

Supplemental Evidence to the Joint Committee on Human Rights Inquiry into the Human Rights of Adults with Learning Disabilities

Disability Hate Crime against Adults with Learning Disabilities

1.1) In the last 18 months there have been at least three disability hate murders of adults with learning disabilities. It is possible that prejudice and hostility towards people with learning disabilities played a part in other murders in this period, but that this fact was not identified by criminal justice agencies or these murders received less public attention. The murder of Rikki Judkins, mentioned in our original evidence to the Joint Committee, is likely to be one such case.

1.2) These three murders share several common, interlinking and reinforcing features;

- the vulnerability of the victim;
- the savagery and cruelty of the murder;
- perpetrators who are likely to have seen their victim as worth less than themselves or other human beings because of their learning disabilities; and
- all appear wholly or partly motivated by prejudice and hostility towards people with learning disabilities.

These murders are disability hate crimes and they have received a public exposure unprecedented for disability hate crime. Yet these murders do not resonate in the public consciousness as disability hate crimes – as examples of appalling prejudice and hate that involve the fundamental violation of the human rights of the victims. This is because the term disability hate crime is alien to the vast majority of the population and has not been tied to these murders in people's minds. This term has not been used to describe these murders in the mainstream media and so, we presume, has not been publicly used by criminal justice professionals to describe these cases. The commonalities we mention above are not being highlighted and the public attention paid to these murders is proving to be fleeting. We fear that these murders, and the lives of these men, will be forgotten by everyone but their friends, families and a few professionals and campaigners. If society is to confront disability hate crime against people with learning disabilities, and the prejudice that feeds it, then everyone must face these murders for what they are and remember them. The public and all criminal justice professionals must know the term disability hate crime in the same way they know the term race hate crime. They must be able to do what we fear at the moment many of them can not do – recognise a possible disability hate crime. There must then be clear, public declarations that such prejudice-fuelled violence is unacceptable and will be robustly dealt with. Only from knowledge and understanding can we hope to address prejudice and achieve the change that will see the human rights of adults with learning disabilities respected.

1.3) The Joint Committee can make a valuable contribution to tackling disability hate crime by highlighting these murders and what they mean. Details of these three murders have recently become available through court cases and media reports, allowing us to provide the Joint Committee with the following information. We also highlight important issues raised by these murders and connect these to the recommendations in our original evidence. Lastly, we note comments from the Metropolitan

Police Service on their efforts to address disability hate crime and the first national figures on disability hate crime cases pursued by criminal justice agencies.

Raymond Atherton

“Despite daily visits from social services, Raymond Atherton suffered the most appalling campaign of physical abuse at the hands of ‘feral’ teenagers. They shaved clumps of hair from his head as he slept and daubed makeup on his face. They beat him, urinated in his drinks, smoked cannabis in his flat, scrawled graffiti on his walls and poured bleach over him. On May 8 last year, the 40-year-old was viciously beaten by two of his tormentors and thrown into the river Mersey in Warrington, Cheshire, where he died.

At the trial in April of his persecutors, Craig Dodd, 17, and Ryan Palin, 15, were jailed for life for manslaughter...Mr Justice Hodge told the teenagers: ‘You both treated Mr Atherton as a punchbag. What you did was not opportunistic. It was premeditated, it was a savage attack: cruel, brutal and vicious, and on a very vulnerable man.’

Yet although Atherton, who had a learning disability and a history of alcohol abuse, was in the care of social services, there is no suggestion that he was failed by the system. Atherton was proud of living independently in the community and did not want to move to supported accommodation. In addition, because of his vulnerability, whenever social workers noticed he had been beaten up, Atherton was unable to provide dates of incidents or the names of his abusers. He was unwilling either to report incidents or to seek medical help for his injuries.

...

Three years ago, he lost touch with his mother and had moved to Warrington, where he was targeted by youngsters including Dodd and Palin. He was befriended by groups of teenagers who abused his kind, gentle nature and exploited his vulnerability. Social services moved him once because of the teenagers, but the trouble followed him to his new address.

...

Reports prepared while Palin and Dodd were on remand showed they had no empathy with their victim nor any understanding of what they had done.”¹

2.1) We are not aware of Mr Atherton’s murder being referred to as a disability hate crime, despite what we know of it bearing all the characteristics of one. As section 146 of the Criminal Justice Act 2003 places a duty upon courts to openly state that an offence is receiving a harsher sentence because it is a disability hate crime, this means that one of three outcomes has occurred in this case. The first possibility is that this case was not recognised as a disability hate crime by criminal justice professionals or, after consideration, these professionals concluded this was not a disability hate crime. The second possibility is that the judge did increase the sentences of Dodd and Palin because of s.146, but did not publicly state this. The third possibility is that the judge applied s.146 and did state this, but this fact has not been reported by the media. All of these possible outcomes are unsatisfactory in some way. In particular, all involve at least one party failing to provide public recognition of disability hate crime. Criminal justice professionals must identify disability hate crime and publicly emphasise it in cases where it occurs if these crimes are to be effectively addressed.

2.2) Mr Atherton’s case also highlights the importance of ensuring that people with learning disabilities (i) know that crimes against them are unacceptable (ii) know how to report disability hate crime (iii) receive appropriate support to enable them to make such reports and (iv) feel confident that any report they make will be responded to appropriately. Accessible information, support from independent advocates and education might reduce unwillingness to report incidents similar to Mr Atherton’s. These are likely to be most effectively provided by local schemes which involve social services departments, police and non-governmental organisations (such as we noted in 3.3.1.2 of our original

written evidence). Police involvement in such schemes is particularly important because of, an all too often real, perception amongst many adults with learning disabilities that the police will not be interested in pursuing a report of a disability hate crime. If frontline police officers meet with adults with learning disabilities to discuss reporting crime and what incidents they are experiencing it is likely to challenge assumptions held by both parties, leading to more reports of disability hate crime and a more effective response. If criminal justice professionals give disability hate crime a higher public profile by publicly emphasising the role of disability in particular cases, this will also encourage adults with learning disabilities to report such crimes.

2.3) In cases similar to Mr Atherton's, this support might help adults with learning disabilities to report crimes and harassment against them as an early stage. If disability hate crime and harassment is reported early and robustly responded to by police and social services, then there may be less chance of any escalation in the nature of the disability hate crime (e.g. assaults turning to murder). We do not second guess the social services department responsible for the care of Mr Atherton – it appears they acted appropriately in helping him move home and in enquiring about his injuries. They may also have faced a difficult conflict in wanting to respect his wishes to not report incidents while wanting to ensure his welfare. Instead, we note how, when harassment and relatively minor crimes against Mr Atherton were not robustly challenged, a pattern of behaviour with the potential for escalation was able to develop. Robust action by police and social services is needed to send a clear signal that such behaviour is unacceptable and must end. This may not only end campaigns of disability hate crime against particular individuals, it may begin to challenge the prejudice that underpins such crimes.

Steve Hoskin

“A 17 year-old girl and her boyfriend were jailed yesterday for torturing a friend with severe learning difficulties before forcing him to fall to his death from a 100ft (30m) railway viaduct. Sarah Bullock, who was 16 at the time laughed as she stamped on the hands of Steven Hoskin while he clung to the viaduct in St Austall, Cornwall, was sentenced to 10 years for murder. Her boyfriend, Darren Stewart, 30, was jailed for 25 years for murder and Martin Pollarn, present when Mr Hoskin fell, was jailed for eight years for manslaughter.

...

The court heard after moving into his flat, the couple used Mr Hoskin, 38, as their slave, making him wait on them. They forced him to wear his own dog's collar and dragged him around with a lead. On the day of his death, July 5 last year, they forced him to falsely confess that he was a paedophile then beat him, stubbed cigarettes out on him, forced him to swallow 70 painkillers and marched him to the viaduct. Mr Hoskin was terrified of heights but his tormentors told him there were snipers in the bushes who would kill him if he did not climb the bridge.”²

“They took pictures of him sitting against a wall under graffiti spelling out the words ‘scum bag’ and ‘should be hung’. Then in July last year – after torturing him for an hour and a half – they force-fed him 70 paracetamol. Along with their friend Martin Pollard, 21, they then made him falsely confess to being a paedophile and frog-marched him to a viaduct in the middle of the night. As they lead him to his death, Mr Hoskin – who was terrified of heights – was convinced he would be shot by snipers if he cried out for help.

*Bullock ordered him to dangle over the edge, where he clung on to a set of railings, before she kicked him in the face and stamped on his hands, shouting ‘Come on you f***ing pr***k’.*

...

Mr Justice Owen said their victim had been ‘bullied to death’. He said: ‘Your victim was a highly vulnerable man with severe learning difficulties.’

‘He was subjected to substantial mental and physical cruelty in which he was violently assaulted, degraded and humiliated. A dog lead was put around his neck. He was dragged around and forced to lick spilt drink from the floor. Cigarettes were stubbed out on his head.’”³

3.1) A notable similarity between the murders of Mr Hoskin and Mr Atherton is that they both involve a vulnerable individual taken advantage of by people whose harassment, exploitation and assaults escalated into murder. For this reason, we believe that our comments above on the importance of supporting adults with learning disabilities to report crime and early action may hold true for Mr Hoskin.

3.2) As with Mr Atherton, media reports of Mr Hoskin's case have not referred to this murder as a disability hate crime⁴. However, Crown Prosecution Service (CPS) Devon and Cornwall has made the following statement regarding Mr Hoskin's case which indicates that it was considered as such a crime by the trial judge.

"I have been asked to respond to the question of whether or not Sec.146 CJA 2003 played any part in the prosecution of this case, or to be more precise, whether or not the Sentencing Judge paid due regard to the fact that this was a disability hate crime.

Although I only attended the sentence of this case I can unequivocally confirm that due consideration was given to Sec.146. Mr.Mercer, QC, for the defendant Stewart, conceded in his mitigation that the vulnerability of the victim was an aggravating feature (together with the suffering he was made to endure).

Mr. Justice Owen, who referred to the offence, in terms, as a hate crime told Stewart that he took as a starting point a term of 15 years (before the possibility of parole) but he had to take account of the aggravating features. First among these aggravating features was the vulnerability of the victim, the Judge saying that a witness had described Mr Hoskin as "a child in a man's body ". He added that Stewart had "betrayed the friendship he simply gave you", and that he had subjected him to a prolonged period of physical and mental torment, "you literally bullied him to death". Taking into account these aggravating features Stewart was sentenced to life imprisonment and ordered to serve a minimum of 25 years.

I am in no doubt whatsoever that Mr Hoskin's disability was to the forefront of the Judge's mind when he sentenced these offenders."

3.3) Our organisations are delighted that s.146 was applied in this case. We thank the police, CPS and Mr Justice Owen for ensuring justice for Mr Hoskin. However, from the CPS we understand that Mr Justice Owen did not explicitly refer to disability hate crime when passing sentence and we are concerned by this. As we have stated, it is vitally important for challenging disability hate crime, and the prejudice that fuels it, that it is made very clear when s.146 has been applied.

Brent Martin

"Three people were charged last night with the murder of a man with learning difficulties who died at the weekend after he was beaten up in the street near his home. Brent Martin, 23, was dragged along by his belt during the attack before being left bloodied and dying. He was found by neighbours and his uncle with his underpants and trousers around his ankles, his family said. The beating, on a council estate in Sunderland on Thursday night, was so severe that sand was thrown on the pavement to cover the blood. Mr Martin died in the early hours of Saturday with his family by his bedside.

...

It was unclear why Mr Martin was targeted, but police suggested that he may have been picked on for his learning difficulties.

...

Detective Superintendent Barbara Franklin, who is leading the murder investigation, said: '...There is no motive for the assault but children often bully people with learning difficulties.'"⁵

4.1) To the best of our knowledge, this is the first time a police officer has been reported in the media connecting an attack to a victim's learning disabilities. As such, it is a milestone which we welcome. However, we are disappointed that the officer does not state that prejudice and hostility towards Mr Martin because of his learning disabilities appears to be the motive. To say that there is no motive and then make the connection to learning disabilities is an odd half-way house that makes little sense. This, together with the failure to explicitly refer to Mr Martin's murder as a disability hate crime, undermines any message that disability hate crime exists and will be robustly dealt with by the police. It also fails to do justice to Mr Martin.

4.2) Stating that "children often bully people with learning difficulties" seems to show a lack of awareness of the seriousness of the crimes that are committed against people because of their learning disabilities. It also grossly underplays the seriousness of a brutal murder.

We hope that this statement by Detective Superintendent Franklin is not indicative of some police officer's understanding of disability hate crime. It reinforces our belief that police officers must be trained on disability hate crime if they are to effectively investigate it and ensure justice for its victims.

Comments by Commander Rod Jarman, Metropolitan Police Service

Commander Rod Jarman, Metropolitan Police Service lead for the Safer Neighbourhoods Programme as well as Association of Chief Police Officers Lead for Mental Health and Disability, recently participated in an online interview in which he answered questions submitted by members of the public. Commander Jarman's response to a question by a journalist from Disability Now provides useful information on the challenge of investigating disability hate crime and how the MPS is attempting to meet it.

Katharine Quarmby

"There have been a number of high profile cases in which disabled people have been brutally attacked, tortured or murdered in recent months. Most have been described by the SIO's leading the investigation as 'motiveless' or 'senseless'.

Do you think that police officers are sufficiently aware that such cases may indeed be disability hate crimes? Having looked in detail at four cases where disabled people were killed, I have established that police officers did not attempt to establish whether disability hate crime played a part and did not highlight that as an aggravating factor when they forwarded on their files to CPS."

Commander Rod Jarman:

"I think I'd like to start off with saying this is an extremely important area of how policing is delivered and considered. The whole emphasis of policing must be protecting those who are vulnerable and those who are vulnerable because particular people who are targeting them comes high up the agenda.

In London, our response to hate crimes against people with disabilities is robust in order to prevent other people believing it's an appropriate way of behaving. In London, we have a number of policies that our officers have to follow in order to ensure the level of service provided to victims who are the subject of hate crime is significantly higher than it is for victims of other crime. The difficulty comes, which I think is where you're trying to get at in your question, between our own ability to identify and provide this enhanced service and the other factor, which is our ability to prove that there was an aggravating factor in the case, which was one of disability hate. That second factor has to meet an evidential standard which is set within the law and which requires us to be able to objectively prove beyond reasonable doubt that it was the motivation behind the attack. That is difficult, and if you look in race hate crime you will see that whilst we identify a large number of crimes as racially motivated

and provide an enhanced service to the victims, a very, very much smaller number are eventually charged with racial aggravation on top of the original crime.

I've given quite a complex answer and I'd just like to try and break that down into 2 simple points. The first one is, we have standard operating procedures; we have trained and we have put in place community safety units across London to provide an enhanced level of investigation and support to victims of hate crime, but in the cases that you've raised we have clearly not been able to prove the aggravating factor to a sufficiently high level in order for us to put it before the courts. I think that over time there will be more cases where we do prove that aggravating factor, that this is just an indication of the complexity of investigating and dealing with hate crime.⁶

Number of Cases

The difficulties described by Commander Jarman are likely to play a part in the very low number of cases of disability hate crime so far recorded this year – just 20 cases, of which 18 were characterised as successful⁷. The experiences of our organisations and the studies on disability hate crime which we cited in our original evidence (see 3.2) give us reason to believe that this is just a tiny fraction of the disability hate crimes that have occurred in this period. We believe that lack of reporting by adults with learning disabilities, as well as failure by criminal justice professionals to identify crimes as disability hate crime and / or investigate such crimes, are likely to be reasons for this low figure.

This reinforces the urgent need for measures to ensure adults with learning disabilities report disability hate crime and training for the police on such crimes.

These murders highlight how disability hate crime is an appalling infringement of the human rights of adults with learning disabilities. They also highlight how relatively simple steps to tackle disability hate crime are not being taken. We hope that the Joint Committee will note these murders in its report and recommend the steps we have suggested as a means to address violent prejudice and hostility towards adults with learning disabilities.

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¹ Carter, Helen, *'He couldn't say no'*, Society Guardian, 15 August 2007.

² Morris, Steven, *Three jailed for forcing man to fall 100ft to his death*, The Guardian, 31 July 2007.

³ Salkeld, Luke, *Evil teenager bullies man with learning difficulties to death*, Daily Mail, 30 July 2007.

⁴ The one exception we are aware of is: Quarmby, Katharine, *If these are not hate crimes, what are?*, Disability Now, September 2007.

⁵ Condron, Stephanie, *Gang dragged victim by belt to his death*, The Times, 27 August 2007.

⁶ Commander Rod Jarman, Metropolitan Police Service, interviewed on the Disability Agenda website, 10 August 2007.

⁷ Quarmby, Katharine, *If these are not hate crimes, what are?*, Disability Now, September 2007.