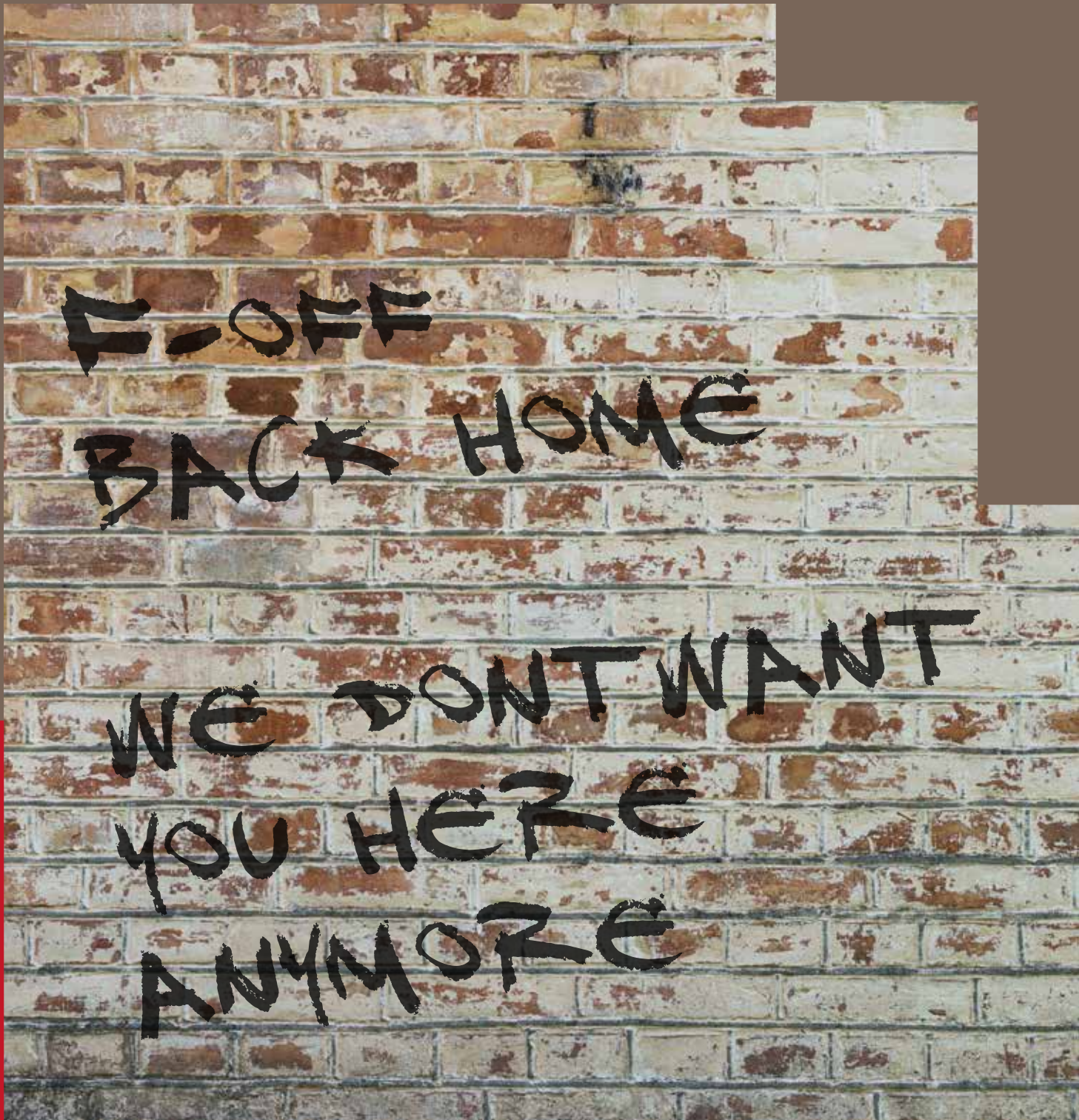




Hate Crime:  
Identifying and Dismantling  
Barriers to Justice



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“ **Wog**

“ **Fuck off back home where you belong, we don't want you here anymore**

“ **Faggots**

“ **You're lucky I don't kick you in the uterus and you'll never have a baby again**

“ **She's a slitty eyed mental trench gook who needs to be chopped up and binlinered and dumped in the canal**

“ **Dirty wee prods**

“ **We need to stab the cunt**

# INTRODUCTION

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Every year hundreds of thousands of people in the United Kingdom are violently attacked and harassed on the basis of their identity, perceived 'difference' or perceived vulnerability. The comments on the previous page, which are taken from case studies featured within this report, are illustrative of the hostility associated with hate crimes which all too often plague the lives of minority groups and which cause lasting physical and emotional damage. Hate crimes have the capacity to evoke despair, anger and anxiety within victims, to spread fear and mistrust within wider communities, and to destroy the social mortar that binds a society together.

During the last decade hate crime has become an increasingly salient issue within academic and political spheres. An increased awareness of the damaging emotional and physical consequences of hate crime has reinforced the need for law-makers, law-enforcers, non-governmental organisations and activists to develop and implement robust responses to these forms of offences. Within the UK a range of hate crime laws have been introduced by successive governments, as well as a raft of criminal justice policy and guidance documents. These laws are designed to serve a number of purposes, including to create an additional level of protection for victims and marginalised communities; to increase trust and confidence in the criminal justice system within some of the most disaffected and vulnerable communities in society; to send out a strong message of condemnation of prejudice and hostility; and to recognise the additional harms caused by hate offences<sup>1</sup>. Although the effectiveness of this legislation has been called into question in particular contexts, the value of having hate crime laws in place should not be underestimated, particularly at a time when 'difference' and 'otherness' are coming under increasing scrutiny.

On the surface the state's approach to tackling hate crime appears to offer robust protection to potential and actual victims. However, recent events offer ample evidence of just how sizeable a problem hate crime continues to pose to particular communities and groups of victims. Figures released in the wake of the UK's decision to leave the European Union in June 2016 reveal that as many as 3,192 hate crimes were reported to the police in the two weeks either side of the referendum held on 23 June 2016 – a 42 per cent increase from the corresponding

period of the previous year<sup>2</sup>. A further 3,001 hate crimes were reported between 1 and 14 July, mainly by members of minority ethnic and faith communities, new migrants, asylum seekers and refugees across the UK. Similar surges in hate crime were observed following the recent terrorist attacks in Manchester and London. It is evident from these 'spikes' in perpetration that state policy alone is not enough to foster tolerance and understanding within society, or to prevent disturbingly high levels of hate crimes from being committed.

Equally concerning are the findings from a growing body of recent research which illustrate that significant numbers of victims do not report their experiences of hate crime to the police or to any other relevant organisations; do not feel that their support needs are being recognised or adequately addressed; and do not feel that they have access to justice<sup>3</sup>. Indeed, the disconnect between state responses to hate crime and the lived reality for those affected by this form of victimisation was recognised within the newly published UK government action plan to tackle hate crime<sup>4</sup>:

**The UK has one of the strongest legislative frameworks to tackle hate crime in the world. However, legislation can only ever be part of the answer. Unless people have the confidence to come forward, unless the police are equipped to effectively deal with these crimes, unless victims are properly supported and perpetrators brought to justice, and crucially unless we take action to tackle the attitudes and beliefs that drive these crimes, too many people will continue to suffer.**

This aim of this report is to highlight where the state is failing in the context of hate crime. For the purposes of this report our conceptualisation of the 'state' includes national government as well as those agencies who exercise government authority, such as police forces, the Crown Prosecution Service and local government<sup>5</sup>. It is also necessary to clarify that by focusing on state failings we are not denying that considerable progress has been made in recent decades, that good practice is taking place across different sectors, or that practitioners are committed to dealing with hate crime and supporting those affected by it. Rather, we see this report as an opportunity to reflect upon how far the UK has come in terms of developing a cohesive, victim-centred approach to hate crime and to recommend what further steps can be taken to ensure that victims do not suffer in silence, and that state organisations recognise and respond to factors which prevent people in marginalised, stigmatised and vulnerable positions from accessing justice.

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<sup>1</sup> See, for example, Chakraborti and Garland (2015), Walters (2014) and ODIHR (2009)

<sup>2</sup> Corcoran and Smith (2016)

<sup>3</sup> See, for example, Corcoran and Smith (2016) and Hardy and Chakraborti (2016)

<sup>4</sup> Home Office (2016)

<sup>5</sup> Doig (2011)

# BACKGROUND

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The term 'hate crime' is now used with regularity by practitioners, policy-makers, activists and academics in many countries around the world. Despite the salience of the concept, establishing a clear-cut, universal definition has been fraught with difficulties. One noteworthy attempt to develop a common understanding of hate crime was provided by The Office for Democratic Institutions and Human Rights (ODIHR), whose guidance for OSCE member states describes hate crimes as 'criminal acts committed with a bias'<sup>6</sup>. The rationale for choosing the word 'hate' to describe these types of offences has been contested as hate crimes are not crimes in which the offender simply hates the victim<sup>7</sup>. In fact, the definitions commonly used by state agencies within the UK demonstrate that a crime does not have to be motivated by hatred for it to be officially recorded as a hate crime:

*Any hate incident, which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by hostility or prejudice.  
(England, Wales and Northern Ireland)*

*Crime motivated by malice or ill will towards a social group.  
(Scotland)*

Although hate crime definitions vary between the three legal jurisdictions that make up the UK, it is important to note that each country has taken broadly similar steps to give the concept meaning by differentiating hate crime from other forms of crimes. In this context, the introduction of hate crime policy across the UK embodies the state's awareness of the significant emotional and physical harms associated with hate crimes and their impacts upon individuals, families and wider communities.

The term hate crime conjures up images of acts that are violent and extreme in nature but it is important to note that hate crime can take many different forms including 'everyday' experiences of targeted hostility which in isolation may not seem especially significant to a third party but which cumulatively can have distressing consequences for victims and their families<sup>8</sup>. To some extent hate crime policy within the UK

has been developed in recognition of the frequency with which victims suffer acts of hate as a 'routine' feature of everyday life, with police forces required to record and investigate not just hate crimes but also hate incidents, whether or not they constitute a criminal offence in themselves. Conceiving of hate crime in such a way enables the police to respond to the more commonplace forms of targeted hostility, including verbal abuse, harassment or other forms of intimidatory behavior, in addition to more violent expressions of hate.

Much of the hate crime legislation and policy within the UK is framed around five monitored strands of identity: namely, disability, race, religion, sexual orientation, and transgender identity. Hate crime policy within Northern Ireland also covers sectarian-motivated hate crimes. In comparison to Northern Ireland and Scotland, England and Wales has a greater degree of flexibility with respect to police recording practices because police forces are permitted to record other forms of targeted hostility as hate crime in addition to the five monitored strands<sup>9</sup>. This has resulted in a number of police forces amending their policies to include other categories, such as 'alternative subcultures', 'misogyny' and 'sex workers'. This policy has enabled police forces within England and Wales to tailor their approach to meet local needs and has led to an increased awareness of the targeting of 'other' identities and groups who have not routinely been considered as hate crime victims.

One of main strengths about the way in which hate crime policy has been conceptualised within the UK is that it is rooted within a victim-based approach. Hate crime policy guidance stipulates that the defining factor in recording an incident as a hate crime is the perception of the victim or any other person (such as a witness, a family member or support worker) and not the discretion of the investigating police officer. Importantly, the victim is not required to provide corroborating evidence or justification to support their belief, and 'police officers or staff should not directly challenge this perception'<sup>10</sup>. Framing the policy upon this model gives primacy to the perception of the victim as opposed to the investigating officer, and, in theory at least, is designed to improve levels of trust and confidence within historically marginalised communities and to increase the numbers of victims coming forward to report hate crime.

Each of the three legal jurisdiction within the UK have created laws which embrace the principle that crimes motivated by hostility or prejudice towards the victim's identity should be treated differently from 'ordinary' crimes. Although the scope and application of these laws vary from nation to nation, such legislation provides the courts with the power to increase the sentence for any offence in which the aggravated element is proven (see Annex A for an overview).

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<sup>6</sup> ODIHR (2009)

<sup>7</sup> Chakraborti and Garland (2015)

<sup>8</sup> See, for example, Chakraborti, Garland and Hardy (2014) and Williams and Tregidga (2013)

<sup>9</sup> College of Policing (2014)

<sup>10</sup> College of Policing (2014)

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Currently, legislation within England and Wales, Northern Ireland and Scotland covers four of the same strands of identity, which includes disability, race, religion and sexual orientation. While law-makers in England and Wales and in Scotland have also created hate crime legislation to cover transgender identity, Northern Ireland has yet to extend such legal provision to this victim group although their hate crime policy makes specific reference to sectarianism within the category of religion<sup>11</sup>.

Thus far this section has highlighted how hate crime has been conceived of and responded to by criminal justice systems within the UK. More recently, however, there has been belated recognition of the fact that criminal justice intervention alone cannot tackle the causes of hate crime or provide the necessary support to those affected by it. In particular, the importance of education and preventative programmes that challenge prejudicial attitudes before they develop have begun to feature more prominently in government agendas and action plans, and although yet to be evaluated such programmes offer much promise in terms of their capacity to address offending behaviour<sup>12</sup>. For example, in 2015-16 the Scottish Government devoted more than £20 million to the Equality Fund to invest in and support provision that is designed to promote equality and tackle prejudice<sup>13</sup>. Alongside education strategies, health and social care services are increasingly being called upon to offer specialist support and treatment to victims, and their involvement is pivotal given that such crimes often have severe consequences for physical and emotional health and well-being<sup>14</sup>.

It is evident from this brief overview that state agencies within the UK have taken meaningful action to develop legislation and enforcement policies which are designed to protect individual freedoms, to prioritise victims and bring hate crime offenders to justice. Ostensibly the legislative and policy responses that have been developed are comprehensive and victim-centred. However, despite this progress this report will highlight a range of failings which continue to hamper the effectiveness of state interventions and to reinforce the harms associated with hate crime, leaving the UK short of its human rights obligations. These include:

## Continued under-reporting across all strands of hate crime

It is widely acknowledged that official figures are a considerable underestimate of the actual number of hate crimes taking place within the UK. In the context of England and Wales for example, the police service recorded 62,518 hate crimes in 2015-16 and yet the Crime Survey for England and Wales – which provides an alternative measure of hate crime victimisation – estimated that 222,000 hate crimes took place within the same time-frame<sup>15</sup>.

The Crime Survey also illustrates that rates of under-reporting vary significantly between different strands of hate crime: recent figures suggest that 1 in 2 racist hate crimes are reported to the police, while this rate drops to 1 in 4 for homophobic hate crimes, 1 in 10 for religiously motivated hate crimes, and 1 in 19 for disability hate crimes. Research studies have also highlighted that the majority of hate crime victims do not report their experiences to the police or through available third-party reporting systems<sup>16</sup>.

## Low levels of public awareness

Over recent years a number of research studies have been conducted on hate crime victimisation in Britain and these have all revealed that levels of understanding of how hate crime is defined, what forms it takes and how the concept is enacted in law remain poor amongst actual and potential hate crime victims<sup>17</sup>. This lack of awareness is particularly evident within those groups and communities who find themselves socially, economically and politically marginalised within society, including asylum seekers and refugees, people with learning and/or physical disabilities, Muslim women and trans people<sup>18</sup>.

## Widespread dissatisfaction with the police

Victim dissatisfaction with how the police deal with hate crime and support hate crime victims has been identified as a key issue within official sources of data and research findings. The Crime Survey for England and Wales shows that compared to general crime victims, hate crime victims are less likely to be satisfied with the police response both in terms of fairness and effectiveness of the service provided<sup>19</sup>. Based on combined 2012/13 to 2014/15 surveys, just 52 per cent of hate crime victims were found to be very or fairly satisfied with the handling of their case, compared to 73 per cent of general crime victims. A similar finding has been identified within the context of Northern Ireland<sup>20</sup>. Although it is likely that the situation is mirrored in Scotland because the satisfaction rate for victims of non-hate crimes is similar to England and Wales (63 per cent were very or quite satisfied), it cannot be confirmed because the Scottish Crime and Justice Survey does not disaggregate statistics by crime type<sup>21</sup>.

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<sup>11</sup> Public Prosecution Service (20102)

<sup>12</sup> Home Office (2016)

<sup>13</sup> The Scottish Government (2016a)

<sup>14</sup> See, for example, Chakraborti, Garland and Hardy (2014) and Sin (2014)

<sup>15</sup> Corcoran and Smith (2016)

<sup>16</sup> See, for example, Antjoule (2016),  
The Scottish Government (2016a), Chakraborti et al. (2014)

<sup>17</sup> See, for example, Hardy and Chakraborti (2016)  
The Scottish Government (2016a) Williams and  
Tregidga (2013) and Jarman (2012)

<sup>18</sup> Chakraborti, Garland and Hardy (2014)

<sup>19</sup> Corcoran, Lader and Smith (2015)

<sup>20</sup> Northern Ireland Human Rights Commission (2013)

<sup>21</sup> The Scottish Government (2016b)

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## Low numbers of hate crime convictions

Despite England and Wales, Northern Ireland and Scotland all having passed legislation which enshrines the concept of hate crime within law, the implementation of these legal provisions has been inconsistent and the effectiveness debateable. In the context of Northern Ireland, 3,108 incidents of hate crime were recorded by the PSNI in 2015-16, but just 10 per cent were taken forward for prosecution<sup>22</sup>. With regard to racist hate crime specifically, only 19 per cent of cases resulted in a prosecution or police warning. Crown Prosecution Service figures reveal a similar picture within England and Wales, with the police service referring just 21 per cent for charging in 2015-16<sup>23</sup>. Evidence suggests that a number of factors contribute to this low figure, including investigating officers having a lack of hate crime knowledge and confidence which results in pertinent evidence not being collected, poor recording practices throughout the criminal justice system meaning that cases of hate crime are not flagged as such, and evidential thresholds for proving that an offence is motivated by hostility being too stringent<sup>24</sup>. Again, it is difficult to make comparisons with Scotland because of the inaccessibility of criminal justice data<sup>25</sup>. Although it appears that 5,544 hate crimes were reported to the Procurator Fiscal in 2015-16 it is unclear how large a proportion this figure amounts to in relation to the overall number of hate crimes recorded by the police, and what the outcomes of these cases were<sup>26</sup>.

## Lack of tailored support for hate crime victims

A growing body of research evidence demonstrates that acts of hate crime cause significant emotional and physical damage to the well-being of victims, their families and wider communities<sup>27</sup>. More worryingly still, research also highlights that the majority of hate crime victims are not aware of or know how to access support services<sup>28</sup>. Hate crime victims come from different backgrounds, have different hate crime experiences, and have different support needs, which is why the current 'one size fits all' approach to supporting victims is failing to meet the needs of hate crime victims. For the majority of those victims who feel that they need more comprehensive and specialised support to help them deal with the impacts of hate crime, their only real option is accessing support through their GP, a process which is renowned for being lengthy and ineffective.

The problems identified above are not confined to any one particular part of the UK or to any specific groups of hate crime victim, but instead are systemic failings and illustrative of how state

agencies have sometimes neglected to implement, monitor and resource policy interventions in a way that connects with the lived realities and challenges facing victims of hate crime. This report goes on to identify a series of case studies which further illustrate these disconnects between the rhetoric of state interventions and the 'real-life' experiences of victims. The following section then identifies some of the most common barriers to justice which underpin such disconnects, and steps that state organisations can take to give greater protection to victims of hate crime.

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<sup>22</sup> Public Prosecution Service (2016)

<sup>23</sup> CPS (2016)

<sup>24</sup> See, for example, Walters, Brown and Wiedlitzka (2016b) and Chakraborti and Garland (2015)

<sup>25</sup> The Scottish Government (2016a)

<sup>26</sup> Crown Office (2016)

<sup>27</sup> See, for example, Iganski and Lagou (2015) and Chakraborti et al. (2014)

<sup>28</sup> Hardy and Chakraborti (2016)

# Bailey's Story

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On the afternoon of 21 May 2016 Bailey Anderson and his friend were making their way to a band parade at the Ballysillan Leisure Centre in north Belfast. Unfortunately, the bus had been cancelled so the 13 year old and his friend decided to walk to the event. As they walked along the street two older males headed towards them and when they were close enough they asked where Bailey and his friend were from. Sensing the danger, the group ignored the question but this enraged the males who began calling Bailey and his friend "dirty wee prods".

The situation quickly escalated with Bailey being thrown up against a wall and repeatedly punched in the face. His friend was also subjected to sectarian abuse and physically attacked. Fortunately for Bailey and his friend two passers by saw the violent assault taking place and intervened, otherwise the injuries sustained could have been much worse. The incident had damaging consequences not only for Bailey's physical health, but also for his emotional well-being as Bailey was left feeling scared for his safety when out in public and frustrated that sectarian prejudice and violence is still happening today.

Sectarian violence such as that experienced by Bailey, has plagued Northern Ireland's history and continues to pose problems in the present day. Levels of sectarian motivated hate crime have remained consistent over the past few years with 1,024 sectarian crimes being reported to the police in 2015<sup>29</sup>. Prejudicial attitudes, suspicion and tension remain high because the government and state agencies are failing to translate policy into practice. For example, in 2013 the Executive published the Together Building a United Community policy which was designed to provide a strategic framework for government action in 'tackling sectarianism, racism and other forms of intolerance'<sup>30</sup>. The high level messages included in the strategy involved a commitment to urban regeneration, to improving employment opportunities for socially disadvantaged young people, to removing peace walls and to introducing cross-community education and recreational activities. Although such messages were welcomed by many, the overwhelming feeling was that the policy lacked detail regarding the implementation of these key priorities, which has resulted in concrete outcomes being difficult to identify<sup>31</sup>.

## Suggested Actions

- The Northern Irish Government needs to be more transparent about how the strategy has been operationalised in real terms and about the effectiveness of these initiatives, and this can be achieved through the publication of more regular and accessible progress reports.
- The Northern Irish Government need to consider investment in a greater range of cross-community initiatives in the form of sporting, cultural and other recreational activities and to evaluate and publicise the impact of these initiatives.

**“ I was scared and shocked that it happened ... It makes me feel annoyed that I can't go somewhere without being attacked because of my religion.**

**Bailey**

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<sup>29</sup> Police Service Northern Ireland (2016)

<sup>30</sup> The Executive Office (2013)

<sup>31</sup> Equality Commission for Northern Ireland (2013)



# Bijan's story

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Bijan Ebrahimi, an Iranian refugee who had learning difficulties and a physical impairment, stood out on the basis of being 'different'. Described as a quiet man, who loved his garden and his tabby cat, he was subjected to years of harassment and abuse from many of the people who lived on the Capgrave Crescent estate in Bristol. Growing tired of seeing his hanging baskets and flowerpots vandalised he decided to take photographs of the young people who gathered outside of his flat. Bijan thought that by collecting evidence of his experiences of anti-social behaviour the local government would move him to a safer and more appropriate location. Instead, he was branded a paedophile.

On the evening of 11 July 2013 Bijan saw his neighbour Lee James drinking a can of beer on the green in front of his flat and he decided to film him. Lee misinterpreted this action as Bijan taking pictures of his daughter, and, enraged, forced his way into Bijan's flat shouting "I'm going to fuck you up." Terrified, Bijan dialled 999 and told the operator that Lee had physically assaulted and racially abused him. The call was flagged as a hate crime and categorised as a 'grade one' incident requiring an immediate response.

By the time the police arrived an angry mob of around 15 people were gathered outside of Bijan's flat. Rather than arresting Lee, the police detained Bijan for breach of the peace. As Bijan was led away to the cheering and chanting of "Paedophile", he said to the officers "I can't believe you are arresting me when I haven't done anything." Despite the police logging their concern about the possibility of retribution, Bijan was released from custody the next day. Over the next two days Bijan contacted the police on numerous occasions via telephone and email, stating that his life was in danger. Bijan made his final call to the police at 12.12am on Sunday 14 July, and in the hour that followed Lee James, with the help of Stephen Norley, had beaten Bijan unconscious, dragged his body outside and set it alight.

During the six years leading up to his death, Bijan had many interactions with police community support officers, police officers and police staff as a victim of racist and disablist hate crime. Bijan was regarded as "antagonistic and troublemaking", a "pest", an "idiot" and a "pain in the ass" and this antipathy clearly affected how the police responded to him when he needed them most. The police force failed to protect someone who was

in an extremely vulnerable position not simply because he was disabled and ostensibly 'foreign' looking but who lived alone on an estate characterised by high levels of unemployment and social deprivation. The police force had a responsibility to work with local government and with other relevant partner organisations to move Bijan to a more suitable and safer location.

Another issue highlighted by Bijan's story is that the court failed to recognise the disability hostility that many campaigners felt motivated Lee James to attack him. Although Lee pleaded guilty to murder and was handed a life sentence with a minimum term of eighteen years, the courts failed to enact the enhanced sentencing powers provided by the Criminal Justice Act 2003. In this case the prosecution found no evidence of hostility towards Bijan's disability when the offence was committed. This conclusion was drawn because of the narrow way in which hate crime legislation has been developed, which fails to account for the fact that victims of disability hate crime are not targeted solely on the basis of having a disability but rather, because of the perceived vulnerability and inferiority that is associated with that identity characteristic. This overly-simplistic conceptualisation of hate crime means that the police are not looking for or collecting evidence of hostility beyond direct references to disability, that the CPS are not presenting robust and nuanced hate crime cases, and judges are failing to make use of enhanced sentencing provisions. If the disability-related hostility had been recognised in Bijan's case then Lee James could have been given a 30-year prison sentence.

## Suggested Actions

- Police officers and police staff at all levels need to undertake training on disability hate crime to ensure that recording practices and the investigative process improve.
- Police forces, local governments and other relevant partner organisations need to work together to identify ways of intervening more swiftly to remove vulnerable people from dangerous situations.

“

**Our understanding is there has been a culture of institutional racism... [The police] never dealt with his problems properly, they saw him as a repeated complainer. They disliked him for whatever reason**

**Manizhah Moores, Bijan Ebrahimi's sister**

# Cathleen's story

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Cathleen Lauder, who lives in Edinburgh, has been subjected to verbal abuse, intimidatory behaviour and unwanted physical contact ever since she transitioned two years ago. As part of her everyday life Cathleen is stared at, talked about and hassled because she is a trans woman. It is because of the regularity of Cathleen's experiences of transphobic abuse that a friend bought her a mobile phone so that she could record the hate crimes as and when they happened.

In April 2015 Cathleen was on a bus in Edinburgh when two men and a woman started calling her abusive names, singing offensive songs and directing rude gestures at her. Unable to remove herself from the situation due to being in a confined space, Cathleen started to feel uneasy and concerned that the abuse could escalate. Cathleen began to record the incident on her mobile phone and as soon as it was possible, she left the bus hoping that her antagonists did not follow. It was only when Cathleen had visited the police station and she was giving her statement that she realised how much the incident had affected her.

Although Cathleen had encountered transphobic abuse on countless occasions she had never felt confident enough to report her experience because she did not have evidence to prove the incident had taken place and because she was concerned about how the police would respond. Research evidence illustrates that under-reporting is a significant problem within the trans community and this is thought to be a consequence of the mistreatment and mistrust that has characterised the relationship between the police and trans people<sup>32</sup>. One of the main ways of improving the levels of trust and confidence within lesbian, gay, bisexual and trans communities is through community engagement, and police forces and local governments are failing to devote the necessary time and resources to this activity. Similarly, diversity and hate crime training is key to increasing knowledge and competency within workforces, and therefore police forces and local governments need to be more transparent about the training they deliver because research suggests that hate crime victims are more likely to report their experiences if they know that frontline practitioners have been trained<sup>33</sup>.

Despite the fact that Cathleen had evidence that proved she had been targeted, her experience of the criminal justice system was still marred by problems. The Crown Office and Procurator Fiscal Service had decided to prosecute one of the perpetrators and the court date was set for December 2015. Cathleen dreaded the thought of having to appear in court in front of a jury but she welcomed the

opportunity to receive justice. She did not expect to have the court date cancelled because her evidence had been lost. Her ordeal was prolonged further when she had to wait a further eight months for her case to be heard. Although hate crime is conceptualised by public agencies through a victim-centred definition which prioritises the perception of the victim, the criminal justice system as a whole is evidence-driven and hate crime legislation in particular requires stringent evidential proof for prosecution. This experience can leave victims – and in particular vulnerable victims of persistent 'low-level' hate crimes – frustrated and additionally traumatised by the criminal justice system.

## Suggested Actions

- Police forces, local governments and other relevant partner organisations need to evaluate the credibility, effectiveness and relevance of their existing diversity training in order to ensure that frontline practitioners have the knowledge and skills to support hate crime victims from different backgrounds.
- Police forces and local governments need to ensure that frontline practitioners have the time and resource to take part in community engagement which facilitates a meaningful and continued dialogue with diverse communities and with different sections of these communities.

“ I am tougher than most because I have had to be ... If an incident is 'low-level' or the perpetrator is young than I just let it slide but if I sense that the situation is more dangerous then I assess whether I should walk or run away or whether I need to be physically ready to defend myself.

Cathleen

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<sup>32</sup> See, for example, Antjoule (2016) and Chakraborti and Hardy (2015)

<sup>33</sup> See, for example, Hardy and Chakraborti (2016) and Trickett (2016)

# David's Story

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David Lees, who was born and brought up in Glasgow, moved to London after graduating from University to pursue a career in the furniture industry. For David, being targeted on the basis of his sexuality is a regular occurrence; at best he gets called abusive names once or twice a month but, at worst, it can happen three or four times a day. Typically David tries to ignore experiences of homophobic abuse but on one occasion last year he had had enough.

In September 2015 David and his boyfriend were walking home after attending a party in Bow. As they crossed the street holding hands a man, who was with his girlfriend, shouted "faggots". David and his boyfriend turned around and tried to challenge the man about his language and instantly he became confrontational, pushing David and his boyfriend. The altercation had caused people to open their curtains, and the man and his girlfriend began to walk away but continued to shout homophobic abuse and threats of violence. David again tried to approach the man to ask why he thought he had the right to abuse him.

The situation escalated when a group of four young males got out of a car and passed a glass bottle to the main abuser who then threw it at David. The group of males launched an attack on David and his boyfriend forcing them to the ground, kicking them in the face and ribs. By the time the police had arrived the attackers had disappeared. Initially David was met with a positive and proactive response from the police. The officers who arrived at the scene asked David if he thought that the attack had been motivated by hostility towards his sexuality. They also apprehended the perpetrator and brought him in for questioning. However, following the attack days passed and David had not heard anything about the investigation. Feeling powerless at not knowing how his case was being dealt with by the police, he turned to a lesbian, gay, bisexual and transgender charity for advice and support.

The charity helped David to find out that although the young men had been traced they had not been charged, and neither had the main perpetrator because he alleged that he had attacked David in an act of self-defence. In the absence of conclusive CCTV evidence, the police explained to David that although he could proceed with the case, it was likely that he would also be charged with affray. This course of events left David feeling shocked and angry that he was being treated as a perpetrator. In the context of this case, the police had failed to conduct a thorough investigation because they had not collected all of the relevant evidence, including testimonies from witnesses at the scene. The impact of this attack

on David was compounded by the fact that he was not informed about the process of the investigation or kept up to date with the progress. Throughout this ordeal the only support mechanism that David received was "a couple of emails" from an LGBT Support Officer, which is why he took upon himself to find an a specialised organisation that could provide the emotional and practical support that he required

## Suggested Actions

- Police and Crime Commissioners need to ensure that all hate crime victims are referred to and contacted by an appropriate support service that can address the specific needs of the victim.
- Police forces need to monitor whether investigating officers are following the guidance set out within the College of Police Hate Crime Operational Guidance<sup>34</sup> document in order to ensure that all relevant evidence from victims, witnesses and other relevant sources is collected.

“

**When people shout homophobic abuse it just makes me feel so angry. Anger that someone feels that confident to express their bigoted views in public ... to some extent I let the verbal abuse wash over me, which is sad, but since being physically attacked I feel so much more self-conscious about holding my partner's hand or being affectionate reason**

David

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<sup>34</sup> College of Policing (2014)

# Grace's story

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When 26-year-old Grace<sup>35</sup> met Jack in 2014 she felt as though she had met her soul mate but over the next six months their relationship was tested. Jack's family and friends took it upon themselves to show their dislike for Grace, who was a British citizen, and for their interracial relationship, by expressing and posting offensive comments which had racist, xenophobic and sexist undertones. Grace, who had no family members or friends living in the local area, was made to feel that she was not welcome and that she would never be accepted by Jack's family or friends and as a result Grace became increasingly isolated and withdrawn. The impact upon Grace and their relationship was so severe that the couple decided to move to a different city to start afresh.

The ordeal did not stop there. In May 2015 Grace's life was again shattered by hate crime; she began to receive racially abusive messages on Facebook from a group of males who were former 'friends' of her partner. These messages made explicit threats of violence towards Grace and were clearly motivated by hostility towards her race, as demonstrated by the following selection of quotations:

"She's a slitty eyed mental trench gook who needs to be chopped up and binlined and dumped in the canal."

"£20 worth of crack in bham and you'll have an aids ridden black crack head raping her."

"I think we should all get pellet guns and all wait outside her work and shoot the fuck into her."

"I reckon we send a couple of harp pipe hitting niggers around."

"Report it because she's got slanted eyes! Get [name] to sort her out he knows how to get round to these yellow skin freaks."

"We need to stab the cunt."

Grace had no idea what her tormentors looked like or why they were so hostile towards her. Frightened that these threats of violence might be acted upon, she reported this hate crime to the police via 101, a non-emergency number which members of the public are encouraged to use.

From the very first interaction that Grace had with the police she was let down. After explaining the nature of her victimisation

to the police operator, she found them to be disinterested and unhelpful. Though Grace was told that an officer would follow-up on her case, days passed without contact being made which compounded her anxiety. She called the police again only to be met with the same uncompassionate response. At no point was Grace offered or referred to support services despite her telling the call handler how much the incident was affecting her.

Throughout the investigation the police failed to handle Grace's victimisation with the sensitivity, empathy and seriousness it deserved. The case was not identified or recorded as a hate crime and a decision was taken not to prosecute despite Grace having evidence to support her claims. To make matters worse, officers attempted to placate Grace by telling her that the perpetrators "were not really racist ... only immature men who were joking." Grace's story exemplifies the very real disconnects that exist between what in the eyes of the state can seem like a comprehensive hate crime policy framework and what in the eyes of the victim can feel like an intimidating and unwieldy criminal justice system.

## Suggested Actions

- Police forces, local governments and other organisations who act as the first point of contact for hate crime victims need to comply with the principles set out within the Code of Practice for Victims of Crime<sup>36</sup> to ensure that responses are timely, compassionate and transparent.
- Police forces, local governments and other relevant partner organisations need to develop training packages for frontline practitioners to improve their knowledge of hate crime that takes place online and their confidence in dealing with this form of crime.

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**I was psychologically traumatised and my outlook on life has changed not only because of the crime that was committed against me but also by the way the police handled the case ... I still get anxiety and panic attacks.**

Grace

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<sup>35</sup> Grace felt unable to reveal her true identity because of her fear of future victimisation

<sup>36</sup> Ministry of Justice (2015)

# Hanane's story

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On 13 October 2015 Hanane Yakoubi – who was 34 weeks pregnant – was travelling on a bus in north-west London. Unprovoked, a passenger on the bus started berating Hanane and her two family members for talking in their native language. For the next five minutes, Simone Joseph subjected Hanane and her family to a vile barrage of abuse, calling them “sand rats” and “ISIS bitches”, accusing them of supporting Islamic State and hiding bombs in their clothing, and telling them that:

“I don't fucking like you people because you're fucking rude. You come to England and you have no fucking manners... Go back to your fucking country where they're bombing every day. Don't come to this country where we're free.”

The whole experience was terrifying and humiliating for Hanane. The bus was packed full of passengers, both young and old, including Hanane's own two year old child. Simone Joseph's racist and religiously-motivated attack became more threatening when she told Hanane that: “You're lucky I don't kick you in the uterus and you'll never have a baby again”. Although no-one on the bus intervened, a witness filmed the attack on their mobile phone and uploaded it to Facebook, resulting in the video going viral. After Simone watched the footage, she handed herself in to the police. In court, Simone pleaded guilty to causing racially aggravated distress and she was sentenced to a 16 week jail term, suspended for 18 months, and 60 weeks of unpaid work.

In the month that followed Hanane's attack at least two other Muslim women were physically assaulted on public transport in London. On 3 November 2015 a Muslim woman was punched in the head, kicked in the stomach and forced off a bus in Southwark, south London. On 23 November another Muslim woman, who was pregnant, was subjected to 15 minutes of racist and religiously-motivated abuse before a man tried to punch her. In 2015 Islamophobic abuse and attacks in public areas, which includes public transport, rose by 326 per cent<sup>37</sup>. The issue of public transport and hate crime has been widely documented within research and acknowledged by government and state agencies, and yet there has been little development with respect to concrete initiatives to make public transport safer for actual and potential hate crime victims<sup>38</sup>.

Hanane's story also highlights the issue of under-reporting. Despite Hanane and her family experiencing a traumatic incident, none of them sought to report it to the police or another relevant

organisation. Research suggests that there remains significant barriers which prevent, or make victims unwilling, to report hate crime, including the ‘normalisation’ of hate crime experiences, concern about not being taken seriously, low-levels of confidence in the criminal justice system and a lack of time and emotional strength which is required to report hate crime to the police or a third-party alternative<sup>39</sup>. This case illustrates the important role that witnesses play in tackling hate crime and supporting victims because it is highly unlikely that Hanane would have received justice if the bystander had not recorded the incident. Unfortunately in many instances of hate crime, witnesses do not intervene, do not check to see if the victim is ok and do not report the incident to the police or another relevant organisation.

## Suggested Actions

- Police and third-party reporting processes need to be developed through meaningful consultation with potential and actual hate crime victims to ensure that such mechanisms are accessible to all victims and witnesses and are located in appropriate community-based settings.
- Public transport providers need to ensure that all staff members are trained in hate crime, that they have clear policies in place which enable staff members to deal with hate crime when they are committed, and that available CCTV is of sufficient quality to improve the chances of identifying the perpetrator(s).

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**I am finding it difficult to sleep at night and every time I go out I am afraid that something similar will happen as something like this has happened before because I am a Muslim.**

Hanane

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<sup>37</sup> Tell MAMA (2016)

<sup>38</sup> See, for example, Chakraborti et al. 2014 and The Scottish Government (2016)

<sup>39</sup> Chakraborti and Hardy (2015)

# Michael's story

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Michael Bailey is a 61-year-old father of three who suffers from a muscle-wasting disease. He was terrorised by local youths for more than seven years on the basis of his disability. It began when a group of young people, who were aged between 10 and 18 years old, started to congregate on the path outside of Michael's house in west Belfast. If they knew he was at home they would bang on the windows, throw bottles at his house and shout abusive names like "freak" and "coffin dodger".

As each year passed the harassment escalated with incidents becoming increasingly violent in nature. Michael had come to expect that he would be spat on, pushed and punched every time that he left his house. Michael experienced sustained victimisation over a prolonged period of time which included being tipped out of his wheelchair while local youths demanded his money, seeing the wheelie bin outside of his house set on fire, and having his mobility scooter torched.

The disablist attacks and harassment that Michael suffered had a devastating impact upon his emotional and physical well-being. He was afraid to leave his house or to have people visit him, terrified that his wife, children and grandchildren would also be targeted. After years of abuse Michael felt that he could not take any more and he contemplated suicide. Michael's story makes for uncomfortable reading given the similarities to Fiona Pilkington's case who, after a decade of relentless harassment from local youths and flawed responses by state agencies, killed herself and her daughter 2007. Michael had made contact with the police on more than 20 occasions. Although the Police Service of Northern Ireland (PSNI) recorded eight of these incidents, only one was categorised as a disablist hate crime. This was a missed opportunity to identify this pattern of offending as hate crime and to deal with the disablist abuse before it escalated into violence.

The PSNI officers were not the only practitioners that Michael came into contact with; he also had regular interaction with health care professionals. Not only were these practitioners aware that Michael's physical well-being was deteriorating but they themselves had been subjected to abuse from the young people who gathered outside of his house, and yet the harassment of Michael was allowed to continue. Identifying, recording and responding to hate crime is not solely the responsibility of the police service. It is imperative that service providers across all

public sector agencies receive meaningful, evidence-based training to ensure that cases such as Michael's do not happen again.

## Suggested Actions

- Police forces need to record all cases involving a disabled victim as a hate crime in order to prevent investigating officers from overlooking evidence of disablist hostility which is key to securing a successful prosecution
- Health and social care providers need to ensure that all of their staff receive training on disability hate crime to enable them to identify cases and to provide appropriate support to hate crime victims.

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**I often preferred to sit in darkness and pretend I wasn't in ... It was torture and I just didn't understand why they were doing it.**

Grace

# Monique's story

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Monique<sup>40</sup> and her children, who were originally from Ghana, have lived in the UK for approximately ten years. They initially settled in well in the West Midlands, a process which was made easier by the children's ability to pick up the English language quickly and by how welcoming their immediate neighbours were. Monique soon found a job working at a local school and she was happy with the decision she had made to come to the UK to provide a better life for her family.

Things began to change for the family in the weeks building up to the referendum on the UK's position in the European Union. Monique's children started experiencing racist hostility at school, and were told by other school children that they would be kicked out of the country soon. Having had traumatic and unsettled early years the bullying had a huge impact on the emotional wellbeing of Monique's children. They became withdrawn and it affected their confidence both at school and at home. Fortunately the school welcomed intervention from the local hate crime partnership that was already providing the family with emotional support. Workshops about bullying and its impact were delivered to several classes and that, coupled with disciplinary action taken by the school, not only helped to diffuse the situation but also helped Monique's children to overcome their ordeal.

Once the referendum result was revealed, however, the family suffered hate crime again. For the first time since coming to the UK Monique experienced explicit racist abuse. She was called "Nigger" and "Wog" and on one occasion was spat at and told to "Fuck off back home where you belong, we don't want you here anymore". Monique began to lose faith in the friendships that she had developed over the years. She grew increasingly anxious, stopped going out on her own and even lost her job because her physical health had deteriorated.

The racist abuse that Monique and her family experienced cannot be detached from the toxic political climate that was created in the weeks leading up to the referendum on the UK's membership to the European Union. The issue of 'immigration' dominated political speeches and front pages, and in turn the scaremongering fuelled and legitimised hostility towards minority ethnic and faith communities<sup>41</sup>. Monique, along with the thousands of other victims who experienced pre- and post-Brexit hate, were failed by politicians who stoked up fear and hatred for political gain.

After initially trying to ignore the racist abuse that she had encountered, Monique decided to report the incidents to the

police. Monique felt that her victimisation was dismissed by officers because she had not reported the incidents at the time in which they happened. Monique continued to report hate crimes as and when she experienced them but, again, she was disappointed by the response that she received. Monique was visited by police community support officers on multiple occasions who told her that they were unable to investigate the hate crimes because there was no independent witness to her victimisation. The police failed in their duty because they did not take Monique's statement or even try to collect any evidence such as CCTV footage. As a result of her victimisation and her experience with the police, Monique has been left feeling isolated, unwanted and worthless.

## Suggested Actions

- Politicians need to adopt a more responsible tone when discussing issues relating to immigration and diversity in order to minimize the risk of legitimising hate crime.
- National and local governments need to be more proactive in condemning inaccurate media reporting.

“

**The biggest injustice in this case is that Monique's faith and confidence in society and in the police have been shattered. The police did not seem to understand or care about the impact that these experiences have had upon Monique and her family's lives.**

**Anna McLauchlan, CACH Coordinator**

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<sup>40</sup> Monique felt unable to reveal her true identity because of her fear of future victimisation.

<sup>41</sup> See, for example, United Nations Committee on the Elimination of Racial Discrimination (2016) and Equality and Human Rights Commission (2016)

# Paul's story

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In January 2015 Paul Finlay-Dickinson lost his long-term partner Maurice to cancer but was unable to fully grieve his death because he was being harassed and threatened by local youths. In the 18 months leading up to Maurice's death, the couple were regularly subjected to homophobic abuse, their house was vandalised and faeces was pushed through their front door. The torment continued when a memorial card announcing Paul's death was posted to the house and opened by Maurice who was terminally ill at this stage. Even the rainbow flag that Maurice had wanted draped on his coffin was defaced with faeces.

After Maurice died, and with the homophobic attacks unrelenting, Paul felt that he could no longer live in his north Belfast home. In June 2015 Paul was getting ready to move into a new house, which he thought would bring an end to the harassment that he had endured for so long. However, before Paul could move in to the property a group of young people smashed the windows and daubed graffiti on either side of the front door, which read 'pedo'. Paul was too afraid to move into the house.

Homophobia is still widespread in Northern Ireland and gay rights campaigners have expressed concern that politicians and faith community leaders continue to reinforce prejudiced attitudes towards gay people. For instance, in reference to Paul's victimisation the Chair of Changing Attitude Ireland Dr Richard O'Leary, noted that:

*"The DUP has for decades led verbal and legal assaults on gay people. From its Save Ulster from Sodomy campaign, to its opposition to civil partnership, to its current proposed conscience clause."*

He also highlighted that Christian leaders in Northern Ireland have referred to same sex relationships and to gay people as "sinful", "evil", an "abomination" and "intrinsically disordered". This discourse has helped to create a climate in which homophobic hostility is seen as acceptable and legitimate.

Like many other victims of hate crime, Paul's was targeted and tormented by young people. Discussing sexual orientation, and in particular homosexuality, is still considered contentious in many schools in Northern Ireland and across the UK more broadly. All too often teachers and support staff are not trained on how to effectively educate young people about sexual orientation or to deal with homophobic expressions and incidents when they arise

(Time for Inclusive Education, 2016). It is likely that prejudiced attitudes and hate crime perpetration will continue to flourish until the state prioritises and invests in training for practitioners and in meaningful educational initiatives on all diversity-related themes.

## Suggested Actions

- National and local governments need to develop equality, diversity and hate crime training packages that can be utilised by primary and secondary schools in order to equip teachers with the required levels of knowledge and confidence to tackle prejudicial attitudes.
- National and local governments and Police and Crime Commissioners need to invest in and evaluate restorative justice interventions for hate crime cases as a way of addressing underlying prejudices and providing an alternative to custodial punishment.

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**I am being segregated and attacked because of my sexual orientation ... something needs to be done, I cannot take much more.**

Paul



# BARRIERS TO JUSTICE AND RECOMMENDATIONS

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This aim of this report has been to highlight faultlines and areas for improvement in the context of state responses to hate crime, and the case studies are illustrative of the range of barriers that victims face in accessing justice and support. The case studies feature people who come from different backgrounds, live in different geographical locations and have suffered different forms of victimisation, but the unifying thread through each of their stories is that state policy is failing to materialise into consistent and effective practice. The case studies document flaws in the prevention, investigation and prosecution of hate crime and highlight that these problems are not confined to any one particular state agency, part of the UK or to a specific victim group. This section of the report outlines some of the ways in which the state is failing in its duty to prevent and tackle hate crimes, and identifies how state organisations can work towards addressing these problems in order to give greater protection to victims of hate crime.

## Failure to increase public awareness of hate crime across all sections of society

Many victims of hate crime – as illustrated by the case studies included within this report – are unaware of the term ‘hate crime’, of what forms and types of crime can be considered as hate crime, of what hate policy and legislation exists, and of where they can access support services. As a result of this lack of knowledge, victims are suffering in silence and being denied justice. In recent years public agencies have devoted a significant amount of time and effort to developing awareness-raising campaigns at a local and national level. However this report, along with the findings from a range of other studies, highlights that these initiatives are failing to reach people at a grassroots level, particularly those who belong to socially and economically disadvantaged communities<sup>42</sup>. In order to overcome these barriers, public sector agencies need to tailor awareness raising mechanisms so that they connect more meaningfully with different sectors of society. This can only be achieved when organisations involve representatives from a diverse range of communities and groups in the design and implementation of the campaigns. This will ensure that the key messages resonate with specific groups and will enable practitioners to identify more appropriate, community-based locations to publicise the material.

**Recommendation:** Police and third-party reporting processes need to be developed through meaningful consultation with potential and actual hate crime victims to ensure that such mechanisms are accessible to all victims and witnesses, and are located in appropriate community-based settings.

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<sup>42</sup> See, for example, Chakraborti et al. (2014) and Hardy and Chakraborti (2016)

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## Failure to prioritise meaningful community engagement

Over recent years public sector agencies have been forced to make significant cuts to their services and staff as part of government austerity measures. One of the areas hardest hit has been community engagement, and many frontline practitioners working within police forces, local governments and other relevant partner organisations have less time and fewer resources to meaningfully engage with local communities and diverse groups<sup>43</sup>. Community engagement is beneficial both to members of the public and to public sector agencies because it helps to enhance practitioners' understanding of different communities and local tensions; it ensures that community members have their voices heard; and it leads to the development of policy and practice that is rooted in real-life experiences.

With regard to hate crime, meaningful engagement between public sector agencies and those groups who are especially vulnerable to targeted hostility is key to increasing awareness of what hate crime is, where it can be reported and where support can be accessed. Given the numerous benefits that come from community engagement it is crucial for public sector agencies to be given sufficient resource and support to facilitate effective dialogue with diverse groups in order to ensure that practitioners have the capacity to work with the communities who need them most.

**Recommendation:** Police forces and local governments need to ensure that frontline practitioners have the time and resource to take part in community engagement which facilitates a meaningful and continued dialogue with different communities and with different sectors of these communities.

## Failure to provide effective, evidence-based training

The case studies featured within this report illustrated a failing amongst practitioners to deal with hate crime and hate crime victims in a manner that is victim-centred, sensitive and empathetic. Unfortunately this experience is not uncommon, and research has shown that many hate crime victims feel frustrated, disappointed and distressed by the inadequate response that they receive from public sector agencies<sup>44</sup>. As this report has illustrated, the impact of hate crime upon victims and families can be devastating and the emotional stamina and time required to report hate crime is substantial. Receiving an uncompassionate and dismissive response will not only diminish victims' confidence in public sector agencies and the likelihood of them coming forward to report in the future, but will also compound the damage already caused by the incident.

The most effective way to improve practitioners' understanding of hate crime and its impacts is through tailored and up to date training. In the context of escalating levels of hate crime across the UK, changing demographics within local areas and increased demands upon public services, it is crucial that public sector agencies commit to providing evidence-based diversity and hate crime training for practitioners at all levels. Moreover, organisations should be encouraged to publicise the training that staff receive to the general public in order to increase levels of confidence amongst those who have experienced – or who are at risk of experiencing – hate crime. Research evidence shows that hate crime victims are largely unaware of the training undertaken by frontline practitioners within police forces, local authorities and other relevant partner organisations and also highlights that practitioners themselves feel that they need more training<sup>45</sup>.

**Recommendation:** Police forces, local governments and other relevant partner organisations need to evaluate the credibility, effectiveness and relevance of their existing diversity training in order to ensure that frontline practitioners have the knowledge and skills to support hate crime victims from different backgrounds.

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<sup>43</sup> Burrall and Carr-West (2009)

<sup>44</sup> See, for example, Chakraborti et al. (2014) and Chakraborti and Hardy (2015)

<sup>45</sup> See, for example, Trickett (2016) and Chakraborti and Hardy (2015)

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## Failure to embed diversity-related themes within the curriculum

Michael's and Monique's stories illustrated that children and young people not only hold and express prejudiced views, but also that they are capable of engaging in acts of hate crime. The teaching of a diverse curriculum, which promotes understanding and acceptance of all, is key to preparing children and young people for life in modern-day Britain. However, in recent years issues of equality and diversity have been overshadowed by the state's requirement for schools to actively promote British values. Government guidance stipulates that schools must champion the traditional 'British' values of democracy, rule of law, individual liberty and mutual respect and tolerance for those of different faiths and beliefs. The guidance, however, fails to provide instruction on how schools, and teachers in particular, can deliver on this duty. Moreover, diversity within the context of this guidance is limited to issues of race, religion and culture and thus places no obligation on promoting and educating young people about all forms of diversity.

Within the context of Scotland the decentralised model of education has resulted in significant inconsistency and a lack of responsibility and ownership within local authorities, teachers and schools<sup>46</sup>. Similarly, this report has illustrated that schools within Northern Ireland continue to be segregated along the lines of religion, significantly preventing the potential of cross-community engagement<sup>47</sup>. To combat prejudicial attitudes before they give rise to acts of hate, and before potential perpetrators get drawn into the criminal justice system, the state should seek to embed the teaching of equality and diversity within the curriculum in order to ensure that these themes are engaged with in a manner that feels meaningful, wide-ranging and current.

**Recommendation:** National and local government need to develop equality, diversity and hate crime training packages that can be utilised by primary and secondary schools in order to equip teachers with the required levels of knowledge and confidence to educate young people about diversity and to tackle prejudicial attitudes.

## Failure to invest in rehabilitative programmes and restorative justice

In response to the EU referendum-related spike in reported hate crimes earlier this year, Home Secretary Amber Rudd stated that she would pursue harsher punishments for hate crime perpetrators<sup>48</sup>. Punitive responses of this ilk have dominated the criminal justice approach to hate crime perpetration, despite there being mounting research evidence which has raised questions over the appropriateness and effectiveness of such responses. Prison does not prevent or deter people from committing hate crime but may actually reinforce prejudicial attitudes, and it offers little opportunity for meaningful rehabilitation work to take place<sup>49</sup>. Furthermore, recent studies have found that even those who have been affected by hate crime are keen to see police forces, local authorities and other relevant partner organisations making much greater use of educational interventions and restorative approaches to facilitate justice<sup>50</sup>. A significant proportion of victims reported that conventional methods of punishment can reinforce the inhumane and degrading treatment that they have already suffered at the hands of the perpetrator, whereas restorative approaches in particular can empower victims, providing a rare opportunity for their voice to be heard.

Effective responses to hate crime perpetration require state organisations to invest in smarter forms of punishment, and not harsher punishment. Currently, there is little understanding of why people commit hate crimes, whether there are different factors that motivate different forms of hate crime, and what works in the context of rehabilitating hate offenders. It is only through the generation of a solid evidence base that police forces, local government and other relevant partner organisations will be able to develop and deliver educational and rehabilitative programmes which challenge underlying prejudices and prevent future offending. In this context, national governments need to support large-scale academic research which explores the profile and motivations of hate crime perpetrators but this will only garner the evidence that is required if researchers are granted access to perpetrators involved in the criminal justice system which typically has been denied to them. Furthermore, national governments should work with criminal justice agencies and other relevant organisations to conduct and publish the results of an independent review of existing educational and rehabilitative programmes in order to identify good practice.

**Recommendation:** National and local government and Police and Crime Commissioners need to invest in and evaluate educational and restorative justice interventions for hate crime cases as a way of addressing underlying prejudices and providing an alternative to custodial punishment.

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<sup>46</sup> The Scottish Government (2016a)

<sup>47</sup> Department for Education (2016)

<sup>48</sup> Home Office (2016)

<sup>49</sup> Hall (2013)

<sup>50</sup> See, for example, Chakraborti et al. (2014) and Walters (2014)

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## Failure to resource community and voluntary support services

Many of the hate crime victims featured within the case studies in this report felt that a third-sector organisation or a voluntary-run group was the only place that they could turn to for support. This finding is in line with recent research which suggests that hate crime victims are more likely to access emotional and practical support from small, localised community-based groups rather than the more familiar, mainstream organisations<sup>51</sup>. Frustratingly for victims and practitioners, these services have been acutely affected by ongoing government spending cuts with research evidence suggesting that locally-run, voluntary support groups for asylum seekers and refugees, women, people with mental ill-health, and lesbian, gay, bisexual and trans communities, to name just some examples, are reducing their services or are having to stop running altogether<sup>52</sup>. Although the impact will be felt in different ways across different areas, many towns and cities have lost vital services such as mental health organisations, services for asylum seekers. Given the key role that voluntary and community services play in providing support to hate crime victims and to some of the most vulnerable and marginalised members of society, it is imperative that the government provides resource to ensure the continued existence of these organisations and services.

**Recommendation:** Police and Crime Commissioners need to ensure that all hate crime victims are referred to and contacted by an appropriate support service that can address the specific needs of the victim.

## Failure to support victims of online hate

The expression of hate through online networks, and the impact of this form of victimisation, has been relatively peripheral to the priorities of politicians, practitioners and academics. It was only very recently that the Crown Prosecution Service produced guidance which framed online platforms as ‘public spaces’, thereby enabling prosecutions to be brought under the Public Order Act as well as the Malicious Communications Act<sup>53</sup>. Despite the development of legal provisions to combat online abuse and hateful content, the vast majority of hate crime victims still experience a woefully inadequate criminal justice response. Although the UK government action plan to tackle hate crime stated that it will continue ‘to support the work of existing initiatives to tackle hate online, including through the Cyberhate Working Group’<sup>54</sup>, state agencies and practitioners remain ill-equipped to respond to and support those affected by online hate crime. Public sector organisations need to be appropriately resourced and trained in order to overcome the ‘prevalence versus capacity’ problem and to build confidence in actual and potential victims of online hate<sup>55</sup>.

**Recommendation:** Police forces, local governments and other relevant partner organisations need to develop training packages for frontline practitioners to improve their knowledge of hate crime that takes place online and their confidence in dealing with this form of crime.

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<sup>51</sup> Hardy and Chakraborti (2016)

<sup>52</sup> See, for example, Chakraborti et al. (2014) and Elkins (2012)

<sup>53</sup> Williams and Pearson (2016)

<sup>54</sup> Home Office (2016)

<sup>55</sup> Williams and Pearson (2016)

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## Failure to make public transport safe

The impact of being targeted on public transport can be devastating because for many it is the only mode of travel that they have access to. Following the vote to leave the European Union reports of racist hate crime on British railways was up 78 per cent on the same period in 2015<sup>56</sup>. Research has identified that public transport is a risk-laden environment for all hate crime victim groups, but particularly those with learning difficulties and/or physical disabilities and Muslim women<sup>57</sup>.

The issue of hate crimes committed on public transport appears to have risen up the government agenda, with the new action plan to tackle hate crime stating that<sup>58</sup>:

We will work with British Transport Police to ensure that the current system allowing passengers to report crime and incidents on the railway through text messaging is used to its full potential for hate crime reporting.

The NPCC will host a series of roundtable events with public transport providers and community groups.

We will work with local transport providers to ensure that bus drivers across England and Wales are fully equipped to challenge hate crime. This will include new guidance for drivers to support them when confronted with hate crime.

However, issuing guidance and hosting roundtable events is unlikely to lead to any tangible benefits for those who are subjected to abuse or attacks on public transport. In order to tackle hate crime on public transport the government and state agencies must deliver more meaningful strategies including awareness-raising campaigns that resonate with both victims and witnesses, hate crime training for all members of staff who work on transport and fully-functioning and clearly visible CCTV cameras.

**Recommendation:** Public transport providers need to ensure that all staff members are trained in hate crime, that they have clear policies in place which enable staff members to deal with hate crime when they are committed, and that available CCTV is of sufficient quality to improve the chances of identifying the perpetrator(s).

## Failure to provide parity in legislative protection

As outlined earlier, England and Wales, Northern Ireland and Scotland have all implemented legislative provision which allows enhanced penalties to be imposed on convicted hate crime perpetrators. However, this provision does not offer equal protection to hate crime victims. For example, aggravated offences only cover race and religion in the context of England and Wales and race in Scotland. These substantive 'stand-alone' offences have their own set of maximum sentences which are higher than the corresponding maximum sentences for the basic offence versions. In contrast, crimes motivated by hostility towards other identity characteristics are sentenced within the parameters of the sentencing tariff for basic offences. In the context of Northern Ireland, trans people do not have any form of legal provision for hate crime.

In 2014 the Law Commission conducted a consultation on existing hate crime laws within the UK and concluded that 'it is undesirable for the aggravated offences not to apply equally to hostility based on race, religion, transgender identity, sexual orientation and disability' because the unequal provision 'sends the wrong message about the impact of such offending and the seriousness with which it is taken'<sup>59</sup>. The Law Commission urged the government and criminal justice agencies to undertake a more extensive review of the hate crime legal framework within the UK to assess whether the current system meets the needs of hate crime victims. As of yet however, a review has not been commissioned. Within the prevailing climate of rising levels of hate crime and rising levels of victim dissatisfaction, proposing amendments to the complex and unequal legal frameworks that have been created would reinforce the government's commitment to generating meaningful improvements to hate crime policy, and not simply tough rhetoric, and would send out a powerful, and much needed message that all forms of prejudice are condemned and punished equally.

**Recommendation:** National governments need to act upon the recommendations outlined by the Law Commission to undertake a comprehensive review of the appropriateness of existing legislative provision and to use the findings of this review to change existing laws to ensure that all forms of hate crime are viewed and treated equally.

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<sup>56</sup> Worley (2016)

<sup>57</sup> See, for example, Chakraborti et al. 2014 The Scottish Government (2016a) and Walters, Brown and Wiedlitzka (2016a)

<sup>58</sup> Home Office (2016)

<sup>59</sup> Law Commission (2014)

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## Failure to maintain a responsible tone around issues of immigration and 'difference'

It has been widely recognised that the divisive and anti-immigrant rhetoric espoused by British politicians during the build up to the European Union referendum contributed to the surge in hate crimes following the outcome of the vote<sup>60</sup>. To some extent the tone of debates during the referendum campaigns is symptomatic of how xenophobic and prejudicial sentiment has seeped into mainstream politics across the UK. This can be seen through political discourse and policies that have unfairly demonised some of the most vulnerable and marginalised groups in society, including asylum seekers and refugees, disabled people and Muslim communities.

It is this rhetoric that has created a toxic climate in which the targeting of people on the basis of their identity is seen as legitimate and acceptable; in which the demonisation of particular groups and communities within sections of the British media has gone unchecked; in which an atmosphere of fear, intolerance and hostility has fuelled the increase of hate crimes against visible 'others'; and in which those who seek to promote cohesion and tolerance have come under increasing attack, sometimes with fatal consequences as we saw with the murder of MP Jo Cox earlier this year. Collectively, these challenges underline the pivotal role that the government and other state agencies have in setting the tone for a more humane dialogue around issues of immigration and 'difference' and in clamping down on inaccurate and irresponsible discourse.

**Recommendation:** National and local governments need to adopt a more responsible tone when discussing issues relating to immigration and diversity in order to minimize the risk of legitimising hate crime and to be more proactive in condemning inaccurate media reporting.

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<sup>60</sup> See, for example, United Nations Committee on the Elimination of Racial Discrimination (2016) and Equality and Human Rights Commission (2016)

# Annex A

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**Table 1: Framework of UK hate crime legislation**

England and Wales	
Legislation	Legal Provision
<b>Public Order Act 1986</b>	Section 17 created offences of stirring up racial hatred through the use of threatening, abusive or insulting words, behaviour or written material. In 2006 and then again in 2008 this provision was extended to cover incitement on the grounds of religious identity and sexual orientation.
<b>Crime and Disorder Act 1998</b>	Section 28 to 32 created a number of racially aggravated offences related to assault, criminal damage, public order and harassment. This piece of legislation was amended through the Anti-Terrorism, Crime and Security Act 2001 to additionally cover religiously aggravated offences.
<b>Criminal Justice Act 2003</b>	Section 145 made racial aggravation applicable to all offences. Section 146 introduced sentencing enhancement provision for any offences that are proven to be aggravated by hostility towards sexual orientation and disability. This act was amended through Section 65 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to extend the same legal provision for transgender identity.

Northern Ireland	
Legislation	Legal Provision
<b>Public Order (NI) Order 1987</b>	Part 3 created offences of stirring up racial hatred through the use of threatening, abusive or insulting words, behaviour or written material. In 2001 and then again in 2004 this piece of legislation was amended to include incitement on the basis of disability, religious belief and sexual orientation.
<b>Criminal Justice (No 2) (Northern Ireland) Order 2004</b>	Section 2 provides the courts with the power to increase the sentence for any offence where it is proven to have been aggravated by hostility towards a person's race, religion, political orientation, sexual orientation or disability.

# Annex A

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Scotland	
Legislation	Legal Provision
	Section 17 created offences of inciting racial hatred through the use of threatening, abusive or insulting words, behaviour or written material.
<b>Crime and Disorder Act (Scotland) 1998</b>	Section 96 established provisions on racial aggravation, and section 33 of the same Act created a specific statutory offence of racially aggravated harassment. This piece of legislation was later amended by Section 74 of the Criminal Justice (Scotland) Act 2003 to cover religiously aggravated offences.
<b>Offences (Aggravation by Prejudice) Act 2009</b>	Section 1 and 2 of this Act introduced offences aggravated by prejudice related to disability, sexual orientation or transgender identity. It provided the courts with the power to enhance a sentence where the aggravated element is proven.
<b>Offensive Behaviour at Football and Threatening Communications Act 2012</b>	This Act covers offensive behaviour in relation to certain football matches, as well as the communication of threatening material aggravated by sectarianism.



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# NOTES

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UNIVERSITY OF  
LEICESTER

THE CENTRE FOR  
HATE STUDIES

Department of Criminology  
University of Leicester  
Leicester, LE1 7RH, UK  
t: +44 (0)116 252 3784  
e: [sjh128@le.ac.uk](mailto:sjh128@le.ac.uk)  
[www.le.ac.uk/centreforhatestudies](http://www.le.ac.uk/centreforhatestudies)

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