation of hate crimes and incidents as a 'normal' experience of everyday life can result in victims developing coping strategies to deal with these that do not include contact with Justice agencies or support services (Scottish Government, 2016: 13). As well as the perception that incidents are not serious enough to report, victims also suggest the frequent occurrence of such incidents means it would be too time consuming to report them all. It is crucial, therefore, that relevant agencies and stakeholders recognise the insidious low-level recurrent nature of hate crime and encourage victims to come forward to receive support and advice.

9.3.2   This issue is exemplified in LGB victims' responses to verbal harassment. A number of participants in Stonewall Scotland's (2010) research with LGB hate crime victims felt that verbal attacks happen on such a regular basis that it would be too time consuming to report them all, while others felt it was relatively minor, and others did not think of it as a crime and so would not report it. One respondent stated, *"It happens on such a regular basis I would spend my life reporting things."* While another suggested, *"It's sadly part of life, nothing would have come of it",* and another suggested they would only report verbal abuse if it "*was excessive, very threatening, or led to further incidents such as criminal damage, stalking or physical abuse*".

9.3.3   People with a disability are often advised to ignore the victimisation, especially in instances where the victim has a learning disability, and they are likely to avoid involving authorities by attempting to deal with harassment on their own (Sin et al., 2009). This minimises the victimisation and constructs the victim's experience as part of everyday life rather than criminal behaviour.

9.3.4   Research into racial and religious hate victimisation has also found low levels of reporting are often attributed to the frequency of low-level incidents, which come to be viewed as a normal, expected part

of everyday life (e.g. Chakraborti and Garland, 2015; Allen, 2014; Zempi and Chakraborti, 2014 Netto and Abazie, 2012; Copsey et al., 2013).

9.4 Not Realising They Are a Victim

9.4.1 A number of reports suggest a significant proportion of victims simply do not realise their experiences constitute a criminal offence, so it would never occur to them to report such incidents. Chakraborti (2014) suggests the real figure of hate crime is much higher than even victimisation surveys, (such as the British Crime Survey) suggest because many instances of hate crime are simply not recognised as such by criminal justice agencies, non-governmental organisations or by victims themselves. There continues to be a lack of awareness especially among the trans community as to what constitutes hate crime and hate incidents (Broadstock, 2015). Similarly, people with a disability, especially those with a learning disability, may not understand that they are being victimised (Thorneycroft and Asquith, 2015; MENCAP, 2010).

9.4.2 Migrant victims of hate crime may not report offences, particularly verbal abuse, because such incidents do not constitute offences in their country of origin (SAREC, 2017). This report also notes that within the UK, hate crime is not fully understood by the wider public and many experiences go unreported because those who have experienced hate crimes do not realise they are victims of a criminal offence. Respondents in SAREC's research suggested there is a need for more awareness raising and education about hate crime. One said it would help "*knowing it was a crime – knowing that it would have been taken seriously by the police*" while another said looking back it would have helped "*at least to have known I could report such things and they would be taken seriously. I simply did not know I could report*" (ibid: 34). Other respondents did not know *how* to report a hate crime.

9.5 Lack of Confidence in the Police

9.5.1 Confidence in the police continues to be too low (Scottish Government, 2016: 13) and this can impact on reporting levels. SAREC (2017) found a majority of their participants did not report the incident as they feared the police would not believe them. This highlights why it is important to ensure the definition of a hate crime laid out in the MacPherson Report continues to be utilised for its insistence that a hate crime/incident is defined by the perception of the victim and not the authorities (Scottish Government, 2016: 13).

9.5.2 A lack of trust in the police is evident across all the protected groups. For example, research with the LGBT community has found mistrust of the criminal justice system to be commonplace, with 20% worrying they will be treated worse than heterosexual people when reporting a crime if the police officer is aware of their sexual orientation (Stonewall, 2013b). This concern about poor treatment is higher when reporting hate crimes, with 24% expecting discrimination if reporting a homophobic or transphobic hate crime to the police. This study also found LGB people from black and minority ethnic backgrounds (37%) are significantly more likely than white LGB people (24%) to expect poorer treatment from the police if they report a hate crime in relation to their sexual orientation. A lack of confidence and distrust in the police is also prevalent among the trans community, due to negative stories of poor police interactions, inadequate handling of crimes and inappropriate remarks and behaviours (Broadstock, 2015).

9.5.3   The Scottish Government (2016: 13) found that, whilst the police "have shown strong leadership and made significant progress in being more responsive and sympathetic, some participants believe that the police are not always consistently confident in dealing with reports and that some types of hate crime are better understood and receive more attention", while concerns were also raised that individual officers might make decisions about referring cases to the Procurator Fiscal and that these decisions are not monitored for consistency. The report stresses the key role of well-informed local liaison officers to "direct engagement and building force capacity", particularly because it is not always possible for every police officer to "correctly interpret the subtlety and nuance of particular incidents" (ibid).

9.6   Negative Experiences When Reporting a Previous Incident

9.6.1   If someone has a negative experience of reporting a hate crime then it may decrease the likelihood they will report any future incidents to the police. In SAREC's (2017) research some respondents expressed dissatisfaction about the way in which the police deal with hate crime generally. Respondents wanted to be updated about the course of investigations after they had been reported and berated instances where this did not happen. However, despite initial apprehension about the way the matter would be handled, other respondents were pleasantly surprised with the way the police treated the incident, with one stating, *"contrary to my expectations, it was treated extremely seriously and I was left with a wholly positive impression of the hate crime reporting process"* (ibid: 36).

9.6.2   In their analysis of the British Crime Survey, Smith et al (2012) found that 53% of hate crime victims were satisfied with the police handling of the hate crime incident and 45% were not. Overall, victims of hate crime were less satisfied with the police contact they experienced than victims of crime overall (53% compared to 69%), suggesting improvements could be made in the police response to hate crime (although these figures are based on survey data generated in England and Wales). In only 45% of hate crime incidents, victims felt the police took the matter as seriously as they should, compared to 65% of victims incidents of crime overall. Victims of hate crime were also less likely to think the police had treated them fairly or with respect, compared with victims of crime overall.

9.6.3   A survey of LGBT participants who did report a hate crime found 40% did not find the process easy, largely due to the perception that justice professionals had not received training on LGBT issues (68%). Others found it difficult talking through the incident several times (47%) or felt there were too many steps to go through (44%) (Antjoule, 2016). Research in Scotland also found that of the Trans participants who had reported hate crimes to the police, only half stated they were satisfied with the response they received (Scottish Transgender Alliance, 2008). Furthermore, in a report by Broadstock (2015) in England, just under half of trans respondents who had reported a hate crime to the police felt they were treated with respect, with only a small number of trans respondents (15%) feeling the officer had an understanding or knowledge of trans issues.

9.6.4   Research with victims of hate crime who have a learning disability also suggests some disabled people are put off reporting hate crimes to the police due to dissatisfaction with how they are treated (MENCAP, 2010). Some felt police officers often ignored them, preferring to talk to their support worker instead, even when they were present, while others felt police officers did not know how to communicate appropriately with victims with a learning disability. Furthermore, some participants reported negative experiences of providing evidence to the police. For example, having to provide statements multiple times due to people with a learning disability, often not being regarded as capable of providing reliable

accounts. MENCAP suggest problems with underreporting would be addressed by providing police forces with better training on disability awareness and by engaging with disability organisations and other agencies to encourage third party reporting.

9.7 Measures to Increase Reporting Levels

9.7.1 Efforts are underway to increase reporting levels. The Scottish Government (2017b) has agreed to set up a multi-agency delivery group that will take forward the implementation of the recommendations within the independent advisory group's report, which includes addressing barriers to reporting and ensuring third party reporting is widely available and publicised. Key stakeholders such as Police Scotland and the Crown Office and Procurator Fiscal Service will be involved and there will be Ministerial oversight. The Scottish Government has indicated that one of the key tasks of their new multi-agency delivery group will be to consider how to break down barriers to reporting and inform this with Police Scotland's work on developing the third party reporting infrastructure.

9.7.2 There is a need to increase trust and confidence in the agencies handling victims' reports. McBride (2016) stresses the importance of ensuring that anyone involved in responding to hate crime treats all claims of hate crime victimisation respectfully and sensitively. For reporting levels to improve, it is crucial victims to have a positive experience with the reporting process. This can be facilitated by providing comprehensive training for all those who come into contact with hate crime victims, including the police. Specialist training on the dynamics and harms of hate crime is essential, as well as additional training in relation to disability, LGBT and diversity awareness. According to the Scottish Government (2016), victims still feel the system is disjointed and there is a need for more effective communication between victims and the criminal justice system throughout the process. It is also crucial that agencies support victims to clearly understand particular prosecution outcomes. They also highlight concerns raised regarding the lack of diversity within the criminal justice agencies workforce, suggesting there should be more recruitment from the communities they serve. These measures would likely increase confidence in the police and criminal justice system and lead to an increase in reporting.

9.7.3 SAREC (2017) suggests specialist 'hate crime' police officers should be created, with specific training in this area. Although such specialist officers do not exist at present, there have been notable attempts by police forces around the UK to take steps to engage with minority communities and improve confidence in the police in order to remove barriers to reporting. For example, Police Scotland have worked with The Equality Network to provide a training programme for a new system of LGBTI Liaison Officers, who work with the LGBTI community to address various issues affecting them. The intention is to increase public confidence in the police and establish a better support system for victims of hate crimes in the LGBTI community.

9.7.4 Police Scotland has also joined forces with a charity called, "I Am Me", which is aimed at tackling disability hate crime and encouraging victims to come forward and report incidents. The charity also promotes the 'Keep Safe' initiative, with safe places for disabled people to seek assistance when they have experienced crime. The Keep Safe scheme means a safe third party can contact their next of kin or carer in an emergency and will raise awareness that a hate crime has occurred. An added benefit may be that this would hopefully lead to a hate incident being reported appropriately. The Scottish Disability Equality Forum is working with Access Panels to provide people affected by disability hate crime with access to support and guidance (McBride, 2016). It is hoped this will empower disabled people to report hate crimes. Additional measures to remove barriers for disabled people would involve addressing accessibility issues such as poor wheelchair access and the lack of interpreters.

9.7.5   Education and awareness-raising is also crucial if reporting rates are to improve. The Scottish Government intends to launch a widespread public awareness campaign in the near future, which will aim to increase understanding and knowledge around what hate crime and how to report it (Scottish Government, 2017b).

9.8   The Role of Third Party Reporting Centres

9.8.1   The network of third party reporting centres maintained by Police Scotland and situated within third sector organisations are designed to help people report hate crimes/incidents and access support[9]. These centres provide an avenue for reporting hate crimes and hate incidents out with a police station. The reporting centre passes information to the police on incidents reported to them (to facilitate accurate recording of hate crime), however, a victim or witness does not need to pursue police action in relation to the incident unless they wish to do so. If they do choose to pursue police action, the third party reporting centre can help the victim or witness to contact the police and provide additional support during this process.

9.8.2   Third party reporting centres are intended to increase rates of reporting, but stakeholders have suggested they are a resource that is often inconsistent and unevaluated (McBride, 2016: 41). Despite the expression of strong support for an effective, resourced network of third party reporting centres, there is concern that at present these centres are not sufficiently resourced for their intended function and may be unevenly distributed across the country (Scottish Government, 2016: 12). Therefore, despite the best of intentions from Police Scotland and those organisations working as third party reporting centres, there are a number of barriers to running them effectively in practice, including some third sector organisations struggling to deal properly with reports due to resourcing issues.

9.8.3   There is also a lack of awareness of the existence and purpose of third party reporting centres among the general public, which means those who are victimised, or who witness a hate crime/incident, will not realise they can report it this way. The Glasgow Household Survey 2015 found that 85% of respondents who had experienced a hate crime were unaware they could report the incident to a Third Party Reporting Centre and 51% were also unaware they could report experiences of victimisation on the Police Scotland website (Davidson et al., 2015). SAREC (2017:18) found many of the participants in their research were unaware of the existence of third party reporting centres and why they exist and their report calls for more awareness raising sessions about these centres for the wider public. Participants in the focus groups in this study stated they were more likely to report a hate crime in the future now that they knew of the existence and rationale behind third party reporting centres. One respondent claimed they would have benefited from accessing a third party reporting system, as they would have felt supported knowing someone else could have contacted the police about the incident on their behalf. Research with LGB participants established that around half were unaware of third party reporting schemes in their area, with young people (under the age of 24) were more likely to know about remote reporting schemes, but less likely to go to the police if they had been the victim of hate crime (Stonewall Scotland, 2010).

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[9] There are a number of third party reporting centres around the country. See
http://www.scotland.police.uk/assets/pdf/205073/hate-crime-3rd-party-reporting-centres for a comprehensive list.

9.8.4   The Scottish Government (2017b) state they will task their new multi-agency delivery group with identifying issues with third party reporting centres, which will then consider how to address these barriers to reporting. Police Scotland have, according to this report, conducted an internal review of the third party reporting process and identified a number of areas for potential improvement.

9.9   Q & A with Police Scotland

9.9.1   Police Scotland has helpfully contributed to this report by completing a Q & A with us about the work they are doing to tackle hate crime and to encourage reporting of hate crime. PC Sacha Ponniah answered the following questions for us:

Is tackling hate crime a priority for Police Scotland? Why is it important to Police Scotland to address this issue?

9.9.2   Hate crime is a key priority for Police Scotland. We recognise the deep personal impact it can have on individuals, their families and wider communities. We are aware that hate crime is often under reported however Police Scotland is committed to reviewing and fully investigating all reports of hate. We would encourage anyone who has been the victim of hate crime in any form, to come forward and report it to the police as it is only through reporting offences that we can form a more complete picture of the issue and address it in the most robust manner possible. Police Scotland will not tolerate attempts to target any community by misguided individuals or groups and will work with all of our partners to resolve any issues and address concerns.

What is the impact of hate crime on victims and wider communities?

9.9.3   Behaviour motivated by prejudice affects not only those individuals directly involved, but also the communities to which the victims and perpetrators may belong. It can happen anywhere and can include acts such as name calling, intimidation, bullying, vandalism or violence.

9.9.4   The impact can cause direct or indirect harm to individuals and wider communities through fear, self-isolation and potential withdrawal from available support services, resulting in wider social harms and inequalities.

Can you also tell us about the work Police Scotland is doing to tackle hate crime? What sort of initiatives have they been involved with or established to address hate crime, including partnership work?

9.9.5   Police Scotland continues to engage with communities to identify barriers to hate crime reporting, supports a preventative approach to reduce victimisation and is developing an improvement plan to enhance service provision.

9.9.6   We also continue to devise and promote national campaigns to highlight the nature and extent of hate crime, encourage reporting and gather public support to ensure such criminality is not tolerated.

9.9.7   Examples of recent initiatives:

❑   In October 2016 Police Scotland, in partnership with the Equality Network, launched an LGBTI liaison officers scheme to encourage LGBTI communities to report incidents to the Police. To date 90 Officers from around Scotland have received enhanced awareness training on LGBTI issues. This means when any member of the LGBTI community wants to report an incident, they can now request an LGBTI Liaison Officer at the first point of contact

❑   Police Scotland delivered a month long hate crime campaign during March /April 2017, communicating the impact of hate crime and encouraging victims and bystanders to come forward to report. We reached over 700,000 people on social media, with members of the public contacting us via these channels to offer support and positive comment. The campaign was well promoted through Facebook, evidenced by the fact that 70% of users visited the Police Scotland webpage from this destination. A wide range of partners featured Police Scotland hate crime messaging on their websites as well as shared artwork on their digital platforms

❑   An earlier hate crime campaign which ran during August / September 2015, featured a different protected characteristic each week and had 2.47 million views, with over 195,000 interactions on Facebook. Although the majority of the hits were on websites or platforms of partner agencies, 46 posts were also sent out on the corporate channels and were seen by around 600,000 people. A dip sample across our policing divisions, following the campaign, showed an increase in the reporting of hate incidents

❑   I Am Me / Keep Safe are award winning initiatives which began in 2013 as a partnership between Police Scotland and the Renfrewshire based charity I Am Me. I Am Me helps to raise awareness of disability hate crime and Keep Safe works to protect people from harm by identifying places they can go to if in distress or feeling unsafe. A national roll-out is now underway. Disabled people using the Keep Safe premises confirm they feel more confident and safer when out and about

(Further details can be found at:
http://www.scotland.police.uk/assets/pdf/138327/243045/equality-and-diversity-mainstreaming-progress-report-april-2017?view=Standard)

What sort of training do Police Officers receive to help them understand and address hate crime?   Are there are any specially trained Police Officers?

9.9.8   Due to the diverse nature of police work, police officers are provided with a vast array of training throughout their service. Hate crime training is delivered to all police officers, at different stages, ensuring every officer has the ability to deal with hate related incidents.

9.9.9   Whilst Police Scotland does not have specific or dedicated hate crime officers, part of the remit of the Safer Communities national team is having responsibility for providing advice and assistance, in relation to the operational delivery of Equality and Diversity matters across the Force, including all policy matters relating to hate crime. The national team have an effective working relationship with all Local Policing Divisions, providing support, advice and assistance in relation to hate crime, as required.

Hate crime is under reported – why is that? What is Police Scotland doing to address this?

9.9.10   Police Scotland recognise that hate crimes/incidents are often underreported and the reasons for this are numerous and varied however we continually strive to improve confidence within our communities to report hate incidents. Hate crime is everyone's responsibility and therefore support from partner agencies and communities is critical to addressing the issue.

9.9.11   Outcome 1 of Police Scotland's Equality Outcomes for 2017 – 2021 relates directly to building confidence amongst victims, witnesses and partner agencies in reporting hate incidents through a variety of methods.

(Full details of Police Scotland's Equality Outcomes for 2017-2021 can be found at: http://www.scotland.police.uk/assets/pdf/138327/243045/equality-outcomes-2017-2021?view=Standard)

How can the public help Police Scotland to tackle hate crime?

9.9.12   In order to tackle hate crime effectively, Police Scotland need members of the public to report every hate crime/incident, whether it be as a victim or a witness. Hate crime is everyone's responsibility and only through the reporting of offences, can we form a more complete picture of the issue and address it in the most robust manner possible.

What would you say to a victim of hate crime who is unsure about whether or not they should report it?

9.9.13   Tackling hate crime is a priority for Police Scotland and when you report a hate crime/incident, you will be treated with respect and your report will be taken seriously. Police will fully investigate all hate crimes/incidents and submit a report to the Procurator Fiscal whenever there is sufficient evidence that a crime has been committed and the person(s) responsible identified. Police officers can also direct you towards additional organisations available to support you.

9.9.14   While the impact on you may be minimal, the impact on the next victim may be significant and you can help Police Scotland to send a clear message to those responsible for hate crime, that their behaviour is not acceptable and will not be tolerated.

How can a victim go about reporting a hate crime? What are the report methods available to them? What is third party reporting?

9.9.15   There are a number of methods available to report hate crimes including attending in person at a police station, by telephoning 101 (or 999 in an emergency) or via a Third Party Reporting Centre, where you can receive support to report.

(Further details of all reporting methods can be found on the Police Scotland website www.scotland.police.uk)

9.9.16 Third Party Reporting offers victims or witnesses of hate crime the opportunity to report incidents at a designated reporting centre, out with a police environment. The responsibility of Third Party Reporting Centres is to ensure that details of incidents reported from members of the public are passed to the police, to allow accurate recording of hate crime and further enquiry, where appropriate.

9.9.17 Third Party Reporting Centres have staff who have been trained by police to identify hate crime/incidents and where appropriate support victims to make a report to police. Victims have the opportunity to report crimes via a Third Party Reporting Centre anonymously and can specify if and how they wish to be contacted by police. Anonymous reports can assist local policing teams to identify problem areas/times and take action to address local issues.

Once a victim has reported a hate crime to the Police, what will happen next?

9.9.18 Once a victim has made a report, police officers will conduct a thorough enquiry and submit a report to the Procurator Fiscal whenever there is sufficient evidence that a crime has been committed and the person(s) responsible identified. Victims will be updated with regards to the progress of the investigation and will be informed of the outcome once all enquiries have been completed. Police officers can also signpost victims toward additional support organisations.

Are there any other comments you would like to make in relation to this issue?

9.9.19 You may have heard of 'Hate Incidents' and 'Hate Crimes'. Police Scotland defines **Hate incidents** as: "any incident which is perceived by the victim, or any other person, as being motivated by malice or ill will towards a social group, but which does not constitute a criminal offence"; and, **Hate crimes** as: "any crime which is perceived by the victim or any other person as being motivated by malice or ill will towards a social group."

9.9.20 Members of the public are encouraged to report all hate incidents and crimes to the police to allow our officers to investigate them fully, establish whether they are incidents or crimes and to ascertain what further action is appropriate. Police Scotland recognises that although hate incidents may not reach the criminal threshold, they can and do have an impact on individuals and communities.

9.10 The Scottish Government are currently undertaking a review of the existing hate crime legislation, which is being led by Lord Bracadale. The review will consider whether existing hate crime law represents the most effective approach for the justice system to deal with criminal conduct motivated by malice or ill-will.

10. Supporting the Victims of Hate Crime

This chapter is concerned with measures to ensure support providers and others directly involved with victims of hate crime are responsive to victims' specific needs. Whilst the previous chapter dealt with the issue of low reporting rates and measures to address reporting barriers, alongside this there needs to be the provision of effective support if a truly victim centred approach is to be channelled. The particular needs of those affected by hate crime is rarely articulated in research and policy and there is little explicit guidance currently available for case workers and others working directly with victims (Kees et al., 2016: 23). Therefore, this chapter aims to bring together what research is available in this area so that it can be utilised to enhance the excellent work already being carried out by case workers and others who support victims of hate crime. The first part of this chapter looks at the extent to which victims of hate crime are accessing support services and how barriers to accessing support can be removed, outlining a number of recommendations and guidelines for best practice in relation to the provision of effective support. The latter part of this chapter highlights the work of Victim Support Scotland in supporting victims of hate crime, and includes case studies illustrating examples of those we have supported and includes an interview with a number of our case workers to highlight the work they do supporting victims.

10.1 Accessing Support and the Effectiveness of Support Provision

10.1.1   It is concerning from the limited number of reports on this topic that support is not always offered to those reporting to the police, whilst the majority of victims state they are unlikely to seek out support themselves (Stonewall, 2013a). Disabled victims of hate crime have reported the often physical inability to access formal support agencies (Williams and Tregidga, 2014), whilst SAREC found there to be "a dearth of support services for people who have experienced hate crime" (2017: 6) and identified that direction to (or provision of) support is often hit or miss as referrals are not consistently made to support organisations.

10.1.2   There are a number of reasons why victims do not access support services. In relation to the research with LGBT participants, reasons provided included that they felt suitable support or advice would not be available to them (16%) - a figure which increased to 30% among black or minority ethnic LGBT victims. Others did not know where to seek support (13%) - this figure increased to 19% among disabled victims and 20% of those who belong to a religion (Stonewall, 2013a). The variation in findings relating to the overlap of race, disability and religion with sexual orientation once again highlights the importance of an intersectional approach to hate crime, including in the provision of support; 7% of LGBT victims were concerned they would encounter homophobia from support workers, while an additional 7% did not want to 'out' themselves to support workers. A large proportion - 61% - did not feel they needed advice or support and 29% did not want to discuss the incident further (ibid).

10.1.3   SAREC's (2017: 29) research consulted a wide range of hate crime victims - only a small minority of respondents felt the support they had received from organisations was helpful. However, it should be noted a significant number of respondents chose not answer the questions relating to the quality of support received. The fact many participants chose not to answer the question may reflect a lack of awareness as to what services are available for victims, thus many respondents likely did not access support from relevant organisations and did not have direct experience to inform an opinion on this matter. A number of respondents suggested people need more awareness of what support exists and suggested the provision of information about the support services available should be the responsibility

of public authorities. Increasing the reporting rates for hate crime would also likely increase access to support for victims.

10.1.4   Zempi (2014) also suggests there are a number of barriers to the effective delivery of support services for victims of anti-Muslim hate crime, including a lack of understanding and awareness of victims' distinct cultural norms and religious practices.

10.1.5   Consideration ought to also be given to victims living in rural communities, who may find it more difficult to access appropriate support, including third party reporting centres, and where they may have less support from their 'own' communities, due to minority groups being much smaller in these areas (Scottish Government, 2016: 12).

10.1.6   To reach out to victims of hate crime, support providers need to reflect on the barriers which prevent victims from accessing support services. Victims often have few social resources at their disposal and often suffer from structural social exclusion or may be disadvantaged by reduced mobility and/or experiences of poverty, and often lack knowledge about support providers, or may have language barriers (Kees et al, 2016: 29). If victims do not receive support, they may become resigned to experiencing prejudice. Therefore, those who work with victims of hate crime need to identify and eliminate barriers, to increase their accessibility for victims which can include taking a proactive approach where possible, to publicise the support available (Kees et al., 2016: 33). Similarly, Zempi (2014) suggests support organisations should endeavour to improve their outreach work with 'hard-to-reach' communities.

10.2   Understanding the Unique Needs of Victims

10.2.1   The provision of effective support is crucial, as there can be negative consequences if support does not adequately meet victims' needs, as "a lack of adequate support services can be a source of distress, disappointment and frustration for those who experience it. Victims can feel isolated, which can worsen the distress caused by the crime itself. In some cases it can lead victims to drop out of a case while it is being prosecuted. Clearly, the way in which victims are treated has an impact on the likelihood of crimes being reported in the future" (Zempi, 2014: 126). So, how can effective support provision be ensured?

10.2.2   Generally, victims of hate crime require both practical and emotional support to recover from the impact of hate crime victimisation. For best practice, it is essential that from the outset and throughout the process of support, a victim-centred approach is utilised, which situates the client as the focus of the support and prioritises their needs throughout (Kees et al., 2016: 23). Research with LGBT victims of hate crime has suggested a victim centred approach to support involves good quality staff training and development aimed at understanding the perspectives of people who experience hate crime. Further, there needs to be increased access to high quality advice, support and assistance with an understanding of identity-related needs in order to appropriately address the support requirements of victims of hate crime (Antjoule, 2016).

10.2.3   In the research conducted by SAREC (2017), victims described the kinds of support they felt would have benefited them the most after experiencing victimisation. They reported wanting support that allowed them to discuss their experiences, acknowledged they are not to blame, and where they can come to understand that what occurred was illegal and wrong. SAREC established that victims need a clear structure for support, involving help with a range of issues. Victims needed urgent support to deal with the immediate consequences of the crime, which may involve help with a number of practical matters,

such as damage to property, financial advice, possibly temporary housing, counselling and support. Thereafter, they expressed a desire for ongoing counselling or access to support groups to help them come to terms with their experiences. Victims in this research also expressed a need for interpreters and for reporting forms to be available in different languages, in order to assist those whose first language is not English.

10.2.4   Many respondents in SAREC's research wanted to be provided with some counselling following victimisation. A number of respondents liked the notion of support groups involving others who have been affected by hate crime, saying, for example: "*it would be good to speak with a support group who would have made me feel part of Scottish society*" (2017: 38). One respondent stated they would have liked to have *"a named person who I could trust to rely on throughout"* (ibid: 38). They also suggest support should include help dealing with the police, providing information about the court system and other legal matter where appropriate. One said *"support nearer the time of a court case in explaining and helping prepare for that experience"* (ibid: 39). Such support is available from organisations such as Victim Support Scotland, who can provide a range of information and advice, including support with the criminal justice process. However, the findings in this research suggest there may be a lack of awareness among some victims of hate crime as to the availability of such support.

10.2.5   One of the key challenges for support providers and those who work directly with victims of hate crime is recognising the insidious nature of everyday 'low level' routine harassment experienced by many minority communities (Chakraborti and Garland, 2015), as opposed to focusing only on the impact of more severe incidents, and taking this in to account while providing support. Even incidents that are seemingly 'low level' can have devastating consequences for victims, particularly when they occur regularly (Zempi, 2014: 113). Since victims of hate crime experience greater distress and emotional impacts than victims of crimes not motivated by prejudice (due to the aforementioned link between personal identity and feelings of powerlessness and vulnerability) it has also been suggested this might increase the length of time needed to come to terms with victimisation and move forward (Herek et al, 1999). This is something support providers should keep in mind while support is ongoing, as support may need to be provided over a substantial period of time.

10.2.6   In their report into LGBT hate crime, Antjoule (2016) suggests some 'general' support organisations are not sufficiently prepared to meet the identity-related needs of marginalised communities. A truly victim centred approach to support provision must recognise the unique needs of hate crime victims and there should be an appreciation of how the nature of hate crime, and the experiences and harms of victimisation, vary depending on which aspect of a person's identity has been attacked and depending on any potential intersectionality involved (where a victim may be targeted on the basis of more than one aspect of their identity). For example, the needs of those victimised on the basis of their disability will be different from the needs of those victimised on the basis of their sexuality and so on. By ensuring an in-depth understanding of the nature and impact of victimisation on different groups (as outlined in chapters 3 and 5) support can be tailored to best meet the needs of each particular victim based on their experiences and the aspect(s) of their identity which has been the focus of the attack. Generic support will likely not be effective for victims of hate crime. It is crucial to avoid a 'one size fits all' approach to support provision. Case workers must have a good degree of knowledge and understanding of the specific needs of their clients, particularly those based in diverse communities, if an effective service is to be accessed and provided by those in 'hard-to-reach' or 'hidden' communities (Zempi, 2014: 113). Support provision should be sensitive to the diversity which exists within ethnic and religious communities and so be flexible and sensitive to cultural needs, for example, having the option to have home visits by female police officers and case workers may be important for some Muslim women (ibid: 121).

10.2.7 Some victims of hate crime may be more vulnerable than others. The impact of hate crime on trans victims can cause such significant psychological harm that it can lead to many trans people feeling more vulnerable and requiring greater levels of empathy and understanding from frontline practitioners (Broadstock, 2015). It is important for organisations to identify they are trans-friendly and inclusive, as trans people are wary of approaching organisations they perceive may be transphobic. This is also the case for members of the LGB community, who may find it difficult to 'out' themselves to others. If an organisation clearly demonstrates it is LGBT friendly, then members of this community are far more likely to overcome any trepidation they feel about reaching out for support. Further work is needed to encourage trans people to report hate crimes and access support services. This also means organisations must increase understanding and improve training in relation to the complexities of gender identity in relation to trans, non-binary and intersex people (McNeil et al., 2013).

10.2.8 It is also important for those working with victims of hate crime to understand the unique nature of disability hate crime, which differs from other forms of hate crime in significant ways – such as the phenomenon of 'mate crime' (Thomas, 2011) where disabled people are attacked by pseudo-friends. This shapes the way they experience hate crime and creates difficulties with reporting hate crime or accessing support, as it is far more difficult for an individual to report someone they have a relationship with. It is also crucial for support practitioners to avoid falling into the 'protectionist paradigm' (Perry, 2008) mentioned in the previous chapter, which positions disabled people as 'vulnerable' and in need of help and protection, rather than justice and redress. Organisations should adopt a disability rights paradigm based on the social model of disability, which does not view disabled people as passive victims, but equal in rights with other citizens. Over and above this, in order to effectively meet the needs of disabled victims of hate crime, accessibility issues also need to be considered, including wheelchair access, access to interpreters (such as British Sign Language interpreters) and ensuring information and reporting forms are accessible.

10.3   Adopting an Intersectional Approach for Best Practice

10.3.1 Although being aware of victims' needs in relation to the different protected characteristics is important, there also has to be an appreciation that victims are often targeted on the basis of more than one aspect of their identity. This report has already touched upon issues of intersectionality, which refers to the "interconnected nature of social categories" (McBride, 2016: 6) and to the notion that perpetrators of hate crime may hold multiple prejudices and a victim of a hate crime may be targeted as a result of more than one aspect of their identity characteristics.

10.3.2 Intersectionality is also an important consideration to ensure victims of hate crime receive effective support which meets their needs. Victims are not homogenous and not every victim fits neatly into one "box". Victims' experiences and responses to hate crime can be shaped by their possession of more than one protected characteristic. This intersectionality shapes their fear of becoming a victim of hate crime, as well as the likelihood they will experience hate crime and will further shape the impact that victimisation has on them. The struggle to manage roles also impacts on the ability of victims to overcome traumatic hate crimes (Mason-Bish, 2014: 29), so case workers need to be

> Victims are not homogenous and not every victim fits neatly into one "box"

sensitive to this and understand that it can take those with complex identities longer to address their experiences and the support required may be more complex. As Zempi (2014: 4) notes, "the experience of receiving support should minimise the suffering of victims and not inadvertently add to it".

10.3.3   To have this intersectionality overlooked can be detrimental to the provision of effective support.   As one respondent in Mason-Bish's (2014: 24) research stated: *"I am disabled, gay and a woman. If I am targeted am I supposed to say which aspect was the most hurtful and damaging?"* This woman further elaborated on her frustrations with a criminal justice response which would only allow her to tick one aspect of her identity as the potential cause of the attack and also at campaigners who were fixated on lobbying only in respect of one aspect of her identity. Mason-Bish suggests when totalising assumptions are made about victims' identities, the nuances of victimisation are lost and those who experience the 'miscategorising' of their identities may struggle to access appropriate support. Such experiences highlight the importance of victim support groups avoiding oversimplification of the identities of hate crime victims and the value of taking into account *"the diverse experiences of victims and the nuances of the harms that they might suffer"*(ibid: 24).

10.3.4   This means having an awareness that protected characteristics do not exist in isolation and an individual may possess more than one, which makes their experiences more complex. It also involves an awareness of the impact of multiple systems of oppression on a person's life, in order to better understand hate crime victimisation (Mason-Bish, 2014). An intersectional approach to supporting victims of hate crime involves an awareness about the risks faced by people who 'inhabit more "complex" identities' (ibid: 25) who may be at greater risk of attack, and it avoids oversimplifying the victim experience and failing to acknowledge the lived reality for victims.

10.3.5   As an example of how intersectionality impacts on victims' perceptions of and responses to hate crime victimisation, research has found LGBT people with a white middle class background were more likely to view the violence they experienced as severe, in comparison to those from a working class background who did not (Meyer, 2010). This is because LGBT respondents from a working class background had often had non-LGBT friends who had experienced more severe violence and so they felt that their experience could have been worse. Additionally, middle class, white, LGBT respondents were more likely to be encouraged by their social networks to report incidents of violence, because in their social circles violence was an unusual event, whereas the working class LGBT respondents tended to have their violent experiences minimised, often by family members.

10.3.6   This illustrates it is not just the protected characteristic or characteristics they possess which define and shape an individual's experiences and responses to hate crime, but also other factors such as their socio-economic background, educational background, age, gender and a range of other characteristics. LGBT people have described facing multiple entrenched forms of disadvantage, including social, economic and health factors, which interact with hate crime to create increased impacts and barriers to accessing services, while others have reported experiences of prejudice based on race, faith, disability and misogyny (Antjoule, 2016).

10.3.7   Research has also found victims of hate crime who experience tension between their racial and transgender identities can find it difficult to engage with activist and support networks. This suggests those who are marginalised in a number of ways, or who have more complex identities, may experience barriers to accessing support and validation for their experiences (Mason-Bish, 2014: 30). While a respondent in one study sums it up as follows: *"For me, the key thing is an approach across all areas of diversity. It's about intersectionality… because you can't put people in separate boxes. [The police] don't deal with intersectionality because they can't get their heads around the fact that we might be more than one thing"* (Antjoule, 2016: 26).

10.3.8   McBride (2016) strongly advocates for priority to be given to how we understand and address the intersectional nature of hate crime throughout research, policy and practice. Arguably, this is also a crucial consideration in relation to the development of effective support provision.

10.4   Effective Training

10.4.1   With little understanding of the harms of hate crime among the general public, there is a need to increase knowledge of hate crime and awareness of the needs of victims, particularly in places such as schools, the workplace, NHS and the police (SAREC, 2017: 32). It is crucial for all those who work directly with victims of hate crime to have comprehensive, specialist training on hate crime, as well as additional training such as diversity training, LGBT training and disability awareness training. Other measures organisations can take include completing the LGBT charter offered by LGBT Youth[10] to demonstrate they are an LGBT friendly organisation and to increase understanding of LGBT issues amongst their staff.

10.4.2   Victim Support Scotland has created a new training course for stakeholders and practitioners, designed to provide comprehensive specialised training on hate crime, including how to provide effective support to victims. This new one day Hate Crime training course considers the current laws and legislation and the prevalence of hate crime through current statistical information for Scotland. Further focus is placed on the ways in which hate crime impacts victims, witnesses and communities across Scotland. The training also covers the five protected characteristics relating to hate crime under the Equality Act 2010 and best practice is considered in how to effectively respond sensitively to the needs of victims and witnesses to the challenges faced in the aftermath of hate incidents. Attendees are also offered the opportunity to examine their own prejudices and acknowledge how this affects their perspective.

10.5   The Bigger Picture: Developing a Multi-Agency Support System

10.5.1   Some researchers have suggested that as hate crime is such a complex issue and can have long lasting effects that support services may also need to be provided on a long term basis and involve a wide range of services and agencies (SAREC, 2017: 27). A multi-agency support system would be able to provide this and would involve collaborative working between, for example, social work, education, health, law, police and housing associations. SAREC suggest utilising a multi-agency approach would address the lack of awareness about what victims of hate crime need and the lack of support services available.

10.5.2   Some researchers have suggested that hate crime ought to be approached from a public health perspective, which emphasises prevention and promotes a more holistic approach rather than a 'narrow' criminal justice response (Iganski and Sweiry, 2016: 97). This would include addressing the cultural and social conditions in which hate crime occurs and also encourages support to be provided to entire communities, rather than to just individual victims. A public health approach would involve cooperation between civil society, education, social services, health and the criminal justice sector to address an issue which has until now been approached purely from a criminal justice framework (ibid).

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[10] See https://www.lgbtyouth.org.uk/charter-register

10.6 Guidelines for Supporting Victims of Hate Crime

10.6.1   *The European Union Directive on Minimum Standards on the Rights, Support and Protection of Victims of Crime: Significance for Supporting Victims of Hate Crime* – came into force in November 2012. One of the most important provisions of the Directive is that EU member states are required to recognise hate crime victims as a group with special protection needs (Article 22). This Article includes valuable information to utilise in the support of victims of hate crime. The following summary is taken from Kees et al., 2016:

> **"Individual assessment of victims to identify specific protection needs (Article 22):-**
>
> 1.   Member states shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings… due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.
>
> 2.   The individual assessment shall, in particular, take into account:
>
>   A)   The personal characteristics of the victim
>   B)   The type of nature of the crime and
>   C)   The circumstances of the crime
>
> 3.   In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender makes them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.
>
> 4.   Individual assessment shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures."

10.6.2   At present, there is limited guidance available for those working to support victims of hate crime. What is available tends to be generic, for supporting victims of all types of violence. The needs of those experiencing hate crime is rarely explained, but this is essential, as victims of hate crime do have distinct needs (Kees et al., 2016: 23). There is a need for qualitative research to be carried out with victims of hate crime in Scotland, looking at the access to support which is available, the effectiveness of support currently provided and what, in their opinion, would improve the support provided. Research from the perspective of victims would be extremely informative and helpful at facilitating best practice in this area.

10.6.3   The following is a summary of the suggested guidelines produced by Kees et al (2016: 23-26). This is an excellent starting point for understanding some of the particular needs of hate crime victims, although the authors note that it is still important to remember that the needs of victims of any type of violence will differ from person to person. However, they have put together the following understanding of some common needs of those who have experienced hate crime victimisation:

❑   **Those affected by hate crime sometimes need urgent support to deal with the immediate consequences:** To bring about a stable situation for the victim, it is important to deal with urgent needs first. They may need immediate support such as repairs to damaged property or financial assistance. The potential for repeat victimisation should be kept in mind and any risk to the safety of the victim should be addressed first. Refuge away from the site of the attack might be needed, possibly through temporary housing, or increased security measures around the home and other sites of attack, such as additional locks, a personal alarm etc.

❑   **Those affected by hate violence need to be believed:** Victims of hate crime may fear not being believed by others, especially the police and others in the criminal justice system. If reported experiences of hate crime are not taken seriously, this can result in secondary victimisation. Those affected by hate crime therefore need to be listened to and have their experiences validated.

❑   **People who have experienced hate crime need time to articulate their needs:** Through the use of open and empathetic questions which encourage the victim to open up, it is possible for those supporting the victim to learn more about their needs. Due to the potential trauma involved, victims may need time to open up and fully articulate their needs, therefore it is important for those supporting the victim to be sensitive and patient.

❑   **Victims might require help to communicate their needs:** Asylum seekers and refugees may need language services, while those with communication difficulties might need specialist disability support.

❑   **Victims might need an advocate or supporter to express their needs:** It can sometimes be beneficial to the victim if a friend, relative or other advocate can be present while they discuss their experience.

❑   **The expressed needs of the victim must be recognised, acknowledged and addressed:** Victims can feel frustrated, disappointed and can ultimately withdraw from support offered if their needs are not acknowledged and are not central to support provision. Victims need to be confident those working with them understand their particular needs.

❑ **Help will be needed to identify resources to overcome the consequence of hate violence:** Victims of hate crime can struggle to recognise the options available to them to help them overcome the victimisation they have experienced. The emotional and psychological impact of the attack can blur their own view of their own potential and the resources which are available to them. Victims may feel marginalised and alienated from their locality or community. Skilled support can enable service users to recognise resources of resilience and can empower them to realise the possibilities available to them, to expand their options and regain self-determination. Focusing on the victim's own resilience is fundamental to help them overcome the multiple negative impacts of hate violence. Those providing support should empower the individual to identify and develop their strengths and capabilities, as well as directly them to additional resources where required.

❑ **Needs Specific to the Victim's Social Identity:** Those who suffer hate violence might have particular needs specific to their social identity. For instance, those of a particular religion might have distinct faith and cultural needs, which might also differ by gender. Disabled people might have access issues; premises will need to be accessible or home visits might need to be arranged. Victims of LGBT hate crime may present a number of issues; most important of which is to be accepted and not have their sexual orientation questioned. Some may fear disclosure of their sexual or gender identity if they are not 'out' – maintaining privacy and confidentiality, and considering how support workers communicate with the client, will therefore need to be given careful discussion. They might require access to specialist counselling services. It is therefore crucial for services to identify as LGBT friendly. LGBT specific peer support groups can also help strengthen confidence and empower victims. Refugees, asylum seekers and migrants might need specialist legal support in relation to concerns they have about their rights to residence if they report their experience of hate violence to the police or other authorities. Caseworkers might have to explain in detail how the criminal justice system works and the processes for reporting a crime, to reduce fears they might have that they are going to be persecuted. Asylum seekers often have no family around them or other support and therefore suffer from isolation and loneliness. Some might have language needs that cannot always be catered for. Members of the Gypsy/Traveller communities are stigmatised and generally socially excluded and there is often little empathy towards them. Working with those from these communities can be complex and time-consuming because sometimes the needs of whole families have to be met, as it is often the case they are targeted as a group.

❑ **Support for those indirectly affected by hate violence:** The family of the person who experienced hate violence, friends and any witnesses may also need support given the impact of hate violence can spread well beyond the person targeted.

10.7   The 'Victim's Perspective'

10.7.1   In addition to the guidelines above, Kees et al (2016) encourage emphasis on the 'victim's perspective' – this is an ethos by which to approach support provision. It means 'recognising and acknowledging the validity of the account of the person who has suffered the violence' (ibid: 27) and that those working directly with victims will 'believe, listen, make visible and give a voice to their experience' (ibid). Working from the victim's perspective requires a set of skills and values that inform the practice of a hate crime service. These include a non-judgemental approach, advocacy and empowerment, as well as taking immediate action to support the victim and respond to the complaint; provide emotional support; offer representation, advice and signposting to other services; referring to specialist support services for psychological and emotional support and problem solving with the client to produce realistic actions and agreements. Kees et al (2016) have also put together a number of basic support principles for those

working with victims of hate crime, which include anonymity and confidentiality; partiality; independence; awareness of intersectionalities, difference and diversity; a holistic approach to resilience; non-discriminatory approach and a non-judgemental approach (ibid: 31).

10.8 Victim Support Scotland: Our Work with Victims of Hate Crime

10.8.1 During 2016–2017 Victim Support Scotland services received hate crime referrals from the Police, our own witness service, and Victim Information and Advice (VIA) run by the Crown Office and Procurator Fiscal Service (COPFS).

10.8.2 This section highlights the work of Victim Support Scotland in supporting victims of hate crime, including an interview with frontline support staff. Three case studies are also included illustrating the variety of practical actions taken by our support workers and volunteers to support victims – including help with contacting and meeting the police, and dealing with the criminal justice system and external agencies.

10.9 Interview with Frontline Victim Support Scotland Staff

10.9.1 I spoke with three Victim Support Scotland case workers about their experiences supporting victims of hate crime. Between them, they have over fifteen years of experience working for Victim Support Scotland. One staff member also volunteered with us for a year prior to taking up the permanent position with us. All have completed various training sessions offered by the Victim Support Scotland's Training team. In order to protect their anonymity, all identifying details of our staff members and the people they support have been changed.

Transgender Victim Case Study

10.9.2 Victim Support Scotland has had very recent experience of working with transgender hate crime victims. Alex reports the malicious language used to describe one female victim he has supported. In one incident the trans man was directed to other parts of the clothing store when looking for men's clothing, as the sales assistant commented, "*I think you are in the wrong department*". In this context it is clear what was going on as the victim was dressed in men's clothing. In another street incident, he was physically assaulted, and on public transport he described being verbally abused, which Alex says caused him "*heightened fear*" going about his day to day business.

10.9.3 The victim reported the harassment he had experienced in the community as "*not been too bad*". However, it is important we recognise that normalised low level abuse is still abuse and can have a corrosive effect on both the individual and the wider community.

10.9.4 It is encouraging that Victim Support Scotland assisted in some way. The victim said the support received helped him "*get on with his life*", highlighting that the process of talking through incidents had been helpful at expanding his own understanding of why people behave the way they do even if there was consensus that it was wrong.

10.9.5   He was delighted that Police Scotland recognised his experiences as hate crime. However, victims frequently tell us that this is not always the case. A recurring theme noted in my interview with our case workers was frustration from victims who believed that what happened to them was not recorded appropriately by authorities.

Discussion on Sectarianism Victims

10.9.6   Louise's experience of hate crime support provision related to sectarianism stressed the need for a better understanding and streamlined response to sectarianism in Scotland. She has dealt personally with victims who arrive having been assaulted and in need of assistance, however, it becomes apparent in discussion they believe they were targeted because of their religious identity, but the police would not record it as such.

10.9.7   There were other factors in the cases Louise described, but it shows how difficult it is for victims to have their concerns responded to properly. It can be extremely hurtful to know you have been attacked on account of an aspect of your identity to then be told by those who are there to protect you that they do not believe this to be the case. This can result in secondary victimisation.

10.9.8   It was noted that the effect of sectarianism on one individual was to retreat into his perceived section of society where he felt he was safe - particularly emotionally, where had had freedom to express his being in a way he felt unable to do so at other times. He reported feeling "*angry*" at not being taken seriously. He had lost his job due to severe injuries sustained in the attack, so numerous aspects of his life had been affected; not least his mental health which suffered in particular as his concerns appeared to be "*falling on deaf ears*".

Self-esteem

10.9.9   Louise discussed how building back up self-esteem was particularly difficult in the cases of race hate crime she had dealt with. It became apparent that shop keepers and taxi drivers (although not exclusively) who come in for assistance to build their self-esteem following an attack, would rather not report the incidents to the police, instead preferring to "*keep their head down for fear of reprisals*" – sometimes from within sections of their own community as well. This can happen where the effect of hate crime has become so corrosive that for the victim it becomes normalised. From the research, this is not anything new - however to hear it from those working with victims of hate crime day in and day out informs us we have some work to do at a societal level to ensure people are not targeted for their identity or sense of Otherness. Victims need the confidence to know the option is there to report, that they will be listened to and believed.

Advocating on Behalf of Hate Crime Victims

10.9.10   Advocating for victims formed a key part of the process for all staff interviewed. In the case of the transgender victim, Alex was able to advocate personally with local housing groups, and assist him with writing statements to partners and authorities involved in his case. The victim described this assistance as "*invaluable*".

10.9.11   Recent cases of refugee families being assaulted and told to "*go home*" have been prevalent. All of the assembled have had experience articulating on victims' behalf to help secure a safer living environment for

"We fled one country to live in terror here with our curtains closed and scared to leave the flat"

them. Language barrier issues were noted and in minority language communities there is a feeling from some victims that services involving interpreters are not to be trusted. They highlighted that because there are so few interpreters that there is a risk the interpreter may be connected to the individual or community. One victim was said "*we fled one country to live in terror here with our curtains closed and scared to leave the flat*".

Media

10.9.12   The case workers mentioned that the media have had a role in "*whipping people up into a frenzy*" about economic migrants, refugees, and asylum seekers. At Victim Support Scotland we are left to pick up the physical and emotional pieces, from the inevitable community back lash, as a result of sensationalist newspaper headlines and articles. The newspapers have been mentioned by victims of hate crime, particularly in relation to race and religion where the lines are often blurred. So, it is difficult to identify on which grounds the victim has been targeted, only that they have, and that it can have damaging and long lasting effect on both individuals and communities.

10.10   Victim Support Scotland Case Studies

10.10.1   This section provides examples of four case studies of hate crime victimisation we have handled, highlighting the wide range of cases our case workers and volunteers handle, demonstrating the variety of actions carried out in order to support victims – including help dealing with the criminal justice system.

Case Study 1 - Tracey

10.10.2   Tracey phoned one of our offices for an appointment, seeking help following verbal abuse that she and her partner had been receiving. During this appointment Tracey told the volunteer that she was gay and she and her partner had been subjected to homophobic abuse and prejudice for a number of years from neighbours in the block of flats they lived in. Tracey felt that her partner had always been stronger than her and with her support they had learned to ignore it. However, Tracey's partner had recently suffered a bereavement of someone close to her and was suffering from clinical depression and was now refusing to leave the house, putting a strain on their relationship with Tracey feeling like both she and her partner were incapable of dealing with the abuse.

10.10.3   Tracey and her partner are both originally from a remote, rural location. They felt moving home to be close to their family would make them feel less isolated and better supported, especially as Tracey's partner could be helped by her extended family through the grieving process. Tracey had not reported any of the abuse to the police or the council as she didn't think that verbal abuse was a crime or that she would be taken seriously.

Action Taken

10.10.4   Our volunteer explained that this was a crime and could be reported to the police and would be taken seriously. Tracey was anxious about having the police attend her home address to take a statement and was not keen to go to the police station. Our volunteer offered to arrange for someone to speak to the police on her behalf and arrange for them to attend the Victim Support Scotland office to take her statement. After further discussion Tracey decided that she would like to report this in person, but

would like the volunteer to be present when she did it. It was arranged that Tracey would come back in the following week when a police officer would be at the Victim Support Scotland office with the volunteer to report the abuse. They also discussed the issue of moving back to their hometown and our volunteer told Tracey that she could assist in her application for housing. Soon after, Tracey came back to the Victim Support Scotland office and officially reported the abuse to the police.

10.10.5　Tracey's partner is feeling better about things now and is leaving the house again. They are both now looking for jobs in the area which they intend to move. Tracey and her partner continue to get emotional and practical support from Victim Support Scotland and expressed their appreciation to staff and volunteers for helping them get through this difficult time in their lives.

Case Study 2 - Jay

10.10.6　Joy is a 19-year-old foreign national who is currently studying in Scotland. She was invited to a house party by a fellow student. When Joy arrived at her friend's house most of the other guests were already intoxicated and becoming quite rowdy. As she arrived her friend was in the process of asking one of the male guests to leave but told him that he was welcome to return later if he sobered up a bit. After some persuasion he left. However, he returned shortly afterwards still worse for wear and when he was not allowed to enter the house he became abusive and started shouting why was he being asked to leave when that 'black bitch' can stay. He started to become aggressive with Joy's female friend and Joy intervened and tried to get her back into the house. At this point Joy was grabbed by the man who proceeded to bang her head off the exterior wall of the house, he then pinned her against the wall and spat on her and made derogatory comments about her origins. The police and an ambulance were called. Joy needed stitches for her head wound and for several lacerations on one side of her face.

Action Taken

10.10.7　A volunteer made contact with Joy and arranged a home visit. She was given emotional and practical support at that time which allowed her to talk about how this has affected her and her studies. Although Joy had been badly affected by the assault she also had issues dealing with the verbal abuse about her ethnicity. Her close friends are all white and she did not think they would be able to understand the impact this has had on her which has led her to isolate herself. She had been unable to return to university since the assault as she was having panic attacks when leaving the house and felt self-conscious about the wounds to her face. Our volunteer spent time reassuring her and encouraging her to reconnect with her friends for support and over time Joy grew in confidence and has now returned to university.

Case Study 3 - Omer

10.10.8　Omer was subject to a racially aggravated serious assault at his business one evening, a few days after a major terrorist attack had occurred in another country. Omer and a colleague sustained injuries as a result of the incident and his wife was also present at the time. Racial comments were made with regards to their nationality and religion, with comments also made with regards to a terrorist organisation. The referral was received from the Police.

10.10.9　Omer welcomed the referral and a phone call was made to organise a home visit. It was queried by another agency whether a female could support Omer's wife as the current support around her was predominantly male. A visit was carried out with a male supporting Omer in one room and a female supporting Omer's wife in another room.

Action Taken

10.10.10   Emotional support was provided to both Omer and his wife by addressing their feelings and speaking about common reactions and coping mechanisms. An information booklet about *Steps to dealing with Stress* was provided as well as an information booklet about personal safety. Tips and techniques were also discussed. We provided information about the Criminal Justice System, the role of the Procurator Fiscal and advised what may happen with the case and possible court proceedings. We spoke about Hate Crime and about the importance of reporting these incidents to the police. We liaised with the Police with regards to the progression of the case. We liaised with the local Equalities Centre and Victim Support Scotland provided information about the Witness Service. Victim Support Scotland supported Omer and his wife, emotionally and practically, as they navigated their way through the Criminal Justice System in Scotland.

Case Study 4 - Tara

10.10.11   Tara has been going through the transgender process and over the last few years she has experienced harassment, threats, people spitting on her in the street, name calling and physical violence. She contacted Victim Support Scotland after an incident of assault.

10.10.12   The problem had been ongoing for several years, however, Tara felt she did not have the confidence to report what was happening and worried whether the appropriate action would be taken. She feared that it would make matters worse. This resulted in more and more locals in the neighbourhood becoming abusive towards Tara and her partner and they could not leave their home. The last incident reported was very serious as a gang of men and youths surrounded Tara and her partner and threatened them with weapons. This caused extreme distress to Tara and she had to be prescribed medication to cope.

10.10.13   Tara highlighted housing issues to relevant authorities but to no avail and was frustrated by a lack of understanding on her transgender name. This was the main issue that Tara felt she needed support. Victim Support Scotland contacted local housing services to discuss and Tara was finally moved to another address.

10.10.14   Concern from some victims is that many organisations who should be helping them from within the community are not taking the matter as seriously as they should. Victims are also worried about reporting incidents to police as they are embarrassed about discussing certain personal issues. Victims tell us that they have no confidence in the authorities being able to support them, and that no real measures are put in place to address the victims' concerns. In some communities, victims complain that the matter becomes worse when they report the problem as they are then labelled a "grass".

Action Taken

10.10.15   Victim Support Scotland contacted other relevant organisations so we could assist Tara effectively as possible. Tara was delighted with her experience of the help and support we provided.

10.11 Contact Victim Support Scotland

- ❑ Victim Support Scotland understands that the effects of hate crime are often long-lasting, especially if someone has suffered repeatedly
- ❑ Victim Support Scotland can help immediately after an incident or any time after the crime has taken place
- ❑ Victim Support Scotland listens to victims in confidence and offers information, practical help and emotional support through our specially trained staff
- ❑ Victim Support Scotland can also help victims who choose to report the crime to navigate the criminal justice system
- ❑ Victim Support Scotland can provide information about dealing with a range of organisations - such as employers, housing agencies and the criminal justice process
- ❑ Victim Support Scotland National Helpline number: **0345 603 9213**
- ❑ You can contact the Helpline between 8:00 a.m. and 8:00 p.m., Monday to Friday

11. Conclusion and Recommendations

11.1   Hate crimes are destructive attacks which can have terrible consequences for victims emotionally and psychologically. As discussed, they are crimes which "hurt more" because they attack a person's core identity and these harms can spread far beyond the original victim to impact on the victim's wider community and can create "emotional geographies" or boundaries between communities. Hate crimes are also "message crimes" against the victim and the community they come from, saying, "you could be next", and denigrating victims' and their communities by ensuring they feel despised, devalued and unwelcome. As well as the occurrence of serious incidents, the insidious nature of recurrent, low-level prejudice and harassment can also become constant "background noise" in the lives of victims from minority groups, becoming normalised as part of their "everyday" lives.

11.2   There is no place for hate and prejudice in a diverse, inclusive, equal and fair society. The wider prejudice underpinning hate crime needs to be tackled vociferously, whilst also recognising, and responding to, the structural issues which frame the problem. Victim Support Scotland believes a victim centred approach, led from the 'victims' perspective' (Kees et al., 2016), is the best way to achieve this and to effectively support victims of hate crime and be responsive to their needs. This is necessary now, more than ever, with the rise of hate crimes and prejudice following Brexit and other significant global events. Addressing hate crime is a social responsibility for everyone. We have identified the following recommendations for fostering a victim centred response to hate crime for support providers, policy makers, researchers, and those who work in the criminal justice system.

11.2.1   Qualitative research is required into the support needs of victims of hate crime, carried out with victims of hate crime themselves, to ensure the victims perspective is central, which includes identifying barriers to accessing support and exploring what effective support should involve. This information should then be used to develop guidelines for all those who work directly with victims of hate crime, moving beyond generic guidelines to ensure their distinct needs are understood and met.

11.2.2   Develop and promote the 'victims' perspective' (Kees et al., 2016) in support provision. This involves a set of skills and values that inform the practice of a hate crime service. These include a non-judgemental approach, advocacy and empowerment, taking immediate action to support the victim and respond to the complaint; providing emotional support; offering representation, advice and signposting to other services; referring to specialist support services for psychological and emotional support and problem solving with the client to produce realistic actions and agreements (Kees et al., 2016; Chahal, 2003).

11.2.3   Since official hate crime figures are affected by reporting issues (including underreporting and inconsistency in reporting practices), it would be beneficial to conduct more qualitative research on the nature and victims experiences of hate crime, to provide more understanding of the lived experiences of hate crime as an additional perspective to the official statistics (McBride, 2016). More research into the harms of hate crime would also ensure the real experiences behind official statistics are understood and help those who work with victims of hate crime to understand and respond effectively to the needs of victims.

11.2.4   Prioritise an intersectional approach to hate crime through research, policy, legislation and support provision. This will require further research to advance our understanding of intersectionality in relation to hate crime.

11.2.5   Make visible and give a voice to the experiences of marginalised victims of hate crime who fall between the cracks of existing legislative and policy frameworks. This includes recognising hate crimes against the homeless, elderly, asylum seekers/refugees and Gypsies/Travellers and working to avoid reinforcing a 'hierarchy' of victimisation, where the victims of some forms of hate crime are given preferential treatment over other victims.

11.2.6   Address the frequent, recurrent nature of low-level prejudice underpinning hate crimes and hate incidents. This involves recognising hate crimes are not 'static' events but are often ongoing occurrences carried out by different perpetrators and by 'ordinary' people in the context of their everyday lives. Measures to address the prejudicial attitudes underlying hate crimes and hate incidents would help to tackle the problem of hate crime while also improving community cohesion. This should include addressing the role of the media in fuelling hostility and prejudice towards minority groups.

11.2.7   Developing knowledge of the full spectrum of harms caused by hate crimes (including the diversity and nuances of victimisation depending on the different protected characteristics targeted, any intersectionality involved and interaction with other characteristics such as socio-economic status), and using this information to inform the provision of effective support.

11.2.8   Identifying and removing barriers to reporting hate crimes and to accessing professional support. This is particularly required in relation to disability hate crime and trans hate crime, as victims of these forms of hate often struggle with reporting and accessing support.

11.2.9   Research is required into the extent and impact of online hate crime, including whether perpetrators of online hate crime are likely to move on to commit offences in the physical world, to look at the harms of online hate crime victimisation, and to encourage reporting of online hate crimes.

11.2.10   More research into anti-Muslim hate in the Scottish context is required and into the unique aspects of disability hate crime.

11.2.11   Comprehensive, specialist training on hate crime should be developed and rolled out throughout the third sector, schools, workplaces, NHS and other institutions. Victim Support Scotland has developed a new course specifically concerned with hate crime in Scotland and the effective support of victims. It is important institutions and community organisations are trained to recognise and handle hate crime effectively, as poor handling can discourage victims from reporting hate crimes and engaging with support services.

11.2.12   The implementation of any Restorative Justice measures to tackle hate crime should be carefully implemented with a victim centred focus to benefit the victim and avoid secondary victimisation.

11.2.13   Policy responses to addressing hate crime should move away from a solely individualistic, positivist and psychological focus to also give consideration to the extent of structural dynamics in shaping the perpetrating of hate crime and the experiences of victimisation, particularly the role of poverty and socio-economic status.

11.2.14   There are a number of events held annually which third sector organisations can get involved in with the aim of highlighting hate crime and encouraging victims to come forward to report and/or receive support. For example, Hate Crime Awareness Week runs in October each year, November is Islamophobia awareness month, LGBT pride runs every summer and Transgender Awareness Week runs at the beginning of November each year. There is also an annual Transgender Day of Remembrance on

the 20th of November that highlights the violence experienced by members of the trans community. An annual 'Disability Awareness Week' also runs each year.

11.2.15   Consideration should be given to the rural context, including how to ensure support is accessible to individuals living in rural areas who experience hate crime.

11.2.16   A public education campaign is required to increase public awareness of the nature and extent of hate crime. Encouragingly, The Scottish Government has already committed (Scottish Government, 2017b), which will include the creation of a multi-agency delivery group to address hate crime.

11.2.17   Three key areas identified as requiring urgent change – the internet, the workplace and public transport (Scottish Government, 2016) should continue to be the focus of policy measures.

11.2.18   Hate crime in the longer term ought to be approached from a public health perspective (Iganski and Sweiry, 2016) involving collaborative working between different organisations (housing, social work, criminal justice, health etc.) to support victims and their communities. This would involve moving away from a solely criminal justice response and would address the cultural and social conditions in which hate crime occurs. Utilising a multi-agency approach would address the lack of awareness about what victims of hate crime need and the lack of support services available.

Acknowledgments

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