# COMMUNITY SAFETY PARTNERSHIPS' POLICIES IN RELATION TO DISABLED PEOPLE AND LGBT PEOPLE

## A Scoping Study

# Table of Contents

# EXECUTIVE SUMMARY

This report sets out the findings of research commissioned by the Disability Rights Commission (DRC) and carried out by Reid Howie Associates between July and September 2007 to identify and examine the ways in which the policies and practices of Community Safety Partnerships (CSPs), and, by extension, police forces, engage with, and reflect the needs of both disabled people and LGBT people.

## Background and policy context

Scotland's Community Safety Partnerships engage with disabled people and LGBT people in a variety of ways, many of which do not relate to their status as members of equalities groups. Some work, however, is driven by specific considerations, for example, some work on home, road and fire safety, some work relating to policing policy and work to address crime and fear of crime.

There has been an increasing focus on crime issues facing disabled people and LGBT people, in part following the recommendation of a Scottish Executive Working Group that a statutory aggravation be created covering crimes motivated by prejudice, malice or ill-will towards disabled people or LGBT people. That recommendation was not accepted by the Scottish Executive. However, the incoming Scottish Government has indicated its intention to legislate over the life of this Parliament.

Since 2004, a range of work has been undertaken to improve the information about the extent and nature of such crimes, and improve services to victims. Much of this work is building on, or being carried out in parallel to work to address racist hate crime.

There is relatively little statistical information currently available about crime against disabled people and LGBT people. The limited information which is available suggests that around 300 homophobic or transphobic crimes are reported annually, but virtually no hate crimes against disabled people. Most of the offences relate to violence and breach of the peace, and most are concentrated in cities and larger urban communities.

It is recognised that under-reporting is a major issue for crime against disabled people and LGBT people. This is compounded by

the fact that many disabled people (in particular) do not recognise that what happens to them may be an offence, or may be motivated by prejudice, malice or ill-will. For many LGBT people, there are additional factors involved in any decision to report a crime, including concerns about the impact of declaring their sexual orientation or gender identity to the police.

The impact of any form of hate crime on victims is now well-documented, with a number of pieces of recent research highlighting not only the immediate, but also the longer term impacts (which may include moving house, or being unable to leave home).

Community Safety Partnerships (CSPs) exist in each local authority area and are charged with taking a lead role in the identification and addressing of crime and disorder issues, as well as other public safety issues, within local communities. Although the exact composition varies across Scotland, all include local authorities, police forces, fire services and representatives of the voluntary sector (although not necessarily disabled people or LGBT people).

CSPs are funded in part by the Scottish Government through the Community Safety Partnership Award Programme. CSP priorities are set locally, and, for the current funding round which ends in 2008, are limited to three (which should be established with reference to an audit and available statistics, as well as through consultation with local communities).

**Main findings**

One of the issues which emerges in this report is that there is no clear pattern, either in terms of policy or practice, among CSPs in identifying and addressing community safety and crime issues affecting disabled people and LGBT people. There are variations in the level of recognition of these issues within strategies and policies, there are variations in the level and nature of engagement with disabled people and LGBT people and variations in the actions taken and initiatives in place.

There are, however, many examples of good practice and developing practice which the report highlights as a means of helping to inform the way forward.

The research identified some examples of positive developments in policy, and in fostering regular and on-going contact with disability and LGBT groups, although this may not necessarily be specifically related to crime  issues.

In some areas, however, the capacity of the voluntary and community sectors is very limited, and it was identified that this may have an impact on the likelihood that either disabled people or LGBT people would be involved in joint working.

There are also examples of positive local work being undertaken within CSPs and police forces. This includes work to address broad community safety concerns, some of which is general work applicable to the whole community. Some is directed specifically at the issues facing disabled people and LGBT people.

At a national level, there are also a number of groups seeking to take forward work, including the national network of CSPs (and the associated good practice dissemination mechanisms operated by the Scottish Government), the ACPOS LGBT Reference Group and the National Disabled Police Association.

Since the publication of the Hate Crime Working Group consultation report in 2004, there has been a general increase in the level of knowledge of, and work to address crime against disabled people and LGBT people. This is not consistent across Scotland and, although all police forces, and some CSPs regard this as a priority, this is not the case with all CSPs.

Even though no CSPs were found to have identified crime against disabled people and LGBT people as a key priority in their published strategies or action plans, some are now addressing this, in some cases as an extension of work relating to racist hate crime, while in other cases, through work relating to victimisation and victims' needs. In some cases, work is taking place even though there is no direct policy priority.

Most areas in Scotland have some form of remote reporting or third party reporting for racist crimes. In most cases, these are supported by multi-agency monitoring arrangements, usually, but not always, involving community groups.

In some areas, largely in central Scotland, remote reporting and third party reporting is now available to disabled people and LGBT people, often with support to victims being available through specialist voluntary organisations (supplementing the support available to all victims through Victim Support Scotland). The availability is, however, very patchy, with gaps both in terms of geography and group.

One of the key difficulties facing CSPs in establishing remote or third party reporting with support to victims is the lack of capacity within the voluntary sector. Few disability and LGBT organisations exist outside urban areas, and this, combined with the limited capacity of those which do exist, clearly constrains the wider implementation of remote and third party reporting, even where there is a general willingness to do this.

A number of racist incident monitoring groups have been extended to include crime against disabled people and LGBT people, as well as, in some cases, other groups. In other areas, police forces, through lead officers or mainstream management arrangements, are undertaking monitoring of both crime and remote reporting data.

These arrangements are being supported by improvements in police recording systems, which now allow data to be gathered about "hate" crimes against disabled people and LGBT people. In most areas, data collection is at an early stage, and there appear to be some inconsistencies in the categories used. It is also likely that officers are not yet using the flags in all cases where these would be appropriate.

In some areas, particularly in police and fire services, but also in some CSPs, there has been a significant investment in diversity training, in some cases related to the establishment of remote reporting.

Some police forces were also found to have undertaken a wide range of other community safety and awareness-raising work with both disabled people and LGBT people.

At a basic level, both CSPs (via partner organisations) and police forces have also been undertaking work to improve the diversity of their workforces.

All CSPs will be required to prepare strategies, and make bids to the Scottish Government for the period 2008 – 2011. In terms of future work, mixed views were identified about the likely level of priority which would be afforded to crime against disabled people and LGBT people.

Interviewees in those areas where work is currently underway identified that this is likely to continue. Some of the areas where such crime issues are recognised, but no work is current being undertaken, suggested that it was likely that a higher priority would be given to this. However, some CSPs indicated that crime issues relevant to disabled people and LGBT people would not be likely to be given priority. The main reason cited for this was a current lack of evidence that it was an issue.

The effect of these intentions is likely to be that the current disparities in approach will be heightened, with increasing emphasis on identifying and addressing crime motivated by prejudice, malice or ill-will against disabled people and LGBT people in some areas, but no specific focus on this in others.

**Recommendations**

The report makes recommendations in a number of areas.

Some recommendations relate to **legislation, policy and guidance** and include suggestions for: legislation to create a statutory aggravation of hate crime targeted at disabled people and LGBT people; definitions of "hate crime" and relevant groups; supporting guidance to all CSPs, which can be used to develop "flags" in police systems to identify such crimes; a requirement for CSPs to make specific reference to equality and crime motivated by prejudice, malice or ill-will in their new strategies and for Disability Equality Schemes to make reference to the need to address such crime; a requirement for CSPs to undertake equality impact assessments in partnership with disabled people and LGBT people; minimum standards for local responses to crime; and consideration of the implications of new policy developments for disabled people and LGBT people.

Some recommendations relate to the **overall structure for tackling community safety and crime issues relevant to**

**disabled people and LGBT people** and include suggestions for: a national cross-strand partnership to examine and address crime against equalities groups; support mechanisms for all groups affected by hate crime; a designated lead officer for disabled people and LGBT people in all police forces, and "champions" in other relevant organisations; clear links between relevant organisations and arrangements in all CSPs for the input of views of disabled people and LGBT people; the development of capacity within voluntary and community organisations to support engagement; the development and publicising of remote reporting arrangements; and investigation of the feasibility of establishing a national baseline service to support disabled people and LGBT people who wish to use remote and third party reporting in areas where this is not currently available.

Some recommendations relate to the **ongoing monitoring of crime against disabled people and LGBT people**, and the evaluation of initiatives, and include suggestions for: a regular statistical bulletin accompanied by anecdotal information about developments; regular research to examine experiences of crime motivated by prejudice, malice or ill-will, and inclusion of this in community surveys; regular discussion of such forms of crime at CSPs' national networking meetings; and the evaluation of initiatives to address this, with dissemination of the findings.

Finally, some recommendations relate to **information, awareness-raising and training**, and include suggestions for: awareness raising work with the general public, alongside targeted work amongst groups which may be affected by these forms of crime; the inclusion of a specific focus on crime in equality training and provision of this to representatives of CSPs; and a specific awareness-raising event on crime issues facing disabled people and LGBT people for CSPs.

The report suggests that all of these recommendations should be considered at an early stage in the work of the CEHR, to harness the current commitment to addressing hate crime and to build upon existing examples of good practice. In turn, this should help to ensure a coherent and consistent approach to community safety and crime issues facing disabled people and LGBT people across Scotland, in terms of preventing such crime in the future, addressing the behaviour of perpetrators and providing support to those who experience it.

# SECTION 1: INTRODUCTION AND POLICY BACKGROUND

1.1    This report sets out the findings of research commissioned by the Disability Rights Commission (DRC)[1,2] and carried out by Reid Howie Associates between July and September 2007 to identify and examine the ways in which the policies and practices of Community Safety Partnerships (CSPs), and, by extension, police forces, engage with, and reflect the needs of both disabled people and LGBT people.

1.2    The research was prompted by an increasing focus on the issue of crime and its impact on both disabled people and LGBT people.

## OUTLINE OF THE REPORT

1.3    This report is in six sections. This section provides a brief introduction to the research. Section 2 summarises some of the community safety and crime issues which impact on disabled people and LGBT people. Section 3 summarises the findings of the research on the policies of Community Safety Partnerships. Section 4 examines the links between CSPs and disabled people and LGBT people. Section 5 summarises work being undertaken by CSPs to address the issues facing disabled people and LGBT people. The final section draws together some conclusions, and makes a number of recommendations.

1.4    A summary of the methodology is presented in Annex 1, with a bibliography and glossary in Annexes 2 and 3. Annex 4 provides a summary of the background to the development of policy (in Scotland) and legislation (in England and Wales) to address crimes motivated by prejudice, malice or ill-will as these impact on disabled people and LGBT people.

### Note on the presentation of material

1.5    The report deals with the material thematically, rather than by providing a summary of practice in each CSP area. The main reasons for this are two-fold. The first is that, by presenting the data thematically, it is easier to identify patterns, trends and gaps. The second is that this research cannot be regarded as an audit. It is likely that, in some areas, work will be in progress about which the central contact may have been

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[1] A brief glossary is included at Annex 3.
[2] The work of the Disability Rights Commission (DRC) will be subsumed by the Commission for Equality and Human Rights (CEHR) from October 2007.

unaware at the time of interview. In virtually all cases, information from the discussion is presented anonymously.

**THE PURPOSE OF THE RESEARCH AND METHODOLOGY**

1.6    The aims and objectives of the research are described below.

**Aims and objectives**

1.7    The aim of the policy scoping study as set out in the brief was:

*"… to identify and critically examine the extent to which community safety plans currently engage with, and reflect the needs and concerns of, disabled and LGBT members of the community. The report will also make recommendations on the opportunities and challenges presented by national community safety policy (e.g. the Community Safety Partnership Award Programme) and equality law (e.g. the Disability Equality Duty). The paper is to identify gaps, and what may need to change, to be improved or be introduced. The paper's conclusions will be used by the DRC and its successor organisation, the Commission for Equality and Human Rights (CEHR)."*

1.8    The policy scoping study is part of a wider piece of work, the proposed outcomes of which (again from the brief) were to:

- Provide an overview of current practice.
- Identify gaps and good practice in current community safety plans.
- Develop a set of recommendations for future community safety policy for government and the CEHR in Scotland.

**Methodology**

1.9    The research set out to provide an overview of current practice, identify gaps and good practice, and develop recommendations for future community safety policy. The study involved a number of strands, including:

- Examination of current legislation and guidance.

- Examination of current Community Safety Partnership materials.
- Telephone surveys of CSPs and police forces in Scotland.
- Inclusion of disability and LGBT organisations.
- Follow-up discussions to explore key issues.

1.10 A substantial amount of qualitative information was gathered to enable the report to "scope" the issues relating to CSPs' policies relating to disabled people and LGBT people.

**A note on terminology**

1.11 Much of this report deals with crime as it affects disabled people and LGBT people in Scotland. This falls within a broad policy area usually described as "hate crime". This encompasses crimes where the victim is a member of one or more recognised equality groups and the offender is motivated by prejudice, malice or ill-will towards the victim as a result of their membership (or perceived membership) of that equality group. (Clearly disabled people and LGBT people can also be victims of crimes where their identity as a member of an equalities group is irrelevant.)

1.12 Although such crimes are generally referred to as "hate crimes", some agencies have expressed concerns about the use of this term, and, for the purposes of this report, a fuller descriptive term, drawn from the report of a Scottish Executive Working Group on Hate Crimes (Scottish Executive, 2004b) will be generally used, specifically "crimes motivated by prejudice, malice or ill-will".

1.13 In August 2007, it was announced that the "Scottish Executive" was to be renamed the "Scottish Government". In this report, the term "Scottish Executive" is used in relation to previous policy, while the term "Scottish Government" is used in relation to current and future policy.

**THE SCOPE OF THE RESEARCH**

1.14 This research covers two equalities groups[3]:

- Disabled people.

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[3] Throughout the report, this alphabetical ordering will be used.

- LGBT people.

## Disabled people in Scotland

1.15 DRC estimates suggest that about 1 in 5 people in Scotland are covered by the DDA definition of disability, that is having "serious and long-term adverse effects on the ability to carry out normal day-to-day activities". This represents around 1 million people (DRC, 2005a).

1.16 However, it is worth bearing in mind that many of the people covered by this definition, particularly older people, do not consider themselves to be disabled, and would not use this description on reporting a crime, or seeking to obtain a service. This impacts on all forms of self-reporting in relation to disability.

## LGBT people in Scotland

1.17 The number of LGBT people in Scotland is much harder to estimate. The DTI, in trying to identify the impact of Civil Partnerships, estimated that around 6% of the UK population was lesbian, gay or bisexual (based on a literature review of then available research). Although the numbers of transgender people have not been accurately surveyed, Scottish LGBT organisations typically use 5% as a round figure for the number of LGBT people in Scotland. On this basis, it can be estimated that around 260,000 people in Scotland are LGBT.

1.18 There are, however, a range of other factors which impact on this assessment which are worth summarising here. The national figure of 6% is unlikely to be constant across the country, with a higher number of LGBT people likely to be found in cities. There are also likely to be very wide variations across Scotland (as with the whole of the UK) in the likelihood that LGBT people would be "out" to their families, friends and co-workers.[4]

1.19 This also has an impact on all forms of self-reporting. Many LGBT people who are victims of crime would not report this as crime motivated by prejudice, malice or ill-will, even where this motivation is clear, as this would require them to declare their sexual orientation or gender identity to the police.

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[4] A survey undertaken in Brighton suggested that, even there, amongst LGBT people only about 40% of women and 55% of men were likely to be out. The equivalent Scottish figure is likely to be much lower.

**OVERVIEW**

1.20 Whatever the actual numbers, there are a range of community safety issues which impact upon both of these groups, and the identification of these issues, and the ways in which these are being addressed by Community Safety Partnerships is the main focus of this research. The next section summarises the main community safety issues which impact upon disabled people and LGBT people in Scotland, before the remainder of the report presents the findings of the study.

# SECTION 2: COMMUNITY SAFETY ISSUES AFFECTING DISABLED PEOPLE AND LGBT PEOPLE

2.1   There are a wide range of ways in which community safety issues impact on disabled people and LGBT people. Although experiences as victims of crime are a major community safety issue (and will be discussed in more detail later in this section), there are a range of community safety issues which have been found to be of relevance to community safety partnerships' policies and practices for disabled people and LGBT people (although, other than direct crime issues, most relate more to disabled people than LGBT people).

## HOME SAFETY AND SECURITY AND FIRE SAFETY

2.2   It is recognised that issues relating to home safety and security and fire safety can be of specific relevance to disabled people (as well as, in a more general sense, LGBT people). It is also recognised, however, and should be stressed here, that it is vital to avoid a focus on disabled people as "vulnerable" (and this is supported by the DRC in the paper "Building Stronger, Safer Communities" (DRC, 2007)). For that reason, although these issues are acknowledged and discussed in relation to community safety partnerships' policies and activities, they are not examined in detail and this is not the main focus of this report[5].

2.3   However, in examining community safety issues, it was seen to be important to recognise that some issues are highlighted as having particular relevance to disabled people. Within the overall area of home safety, for example, it has been suggested that disabled people may experience a higher level of accidents in the home than is the case for some other members of the community. It has also been suggested that disabled people (particularly disabled people who are elderly) may experience problems with bogus callers and cold-calling or may experience anxiety about these issues. It has also been suggested that it is important to address fire safety issues for disabled people living independently in the community, and for people with learning disabilities, as well as to ensure the consideration of fire safety and measures for the evacuation of disabled people from public buildings.

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[5] For that reason, although some examples of these issues are given, this is not intended to be an exhaustive account.

**TRANSPORT AND ROAD SAFETY**

2.4    There are also some transport and road safety issues which impact upon disabled people. For example, the lack of accessible transport has been well-documented and can impact upon physical safety while travelling. In addition, while Williams et al (2002)[6] noted that there is limited research and a lack of prevalence data about the level of road accidents amongst disabled people, there is some evidence of increased risk of involvement in road accidents for children with hearing or vision impairments. They also noted that the risk of fatal pedestrian accidents among adults with learning disabilities may be two to three times greater than amongst the wider population. The report concludes that it is reasonable to assume that some disabled people are at increased risk of road accidents.

2.5    It has been identified that there are a range of other road and transport safety issues which have specific implications for disabled people, including issues relating to[7]:

- The provision of a safe and accessible transport infrastructure.
- The provision of safe and accessible transport.
- The nature and safety of pavements and surfaces.
- The need for safe crossings suitable for people with a range of impairments (including, for example, issues relating to dropped kerbs, audible signals and tactile paving).
- The availability of parking for disabled people.
- Traffic calming and speed restriction measures.
- The provision of road safety education.

2.6    These, and other transport and road safety issues can clearly have an impact on the accessibility and safety of local areas for disabled people, as well as for the wider community.

**CRIME ISSUES**

2.7    Although the above issues are clearly important, by far the most significant community safety issue in the context of this report is the

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[6] Williams, K., Savill, T., Wheeler, A. (2002) "Review of the Road Safety of Disabled Children and Adults" Wokingham: TRL Ltd.
[7] Again, this is not an exhaustive list.

impact of crime on disabled people and LGBT people, and particularly crime which is motivated by prejudice, malice or ill-will. For that reason, this was a key topic in interviews with CSP and police representatives, and provides the main focus of the presentation of the findings (although the other issues are also considered).

2.8 At present, relatively little is known about the prevalence of crime against either disabled people or LGBT people in Scotland which is motivated by prejudice, malice or ill-will. At a more basic level, relatively little is also known about the scale, nature and impact of crime generally on disabled people and LGBT people.

2.9 As will be set out in more detail below, recording systems are relatively new, and there is little statistical data currently available.

**Disabled people and LGBT people as victims of crime**

2.10 Disabled people and LGBT people, like other equalities groups, can be victims of crime for two main reasons. The first relates to offences perpetrated where the identity of the victim, or any characteristic associated with them, is essentially irrelevant. Examples of this might include domestic housebreaking, various forms of car crime and various forms of fraud. In these cases, disabled people and LGBT people are generally no more or less likely to be victims than anyone else in the population as a whole.[8]

2.11 There is very little specific evidence about the extent to which disabled people and LGBT people are victims of crimes of these types separate to more general information about prevalence for the population as a whole. Police reporting systems do not necessarily capture biographical information about victims, and, in any event, there is no central victim database which would provide information about this. Local and national crime surveys similarly do not always capture sufficient biographical information to allow disabled people and LGBT people to be separately identified.

2.12 As will be set out in Section 5, CSPs and police forces are carrying out a range of work with disabled people and LGBT people (alongside a range of other groups) to try to reduce either the likelihood of their being

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[8] It could be argued that disabled people generally have lower income levels and may therefore be at risk of increased victimisation of, for example, some forms of acquisitive crime.

victims of any form of crime, and to address support needs following an incident.

***Disabled people and LGBT people as victims of crime motivated by prejudice, malice or ill-will***

2.13 Both disabled people and LGBT people can also be victims of crime which is specifically motivated by prejudice, malice or ill-will towards them personally, or as a direct result of either being disabled, or being LGBT. In this, disabled people and LGBT people have much in common with, for example, members of ethnic minority communities, as well as members of some religious and faith groups, women and both older and younger people. As noted in Section 1, crimes are generally known as "hate" crimes, although as set out earlier, some agencies have concerns about the use of this term, with the term "crimes motivated by prejudice, malice or ill-will" being preferred.

2.14 It is also worth noting that non-disabled people and non-LGBT people can also be the victims of crimes motivated by prejudice, malice or ill-will on the grounds of disability, sexual orientation or gender identity. This can arise for two main reasons. The first is where an incident occurs and the offender mistakenly believes the victim to be either a disabled person or an LGBT person. In this case, the *motivation* is the determining factor. The second is where a non-disabled person or a non-LGBT person is a victim of an offence where other victims are either disabled people or LGBT people and where the motivation is prejudice, malice or ill-will on the grounds of disability, sexual orientation or gender identity. An example of this would be the bombing of the Admiral Duncan public house in London in April 1999.

2.15 In practice, most of the offences where the victim is a disabled person or LGBT person and the offender is likely to be motivated by prejudice, malice or ill-will are the common law offences of:

- Murder and culpable homicide.
- Attempt murder.
- Assault.
- Breach of the peace.

2.16 Such evidence as is available (largely victim testimony and information from Strathclyde police – see below) suggests that some additional offences, such as vandalism, various forms of criminal

damage and perhaps offences under the Communications Act 2003[9] are also likely to have been used in relation to incidents where the victim is either a disabled person or an LGBT person.

2.17 When an offence is committed where the motivation is considered to be prejudice, malice or ill-will towards a disabled person or an LGBT person, as will be set out later, this can be recorded by the police, and this information made available to the Crown and sentencers. This involves the use of a "flag" in police recording systems[10]. As present, there is no statutory basis to this, and this is, in effect, a policy-led initiative, supported by the police and Crown Office to improve both the recording of such incidents, and to ensure that prosecutors and courts have access to information relevant to the prosecution.

2.18 For racist and sectarian crimes, a *statutory* aggravation is available. This means that, where the Crown believes that an offence has been aggravated by the presence of a specific motivation, this is identified in the charge, and, on conviction, sentencers *must* take this into account in determining the sentence.

2.19 Although the Scottish Executive Hate Crime Working Group (Scottish Executive, 2004b) recommended that a statutory aggravation be created covering crime motivated by prejudice, malice or ill-will towards disabled people and LGBT people, this was not accepted by the Scottish Executive (Scottish Executive, 2006b). However, the incoming Scottish Government has indicated that it wishes to create such a statutory aggravation, and that this will be done during the life of the current Parliament. Such a statutory aggravation is available in England and Wales.

2.20 A detailed discussion of the background to statutory aggravations in Scotland, and the use of statutory aggravations covering disabled people and LGBT people in England and Wales is contained at Annex 4.

### Non offence incidents

2.21 It is also worth noting that many disabled people and LGBT people experience abuse and harassment which would not always be regarded as a crime if it were reported to the police, but this does not detract from

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[9] These relate to the use of, for example, mobile phones and text messages as a means of committing offences.
[10] The definition used by police forces in determining whether or not to apply such a flag is set out in detail in Annex 4.

its impact on the individuals concerned. The bullet points below have been adapted (to make them less LGBT – specific) from a survey of LGBT people across Scotland by Beyond Barriers (Morgan and Bell, 2003) and identify ways in which participants suffered as a result of their sexual orientation or gender identity:

- Offensive graffiti or vandalism relating to the status of the individual as a disabled person or LGBT person.
- Other damage to personal property or home (which could include, for example, rubbish being posted through the letterbox or door locks being glued shut).
- Abusive/obscene mail (or hate mail) or phone calls.
- Threats.
- Malicious gossip or rumour spreading.
- Verbal abuse or name calling (by strangers or by people known to the victim).
- Offensive and patronising behaviour (again, whether by strangers or people known to the victim).

## *Issues with reporting*

2.22 The remainder of this section will bring together evidence from both literature and interviews carried out as part of this research on the prevalence of crime motivated by prejudice, malice or ill-will, and the impact of this on disabled people and LGBT people. Firstly, however, a range of issues relating to the reporting of crime, particularly where this is motivated by prejudice, malice or ill-will, will be summarised.

2.23 One of the key strands running through work on crimes motivated by prejudice, malice or ill-will generally (whether this relates to disabled people, LGBT people, or members of ethnic minority communities) is a reluctance to report crime, allied to a reluctance to seek support as a victim of crime. This is one of the main difficulties in seeking to identify the actual level of crime against disabled people and LGBT people in Scotland.

2.24 This is a key theme in surveys undertaken by, for example, Victim Support (2005) and Beyond Barriers (Morgan and Bell, 2003) among LGBT people, and in a survey of disabled people undertaken by Capability Scotland (2006). A 1999 survey by the National Advisory

Group suggested that only 18% of homophobic incidents[11] were reported to the police.

2.25 It is clear from many interviews undertaken as part of this research that there is a widespread acceptance of the view that crimes against disabled people and LGBT people are significantly under-reported. Even in areas where remote or third party reporting is in place for either (or both) disabled people and LGBT people, it was suggested that under-reporting remains an issue.

2.26 A range of reasons for under-reporting have been advanced, including the following:[12]

- A lack of recognition that an offence has taken place.
- A lack of recognition that this may be motivated by prejudice, malice or ill-will.
- A lack of third party or remote reporting opportunities.
- A lack of confidence on the part of the victim that the police will take the alleged offence seriously.
- Fear of reprisal or intimidation.
- Embarrassment.
- A lack of confidence on the part of the victim that the police will take the alleged offence seriously, or that it would never get to court.
- Anticipation of a negative reaction.
- Perception that the victim had no "proof".
- Fear of being charged with a "gay" offence.
- Fear of being "outed".
- Acceptance of violence and abuse.

2.27 It is worth noting, however, that most of the surveys identified above are between 5 and 10 years old, and evidence from a number of sources suggests that, with improvements in third party and remote reporting, and changes in the approach of the police, the proportion of incidents which are being reported is increasing. That said, the Tayside Police report (Tayside Police, 2007) notes:

> *"Misconceptions about wasting police time, not believing or being aware that homophobic verbal abuse constitutes a*

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[11] Transphobic incidents were not specifically mentioned.
[12] Edited from interviews for this research, supplemented by data from Capability Scotland, Tayside Police and the National Advisory Group.

*crime and a belief that crimes won't go to court areas concerning and are obviously having a detrimental impact on levels of reporting."*

2.28 The CPS has recognised this in the guidance it provides to prosecutors in England and Wales (in this case for homophobic and transphobic crime):

*"The way in which members of the LGBT communities have historically been treated by individuals within the criminal justice agencies has contributed to an entirely understandable reluctance by members of those communities to come forward to report any homophobic incident to the police or then to continue to support any prosecution if the incident is a crime by giving evidence at court."*

2.29 This reluctance was also identified by Capability Scotland (see below) in its research on crimes against disabled people. There, only 2 in 5 of those who had been attacked or frightened had reported this to the police. The report noted:

*"Interviewees' (who have been frightened or attacked) reasons for not reporting the incident to the police reflect concerns about the police's attitude and the extent of police powers."*

2.30 As set out earlier in this section, there is also a specific issue relating to disability, in that some people who would otherwise be regarded by policy or legislation as "disabled people" would not describe themselves in this way.

**Evidence on prevalence**

2.31 As set out earlier, there is limited published statistical evidence on the prevalence of crimes motivated by prejudice, malice or ill-will against disabled people and LGBT people.

2.32 A number of CSPs (and some police forces) were only able to provide anecdotal evidence on prevalence, but many recognised that some of the steps described later will, inevitably, improve the quality of information over time, particularly as recording systems improve. Only a relatively small number of examples were provided of "typical" crimes

motivated by prejudice, malice or ill-will coming to the attention of the police or remote/third party reporting agencies.

2.33  One CSP, for example, which convenes a monthly group to assess all reports (both crime reports and third party reports) where a member of an equality group is identified as the victim, suggested that only a "tiny number" had involved disabled people or LGBT people and that most related to racist crime. One interviewee from a rural CSP, having consulted with a local police officer, suggested that only one case could be recalled "in the recent past". Another could recall "no" cases.

2.34  Another CSP, which again has in place a monitoring process suggested that "about a dozen" incidents of crime motivated by prejudice, malice or ill-will might be reported in a 6 month period, most of which related to racist incidents. The interviewee was unaware of any reported incident involving a disabled person as a victim. A similar pattern was identified by an interviewee from a city-based CSP who indicated that about "5 or 6" reports a month were received, largely related to racist crime.

2.35  Some interviewees were able to identify individual incidents, usually assaults, which had come to light in their areas. One CSP manager suggested, however:

> *"It's because they are so rare that you remember them."*

2.36  One CSP (which has a monitoring process in place) indicated that the few incidents which had come to its attention were:

> *"low level and tend to be about name calling rather than assault".*

2.37  It is worth noting a concern expressed by one interviewee that such comments illustrated a significant disparity between the view of the CSP and the likely views of the victims of these incidents, and arguably demonstrated a lack of understanding of the issues concerned.

2.38  In another force, there was evidence that at least some other offences were being reported by LGBT people, perhaps as a result of improved confidence in the reporting systems and the responses of the agencies concerned.

2.39 A number of CSPs, including some which suggested that crimes motivated by prejudice, malice or ill-will had not been identified as a specific issue, suggested that bullying in schools was a concern, and was being addressed through education services.

2.40 Generally, most CSPs and police forces indicated that few, if any, crimes motivated by prejudice, malice or ill-will had come to their attention. This was true in both urban and rural areas, and in two of the four main cities.

***The prevalence of crime against disabled people***

2.41 None of the CSPs or police forces were able to identify specific and systematic evidence of crimes motivated by prejudice, malice or ill-will against disabled people.

2.42 While there was a recognition of some level of under-reporting, the broad view was that this was not a significant issue (in terms of scale, not the impact on the victim), and there was also confidence that, given the links with disability groups set out in Section 3, incidents would have come to light.

2.43 Evidence from surveys of disabled people is, however, clear that crimes motivated by prejudice, malice or ill-will can and do occur. Capability Scotland carried out a survey of disabled people in Scotland (Capability Scotland, 2006). Nearly half of all interviewees believed that they had experienced crime motivated by prejudice, malice or ill-will as a result of their identity as a disabled person. The survey identified a number of key characteristics of crime against disabled people as follows:

- There is a geographical dimension, in that people in urban areas report being more likely to be frightened or attacked than those living in rural areas. In urban areas, most attacks take place in public places. In rural areas, most attacks take place in domestic settings.
- Among some disabled people, the experience of being abused, harassed or attacked is a regular occurrence, with nearly a third of those who reported being attacked suggesting that this happened on a monthly basis.
- The most common perpetrators of attacks, at least in public places, were strangers.

- A high proportion of attacks are not reported to the police, and there was concern among some that the police would be unable, or unwilling, to help.
- Many disabled people are unable to prevent, or stop attacks, or are unwilling to do so as a result of perceived consequences.
- Many disabled people feel that they have little choice but to live with the issues they face.

2.44 Prior to the Capability Scotland research, it had been surmised that there were variations in the likelihood of experiencing attacks by types of impairment, but this was not then supported by available evidence. However, the findings of the Capability Scotland research, although with relatively small numbers, did provide clear support for this hypothesis.

2.45 The table below is reproduced from the report:

**Experience of being frightened/attacked by type of disability**

| Type of interviewee | No. | % |
| --- | --- | --- |
| Wheelchair user | 50 | 36 |
| Someone with a mobility problem (not in a wheelchair) | 53 | 49 |
| Someone with a visual impairment | 23 | 57 |
| Someone with a hearing disability | 17 | 41 |
| Someone with a learning difficulty/disability | 24 | 63 |
| Someone with a mental health problem | 17 | 82 |
| Someone with a hidden disability | 22 | 45 |

This table suggests clearly that people with a learning disability, and people with mental health problems are more likely to be frightened or attacked. This is consistent with the anecdotal evidence provided by some police officers interviewed as part of this research.

2.46 Research on the prevalence of harassment of people with mental health problems living in the community (carried out in 2002) found that this was nearly three times more common than in a control group of adults living in the same communities (Berzins, Petch, and Atkinson, 2003). The harassment in this case:

*"… commonly involved verbal abuse referring to the individual's mental health problems and was committed primarily by teenagers and neighbours."*

2.47 As will be set out in more detail in Section 4, however, police sources identify virtually no reported specific crimes where disabled people are the victims. Clearly, and in the view of some of those interviewed for this research, this is not the case, but, as yet, the barriers described earlier, coupled to the lack of effective recording systems, mean that there is no useful statistical information on prevalence.

### The impact of crime motivated by prejudice, malice or ill-will on disabled people

2.48 It is clear, however, from the Capability Scotland research that being a victim of a crime motivated by prejudice, malice or ill-will can have a significant impact on a disabled person. Some interviewees in that research identified that they had moved as a result, some that they did not now go out at all, or go out unaccompanied, that they changed their routines and changed the places they visited. There was also evidence presented of psychological and health-related impacts, including:

- Being scared.
- Being embarrassed.
- Feeling stressed.
- Feeling angry.

2.49 In addition, interviewees also described lacking confidence, feeling lonely or isolated and feeling worthless.

2.50 Capability Scotland also asked interviewees whether or not new legislation was required, and there was overwhelming support for this, both among disabled people who had experienced attacks and abuse, and those who had not.

2.51 As might be expected, Capability Scotland concluded that there is a need for new laws to protect disabled people against crime motivated by prejudice, malice or ill-will, as well as changes to the approach of the police, and by extension, the Crown and the courts in relation to making detection and prosecution easier and more effective. The report also suggested that there is a need for a campaign to address the prejudice experienced by disabled people.

2.52 A survey by IPSOS Mori for the DRC in February 2007 (via the internet) suggested that a third of disabled adults do not feel safe in their locality, with around 44% of adults with a mental health problem also identifying this.

2.53 An extended discussion of the research on the harassment of adults with mental health problems (National Schizophrenia Fellowship Scotland, 2003) showed clearly the impact of incidents in terms of, for example:

- The victim's overall mental health.
- Feelings of anger and anxiety.
- Feeling intimidated.
- Changing patterns of behaviour to avoid potential sources of harassment .

2.54 In its commentary, NSF suggested that there was a need for education of both the public and services on the issues faced by victims in these circumstances, as well as the need for preventative measures.

***The exploitation of adults with mental health problems and learning disabilities***

2.55 A small number of CSPs, supported by two police forces, indicated that they had become concerned about examples of the exploitation of adults with mental health problems or learning disabilities by other community members. A number of examples were provided (which have been anonymised):

- An adult with mental health problems living independently who was being intimidated into giving a neighbour cash to buy drugs.
- Adults living in a group home who were being targeted by both young people and drug users when out shopping, using a ploy of "borrowing money" as a means of obtaining cash with no intention of paying this back.
- Adults with learning disabilities living independently being targeted by young people (in some cases with threats) to buy alcohol on their behalf.

- Adults with learning disabilities being targeted for street thefts, on the basis that they present "easy targets".

2.56  It is worth noting that the first two of these examples were provided by interviewees working in rural areas, and the third and fourth from interviewees in a mixed urban and rural area in central Scotland.

2.57 In each of these cases, the police and other Community Safety Partnership teams were reported to be working with the victims and those exploiting them, to prevent recurrences.

2.58  It is also worth noting that there were mixed views of whether or not these constituted "hate" crimes. Similarly mixed views were also expressed about examples of cases of intimidation and harassment of disabled people and LGBT people being dealt with by antisocial behaviour teams. One CSP interviewee described these as:

*"… hate crimes masquerading as neighbour disputes".*

2.59 It was also noted that the origins of some individual crimes motivated by prejudice, malice or ill-will could be traced back to "neighbour disputes", and may have previously featured lower level intimidation without actual threats or violence.

### *The prevalence of crime against LGBT people*

2.60  It is also very difficult to assess the prevalence of crime against LGBT people. As noted earlier, under-reporting is an issue, as is the fact that many victims will choose not to declare their sexual orientation or gender identity.

2.61 Since April 2003, Strathclyde Police has used its vulnerable persons' database to track cases where an LGBT person is identified as the victim. This has suggested a steady rise, but even at its peak, only 68 incidents were recorded in one quarter (June-September 2006), with a total of 213 for the full year. This was a considerable increase year on year, but still represents what is likely to be a small fraction of the actual incidents.

2.62 Evidence from reporting racist crime, however, led a CSP interviewee to urge caution, as the increase may be as a result of increased reporting (arising from increasing confidence in the systems

and responses) rather than being evidence of increasing numbers of attacks.

2.63 Statistics are available broken down by local authority area, and it is interesting to note that, in the first quarter of 2007-8, no homophobic incidents were recorded in 3 of the 12 constituent authorities (East Dunbartonshire, East Renfrewshire, and West Dunbartonshire). Of the incidents recorded, 27 out of 40, or two thirds, were in Glasgow. As yet unpublished evidence from other forces suggests that their numbers are small, with 16 reported in one force, and 7 in another.

2.64 There have been a range of studies which have provided direct evidence that these statistics under estimate the true level of crime motivated by prejudice, malice or ill-will[13]. For example, the "First Out" survey commissioned by Beyond Barriers (Morgan and Bell, 2003) suggested that about 40% of those who participated had been abused, threatened or assaulted over a one year period, and 26% had experienced violence at some time as a result of their sexual orientation or gender identity. Research by Tayside Police (Tayside Police, 2007) identified that around 45% of the LGBT people surveyed had experienced crime, with just under 1 in 5 having experienced crime motivated by prejudice, malice or ill-will.

2.65 A 1999 survey by the National Advisory Group suggested that more than 40% of LGBT people had, at some time been the victim of a homophobic incident. Earlier research in Edinburgh (Morrison and McKay, 2000), dealing exclusively with gay men, suggested that as many as 18% of those who participated in the research had been the subject of an assault over a 12 month period. Transgender people were the most likely (among interviewees to the Beyond Barriers survey) to have experienced recent abuse or violence.

2.66 One force, which is in the process of extending third party reporting, and another which is introducing self reporting via the internet, both indicated that they expected the number of reported incidents to rise as a result of the increased opportunity to report them.

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[13] See e.g. Atheril (2001) for a summary of international and UK evidence on prevalence for the period up to 2000.

***The impact of crime motivated by prejudice, malice or ill-will on LGBT people***

2.67 There is a good deal of research and anecdotal evidence of the impact of crime on LGBT people.

2.68 For example, nearly two thirds of those who responded to the Beyond Barriers survey reported at times feeling unsafe in the street. Research for Victim Support in England found that LGBT victims of crimes were more likely to take practical steps such as moving home, or not going out, hence imposing limits on their own freedom of movement.

2.69 A number of participants in working groups which were undertaken as part of the Beyond Barriers process identified that they went to some lengths to hide their sexual orientation or gender identity as a result of fear of being victimised. A survey undertaken in London (Stormbreak Ltd, 2004) concluded:

> *"… it is not surprising that most lesbian and gay Londoners were found to take some form of preventative action in the course of their daily lives to avoid homophobic attack."*

2.70 One aspect of this which emerges from a number of surveys (as with surveys of members of ethnic minority communities) is the extent to which abuse and violence become accepted as part of an LGBT person's life. As one interviewee in the Beyond Barriers survey noted:

> *"I have been shouted at and attacked for being "different" since childhood. You just get used to it after a while".*

2.71 As with disabled people (and victims of crime more generally), LGBT people who have been the victims of homophobic incidents may suffer health issues, including depression, anxiety and anger, as well as, in some cases, guilt in relation to the need to withhold some evidence, for example, relating to the homophobic nature of the motivation for the crime (Victim Support, 2005). Research from the USA (Herek, 2002) suggests that these impacts can be heightened as a result of the fact that crimes motivated by prejudice, malice or ill-will are perceived by the victim to be unpreventable and, therefore, liable to recur at any time.

**Fear of crime**

2.72 It is not only the experience of crime which is of relevance to disabled people and LGBT people, but also fear of crime. It has been identified that both disabled people and LGBT people may experience higher levels of fear of crime than is the case in the wider community.

2.73 For example, in the paper "Building Stronger, Safer Communities" (which forms part of the Disability Agenda) the DRC noted that:

> *"Disabled people of all ages find opportunities to participate constrained by the fear or reality of harassment and the failure of criminal justice agencies to offer fair redress. This includes bullying of disabled children and abuse of disabled adults in the community and within services that are meant to support them."*

2.74 The paper notes that the experience or fear of crime impacts both upon individuals' participation in economic and social life and upon their health and well being, as well as undermining their "sense of security and belonging" and the well-being of those close to them. The same paper noted that "many disabled people have a heightened fear of crime".

2.75 Similarly, amongst LGBT people, studies have found that many experience fear of crime and harassment (e.g. Morrison and Mckay, 2000; Stormbreak, 2004). It has again been noted that this can have an impact on participation and on health and well-being. It has also been identified that it can have an impact on whether people feel that they can be open about their sexual orientation and gender identity.

**OVERVIEW**

2.76 It is clear from this section that there are a range of community safety issues which impact on disabled people and LGBT people, but the experiences of these groups as victims of crime is clearly the most significant in terms of their impact. However, there is potential for the work of Community Safety Partnerships to have a role in addressing all of the issues identified in this section, and the next section identifies some of the current policies in place to enable them to do so.

# SECTION 3: COMMUNITY SAFETY PARTNERSHIPS' POLICIES

3.1　This section sets out the findings of the research in relation to Community Safety Partnerships' strategies and polices as these relate to disabled people and LGBT people. Throughout this section, evidence will be presented from both CSPs and police forces.

## COMMUNITY SAFETY PARTNERSHIPS

3.2　The original strategy guiding the development of Community Safety Partnerships (CSPs) was published in 1998 and remains largely relevant (The Scottish Office, 1998). The strategy defined a broad national approach, with delivery, and, most importantly, prioritisation of intervention, being decided locally.

### The basis of Community Safety Partnerships

3.3　There are 32 CSPs in Scotland, one covering each local authority area. CSPs work within the broad framework of community planning. While the exact composition of the partnerships varies by area, the core partners usually include the local authority and police, the fire service, the voluntary sector and NHS bodies.

3.4　Community safety now encompasses a wide range of national and local initiatives, driven by an overall policy which sets out that:

> *"public safety is of paramount concern and that everyone should feel safe in their community and their own home".*

3.5　Over time, there has been a progressive extension in the range of issues seen as falling within community safety, particularly in relation to aspects of antisocial behaviour. Although there are some variations at an operational level, "community safety" now covers broadly the following areas:

- Anti-social behaviour.
- Petty crime.
- Fear of crime.
- Crime prevention.
- Drug issues, and the consequences of this in relation to, for example, acquisitive crime.

- Home safety and accident prevention.
- Road safety.
- Domestic abuse.
- Hate crime, particularly (at this time) racist crime.
- Aspects of crimes against businesses.

## CSP PRIORITIES IN RELATION TO DISABLED PEOPLE AND LGBT PEOPLE

3.6    The information in the first part of this section deals with the strategic status of work to address crime and community safety issues relevant to disabled people or LGBT people in 2005-06, when most CSP strategies and action plans were agreed. Early discussions with CSP managers suggested that there would be limited value in basing the research purely on published strategies and action plans, as these are, in the words of one CSP interviewee *"long in the tooth as strategies go"*.

3.7    For this reason, it was agreed that the work as originally envisaged (focusing on printed materials) should be supplemented by a telephone survey of all CSPs and police forces. Representatives of all CSPs and 6 police forces were interviewed in August 2007, in order to ensure that any developments since 2005-6 were captured and reflected. The remainder of the report focuses on the views of these interviewees, supplemented by a small amount of written material some of which has been developed since 2005.

### The development of CSP strategic priorities

3.8    The Scottish Executive made clear in, for example, its response to the Hate Crime Working Group consultation paper that community safety priorities are a matter for local partnerships. In response to Recommendation 14, it noted that:

> *"Community Safety Partnerships (CSPs), together with local people, are responsible for identifying local needs and priorities within their communities, and putting in place plans to tackle them. The Executive does not set national priorities." (Scottish Executive, 2006b)*

3.9    Prior to 2005, Scottish Executive funding to CSPs was driven by a formula which took into account population and levels of offending, as well as the quality of the bids made. Within this, CSPs were largely free to set their own priorities within the overall framework of national policy.

3.10 From 2005, the Scottish Executive adopted a slightly different approach. The guidance for the Award Programme 2005-08 (through which CSP activities are funded) set out not *what* CSPs should do, but rather defined *a process* which they should follow in order to establish their own priorities within a broad policy framework which set out a number of national priorities (Scottish Executive, 2004a). The national priorities identified in the guidance were:

- Reducing crime (particularly violent crime).
- Tackling alcohol and drug related crime.
- Diverting young people away from criminal and anti-social behaviour.
- Reducing the fear of crime.
- Improving road, fire and home safety.
- Strengthening Community Safety Partnerships.

3.11 The process involved the updating of community safety audits, detailed assessment of statistical information and wide consultation among partners and with community members, in order to identify up to three priorities. The assumption was that the CSPs would then develop a problem-solving approach designed to address these key priorities. CSPs were directed to identify the three priorities established by this process to the Scottish Executive, as part of a bidding process for the Award Programme.

3.12 Since 2005, 90% of dedicated CSP funding (the CSP Award Programme) has been directed to addressing the three key local priorities identified. As will be set out later, a number of CSPs considered that this has proved to be a barrier to carrying out work in relation to crime against disabled people and LGBT people where this is motivated by prejudice, malice or ill-will (although this was not the case with all CSPs).

3.13 It is worth noting that CSPs are not restricted to carrying out work to address these three priorities, simply that Scottish Executive funding should be used for these purposes. CSPs are free to use any other resources to address any other purpose and, as will be set out later, a number of CSPs have used other funding to carry out work on crime against disabled people and LGBT people. Police forces (which are funded separately for these activities) have also carried out work in relation to crime motivated by prejudice, malice or ill-will.

3.14 It is also worth identifying that the Scottish Executive has been prepared to consider amendments to the priorities identified in the original Award Programme bid. At least two CSPs have made amendments to their stated key priorities over the life of the current Award programme, with, in one case, the change relating directly to allowing work on addressing crime against disabled people and LGBT people to be undertaken.

**CSP published strategies and priorities**

3.15 Published CSP strategies run, in most cases, from 2005 – 2008, with most currently embarking (or about to embark) on a process of developing a new strategy. A large number of CSP strategies were identified and read as part of this research to identify any priorities, or planned work, relating to crime against either disabled people or LGBT people.

3.16 It was identified that few strategies mentioned equalities issues directly in relation to crime, and among the small number that did, this was virtually always in the context of racist harassment and attacks. In a small number of cases, disabled people and LGBT people were mentioned directly, but not generally in the context of crime. For example, one CSP strategy states that:

> *"Environmental dereliction, domestic violence, racial harassment and anti-social behaviour are aspects of safety problems in residential areas and whole communities can be damaged. There are also safety issues of concern to particular groups such as women, children, the elderly, those with disabilities and members of black, ethnic and other minorities that require specific actions."*

*Overview of the main stated strategic priorities*

3.17 It was argued by some interviewees that the prioritisation approach (described in the previous sub-section) has led to the marginalisation of some community safety issues. Some support for this is provided by an assessment of the then stated high level priorities for 31 of the 32 CSPs as set out in a Scottish Executive review (Scottish Executive, 2006a), in which there are no direct mentions of crimes against disabled people or LGBT people. The only direct mentions of disabled people are in the context of home safety.

3.18 By some margin, the main priorities identified in published CSP strategies and action plans relate to anti-social behaviour and associated disorder, particularly among young people, as well as alcohol and drug use (and the crimes associated with these), road safety and home safety. A small number of CSPs, including, for example, Edinburgh and Fife, identified the need to develop work to address racist crime (although not necessarily expressed in this way) among these higher level priorities.

### The identification of equalities issues

3.19 In terms of general references to equalities issues, and issues for LGBT and disabled people, there was found to be very limited recognition of these issues in the written documents and, where there was reference to them, there was a large variation in the ways in which they were addressed. Some made no mention of a general commitment to equality, and some made no mention of disabled people or LGBT people. Some made an overall commitment to equality, but often provided limited details of how this would be achieved or identified the general provision of support to groups which would take such work forward.

3.20 In other cases, this involved a broad acknowledgement that some equalities groups may face particular issues (although the nature of these was not always specified, and these sometimes focused particularly on racist attacks and domestic abuse). One strategy identified the need to prioritise the needs of equalities groups, and highlighted the need for mainstreaming, and identified the problem solving partnership (PSP) process as a means of addressing issues arising from the community. It is worth noting that some of the CSP representatives interviewed as part of this research also identified the inclusion of these issues across all work (rather than having any specific focus) as the means of addressing them (although there was a lack of evidence of their systematic consideration across policy areas, with examples tending to be ad hoc).

3.21 Generally, the relevance of community safety work for disabled people often appeared often to be seen rather in terms of their vulnerability to aspects of safety, rather than as experiencing the type of crime highlighted earlier (and even in these cases, the references to disabled people were very limited). For example, disabled people were sometimes identified in strategies are experiencing greater fear of crime

(although others focused on, for example, older people and/or women), or as a group more likely to be injured at home (although some focused on issues for children or older people).

3.22 There was very limited reference made to LGBT people within strategies, with a very small number which identified issues for this group.

### *The identification of crime against disabled people and LGBT people as an issue in strategies*

3.23 Some CSPs did identify in their strategies the need to undertake work relevant to crime motivated by prejudice, malice or ill-will (albeit in virtually all cases, racist crime) within the overall context of, for example, work to reduce violence, or work to support victims of crime. Dundee CSP, for example, identified a need to carry out work to increase the level of reporting of racist incidents. Falkirk CSP identified the need to take forward its multi-agency strategy to reduce racist attacks and harassment.

3.24 One CSP (Highland) identified the need to improve the prevention, reporting and recording of "hate" crime generally, as well as the need to improve the support provided to victims and the level of detection of offences. The strategy used the definition of "hate" crime set out by the Scottish Executive Working Group (rather than the "McPherson" definition which is generally used by police forces), and identified a range of actions to support this, including improved consultation, recording systems and joint working with the voluntary sector.

3.25 While few of these examples identify either disabled people or LGBT people directly, as will be set out later in this section, those CSPs which chose to highlight dealing with racist crime have, arguably, found it easier to undertake work relevant to crimes against other equalities groups.

## THE CURRENT POLICY CONTEXT

3.26 There are a range of issues relevant to the current policy context which are worth summarising briefly before describing the current status of CSP policies and practices relating to crime and other issues relevant to disabled people and LGBT people.

**National developments and their local impact**

3.27 Following the implementation of the Antisocial Behaviour etc. (Scotland) Act 2004, there has been a rapid development of work to address antisocial behaviour. This has brought together work which had been on-going, including, for example, housing investigation and the deployment of community wardens, with other proactive and reactive measures both designed to address existing and prevent future antisocial behaviour.

3.28 The expansion of work relating to antisocial behaviour has also led to the development of a range of new structures at a local level. In some cases, these have been developed in parallel to existing community safety structures, but in other cases, both have been brought together. It is clear from interviews carried out as part of this research that some CSPs are in a period of transition. A number of interviewees identified structural changes, either on-going or planned, as a result of a gradual coming together of community safety and antisocial behaviour work. One interviewee noted that:

> "The structure for all this is quite new, so all of the policies are being looked at."

3.29 As will be set out later, both these current processes and the processes which are expected to be implemented from 2008 will have some impact on how future work in relation to crimes motivated by prejudice, malice or ill-will may be taken forward.

*Disability Equality Schemes and Diversity Schemes*

3.30 All of the public sector agencies covered by this research (including local authorities, police forces and fire services) are required to have, and have published, Disability Equality Schemes (although partnerships, such as CSPs are not required to do this). As will be set out below, relatively few interviewees made direct reference to Disability Equality Schemes, although some referred to "corporate" equality policies.

3.31 Clearly, Disability Equality Schemes are relevant only to disabled people and not, in general terms, to LGBT people (with the exception of disabled LGBT people). In some local authorities (for example, Edinburgh), and in a number of police forces, as well as ACPOS itself, *multi-equality* or *diversity* policies have been developed, in effect

extending the approach of both Race Equality and Disability Equality Schemes to other equalities groups.

3.32 As part of this research, a sample of Disability Equality Schemes and Diversity Schemes was examined in order to identify any focus on crime and similar issues relevant to disabled people and LGBT people. There was some evidence of a recognition in some documents of harassment and crime issues as these affect disabled people (and other equalities groups within Diversity Schemes) although this was not the case in all of the Schemes.

3.33 References generally related to reporting mechanisms and review structures (which will be described later), the need to improve the rate of reporting and the need to consider the "issue" in a general way. As will be detailed in the remainder of this section, this is broadly consistent with the findings of the interviews.

3.34 What is arguably most significant is not the nature of the commitments, more that the issue of crime against disabled people and LGBT people is being recognised in some cases, and this may be seen to put in place the ground-work for future actions.

*Current approaches to broader equality and community safety issues*

3.35 Respondents' views of relevant issues relating to disabled people and LGBT people each had a slightly different focus. To take LGBT people first, interviewees identified that people tended to view community safety issues for LGBT people (where these were recognised at all) as focused on homophobic crime, and this is reflected in the literature, where this type of behaviour and the need to tackle it provides the main focus in terms of community safety for this group. Related to this, any actions identified and described in the interviews, or covered in the literature, tended to focus on reporting, prosecuting and monitoring this.

3.36 There were a few references in the interviews to domestic abuse issues for LGBT people, with a small number recognising that the domestic abuse work undertaken by the partnership should or would include a focus on domestic abuse in same sex relationships.

3.37 A few respondents also made reference to LGBT issues being relevant in anti-bullying work or in work to address anti-social behaviour,

but the main focus was upon crime motivated by prejudice, malice or ill-will.

3.38 In relation to both disabled people and LGBT people, a small number of partnerships recognised that levels of fear of crime may be higher among equalities groups than others in the wider community. One CSP indicated that this had been a finding of a 2005 Residents' Survey, particularly among disabled people[14], although interestingly, in this case, no analysis was available of the views of LGBT residents. This overall finding in relation to fear of crime was supported by two other CSPs which had identified this through community surveys.

3.39 In terms of disabled people, few interviewees mentioned crime in this context (although a small number made reference to harassment of people with learning disabilities or mental health problems and some did recognise that this may be an issue). A small number also made reference to anti-bullying work, particularly relating to people with learning disabilities. One partnership noted that an anti-bullying group established by the Education Service had identified disabled young people as a priority group.

3.40 The same issues were reflected in the interviews as had been reflected (albeit in a limited way) in published strategies, where some (although relatively few) respondents identified issues such as home safety or accident prevention, fire safety and road safety for "vulnerable" groups, as being particularly relevant to disabled people. These issues (or some of these issues) were sometimes amongst the priorities identified by partnerships and, within these, it was often noted that disabled people could be included. One of the respondents noted that, where there had been consultation with disabled people, these were the sorts of issues that had been identified.

3.41 When actions to tackle these issues were explored, there was also found to be considerable variation in whether disabled people were identified specifically as a target group in such initiatives. Some did not specify the groups which were "vulnerable" while, in the cases where this was done, the groups identified varied. One partnership suggested that it was better not to specify the groups involved, as this enabled them to undertake work with a range of groups without seeking particular approval.

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[14] There is some evidence from the UK and US to support this.

3.42 A number of respondents suggested that initiatives in their areas were often targeted particularly at older people, although disabled people would also be included. Such initiatives included, for example, home safety or security schemes and initiatives such as "Message in a Bottle". In one case, it was suggested specifically that the criteria for inclusion in the provision of home security measures covered disabled people (and this is likely to be the case in others). In one case, while the strategy identified that fire safety work would target "at risk" or "vulnerable" groups, the partnership was then at the stage of trying to identify the nature of these groups and the home safety risk areas.

3.43 There seemed, from the strategies, however, to be little specialist provision to disabled people in these areas of work, beyond the general recognition (in some cases) of their inclusion as "vulnerable". This was reflected in the findings from the interviews, which identified this type of work as often taking place at a more general level, rather than specifically focusing on disabled people.

### Specific policies on crime against disabled people and LGBT people

3.44 As might be expected given the previous comments, there was a wide variation in the extent to which CSPs and police forces had specific policies in place which were seen to be relevant to crime against either disabled people or LGBT people, whether or not falling within the specific "hate" crime definition of crime motivated by prejudice, malice or ill-will.

3.45 One point to make at the outset is that there was variation in the nature of the policies which interviewees considered to be "relevant". Some, for example, took the view that authority-wide policies on equality were relevant, while others took the view that these were not. To some extent, this may be due to actual variation in the content and direction of these policies, but it seems more likely that this is due to differences in perception.

3.46 A number of local authorities indicated that, notwithstanding any structural changes identified earlier, the area of crime against disabled people and LGBT people was currently being re-considered. One CSP suggested that:

*"It has not featured under any work relating to the CSP arrangements so far. It is not overlooked as a policy issue, but not from the community safety angle."*

3.47 In a small number of cases, either disabled people or LGBT people (and in some cases, both) were considered to be a specific priority within community safety strategies (and this is consistent with the previous finding of a general commitment to equality in some cases). The nature of these "equality" groups, whether or not additionally classified as "vulnerable" was largely consistent across CSPs, with some additions (such as, for example, migrant workers). The groups generally consisted of disabled people, older people, children and young people, LGBT people, religious and faith groups and, in most cases, women, although it was suggested by a some interviewees that this was more properly those women experiencing domestic abuse.

3.48 In a small number of cases, interviewees indicated that they been able to use other policy objectives to carry out some work relevant to crimes motivated by prejudice, malice or ill-will. In some cases, this was related to a "catch-all" policy objective dealing with, for example "personal safety" or the prevention of violence, which was seen as sufficiently broad to be adapted to any purpose.

3.49 Some CSP interviewees indicated that their partnership had a broad priority in relation to victims of crime, particularly vulnerable victims and, that, in their view, disabled people and LGBT people would be subsumed by this. A number of interviewees made clear it that neither group was *specifically* mentioned, but that it was taken as read that both were included. In some cases, interviewees indicated that, although the CSP strategy did not mention either disability or sexual orientation / gender identity, the related action plan did. (In this context, one CSP interviewee indicated that their partnership "did not discriminate", and that all groups were considered to be included.)

3.50 As indicated previously, some CSP interviewees reported having higher level priorities relating to racist crime. In some cases, it was suggested that these had been adapted into priorities covering "hate" crime more generally. One CSP interviewee described this transformation as helpful, indicating that it had allowed them to carry out work relating to "hate" crimes against a number of groups without requiring any sanction from the Scottish Executive for an apparent "change" of objectives.

3.51 One CSP provided an example of a racist crime and harassment strategy which was in the process of being updated to include other forms of crime motivated by prejudice, malice or ill-will. What was particularly interesting about this example was that it was being taken forward by a group consisting of members of the CSP working alongside a range of groups representing the communities concerned.

3.52 A small number of interviewees considered that crime motivated by prejudice, malice or ill-will would be covered by antisocial behaviour policies. A number of other CSP interviewees also indicated that some aspects of this, such as those arising out of neighbour disputes (or those where neighbour disputes serve as a "cover" for other forms of harassment), would be likely to be covered by, and dealt with, as antisocial behaviour.

3.53 In a small number of cases, CSPs indicated that their policies covered one, but not the other of the groups which are the subject of this research. For example, one local authority representative suggested that their policies covered LGBT people, although not disabled people, at least not directly. One authority suggested that it had developed an outcome in its antisocial behaviour strategy relating to the reduction of homophobic crime, but had not considered a parallel measure for crime motivated by prejudice, malice or ill-will against disabled people.

**The impact of Scottish Executive policy direction**

3.54 It was clear from interviewees that at least some CSPs considered themselves to be constrained by Scottish Executive policies in relation to their strategic direction. As one interviewee noted:

> *"There are a whole range of community safety issues which are out there, but what comes on to the radar is what is most prolific."*

3.55 One local authority suggested that racist crime had originally been a priority for the strategy, but that this had been lost in the transition to 3 core priorities for Scottish Executive Award Programme funding. (This was raised in the context of the relative ease of moving from a priority for work on racist crime, to a priority for work on "hate" crime.) One CSP, however, suggested that it had been permitted by the Scottish Executive to add a fourth priority (relating to violence).

3.56 The view of constraints to action was not, however, shared by all CSPs, and it is clear that some did not feel constrained by Scottish Executive policies relating to their strategic direction.

**The treatment of crime against disabled people and LGBT people within other policy strands**

3.57 A majority of CSP interviewees indicated that their partnership did not have any specific policies in place in relation specifically to crime against disabled people and LGBT people. A small number of interviewees suggested rather that these issues were subsumed by general equality or diversity policies. One suggested that:

> *"Most partnerships in Scotland will realise that they will be compelled to recognise equalities issues in their strategies and policies, and have this at the heart of their work. It is an overarching recognition, rather than specific identification of issues."*

3.58 In relation to disabled people specifically, a small number of CSP interviewees indicated that crime-related issues were covered specifically in either a local authority, or police Disability Equality Scheme. For example, one authority indicated that a commitment to reduce harassment against disabled people was a specific element of the Scheme, as was providing support for adults with learning disabilities to take more part in, for example, community safety forums.

3.59 One of the issues raised by the DRC in relation to this is that it may be likely that other local authorities also have similar commitments within their Schemes, but the interviewee may have been unaware of this.

3.60 Only one interviewee (a police officer) identified that actions to address crime against LGBT people were contained within a diversity policy, although it is worth bearing in mind that policies of this type remain unusual.

3.61 As will be discussed in more detail later, a number of CSP interviewees indicated that their new strategies, due in 2008, are likely to contain at least a basic statement on equalities, and in some case, more information about this.

### Links between CSPs and other equalities work

3.62 As might be expected, the lead role for equality or diversity work appeared often to lie with a local authority central service (for example, a Chief Executive's unit), or with a specialist unit. In police forces, again a variety of approaches was evident, with some aspects of the work being led by diversity advisors, with other strands being led by nominated officers within headquarters specialist departments.

3.63 A number of local authorities indicated that there were close links between CSPs and equality specialists[15]. This included, in some cases, joint working (with one authority indicating that a number of groups had members in common), while in others, this meant that the equality specialist was represented on one or more community safety groups, most commonly those dealing with racist incident monitoring (see below) where these were located within the CSP. Among other community safety groups seen to have representation from equality specialists were those dealing with domestic abuse and youth justice.

3.64 Although this approach was considered to work well in some authorities (while bearing in mind that this was not an audit), in others, it was recognised that the links may be less effective. One CSP manager noted:

> *"I'd love to say it links well to equalities work, but it doesn't."*

3.65 As is the case in a number of issues covered by this research, there were variations evident in the ways in which both disability and LGBT issues were addressed, with some CSPs suggesting that they had stronger contacts with equalities specialists in relation to one or the other group. Another issue identified (again consistent with one of the themes running through the research) is that some CSPs indicated that links were better developed in relation to race equality than either disability, or sexual orientation / gender identity.

### Policy proofing

3.66 Each of the local authority and police Disability Equality Schemes read as part of this research included a commitment to proofing policies prior to their presentation to appropriate decision making structures. It

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[15] For simplicity, the term equality specialist will be used, although the actual designation of staff varies considerably.

was also noted that, in some authorities and police forces, this was interpreted as "equality proofing", and hence would include LGBT issues, as well as disability issues.

3.67 A small number of CSP interviewees indicated that one of the aspects of their joint working with equalities specialists was in ensuring their input to a proofing process for community safety policies (as would be implied by a Disability Equality Scheme).

3.68 It was also suggested by some CSP interviewees that their role included being invited to comment on policies from other services from a community safety standpoint. This was seen by some as a valuable role, allowing the reach of community safety (and the understanding of this) to be extended. It was also indicated that this could be one route through which at least some CSPs could ensure that crime against disabled people and LGBT people is considered by partnership members in framing policy.

**The level of priority given to crime against disabled people and LGBT people**

3.69 A minority of CSPs, but all police forces, suggested that crime specifically against disabled people and LGBT people was a priority for them (as distinct from an identified CSP priority for the purposes of funding). A number noted that racist crime had previously been a priority, and that this was being extended to cover other equalities groups. Some interviewees recognised that the level of priority given to these issues could not necessarily be justified on the basis of existing evidence arising from reported crime alone, but that wider policy issues were involved. One suggested that:

> *"It's not top of the list, but it is a priority".*

3.70 A small number of interviewees, among both CSPs and police forces, indicated that one of the key determinants of priority was the fact that the issue was being "championed" by a senior staff member in their area (usually, but not always, a senior police officer).

3.71 A small number of interviewees suggested that this issue was being afforded some level of priority within their partnership, even though it was not necessarily one of its declared priorities in terms of Scottish Executive funding.

3.72  For many CSPs, however, it was clear from interviews carried out as part of this research, that crime motivated by prejudice, malice or ill-will against disabled people and LGBT people is not, and has not thus far been considered a priority.

### Reasons for the level of priority assigned

3.73  The main reason given by CSP interviewees for why this work was not seen to be a priority was simply a lack of evidence that this was a significant problem. One noted, for example, that:

> *"It simply isn't coming through in the statistics"*

3.74  A small number of interviewees recognised that, given the widespread acceptance of the view that under-reporting was likely to be a significant factor (as set out in detail in Section 4), it may be argued that using a lack of evidence as a justification for affording the work low priority may be a circular argument. As will be set out later, all police forces are now taking steps to gather more evidence on the prevalence of crime against disabled people or against LGBT people, and in some cases, to improve the level of reporting.

3.75  A number of rural and smaller CSPs suggested that crimes motivated by prejudice, malice or ill-will were more likely to be an issue in cities and urban areas, particularly in relation to LGBT people, but there was also a suggestion in some areas that this also included disabled people. One CSP noted that:

> *"Disabled people are well integrated here."*

3.76  At a basic level, a number of CSPs suggested that *individual* victims of crime would be afforded a priority (likely reflecting the position in all CSPs and police forces, even though most did not mention this directly). For example, it was suggested that where a disabled person or an LGBT person was identified as a victim of crime, they would be likely to be referred immediately to Victim Support and, for example, to other projects such as those providing home security. In cases which involved a crime and where a prosecution was being considered, victims from these groups would also be referred automatically to Victim Information and Advice (VIA).

3.77  It was also suggested that equalities groups were likely to be prioritised by antisocial behaviour teams in terms of, for example, pro-

active monitoring of harassment and seeking ways of preventing a recurrence. It was suggested that this would be the case regardless of the overall status of crimes against disabled people and LGBT people as a specific priority for the CSP as a whole, and would be driven by the overall approach of addressing the needs of vulnerable victims of antisocial behaviour.

## FUTURE POLICY DEVELOPMENT

3.78 As was set out earlier in this section, current CSP strategies are nearing the end of their life spans. While some CSPs have draft work in progress for 2008-2011, others do not, and are intending to begin consultations and planning in the next couple of months. One CSP indicated that its objectives actually dated from as long ago as 2001, and were in the process of being re-visited as part of an overall "re-invigoration" of the CSP.

3.79 At a national level, fresh guidance from the Scottish Government will be issued in the next few months. It has already been made clear to CSPs that the current plethora of community safety and antisocial behaviour funding strands will be simplified, and the current (rather artificial) distinction between community safety and antisocial behaviour work will be removed. (This is consistent with structural and policy changes already underway in some CSPs which have seen community safety and antisocial behaviour work aligned more closely, with the bringing together of multi-agency, multi-tasked teams.)

3.80 There were mixed views of these expected developments among interviewees, with some pointing to potential benefits in terms of reducing the volume of reporting and duplication of effort, while others expressed concern that community safety work would be subsumed (and could effectively be lost) in work relating to antisocial behaviour. In this context, concern was also expressed about the impact that this may have on "secondary" or "marginal" community safety activities.

**The likely level of priority to be given to crime against disabled people and LGBT people**

3.81 Concern was expressed by some interviewees that work in relation to crimes against disabled people and LGBT people motivated by prejudice, malice or ill-will would be required to be assessed in terms of their relative priority against a wide range of issues with a higher "profile", such as, for example, town centre violence, youth offending,

CCTV and similar infrastructure investments, as well as domestic abuse. One CSP interviewee noted that, as evaluation of the investment by the Scottish Government was likely to remain based in local outcome agreements, issues not seen as "significant" (and in this context, specific crimes against disabled people or against LGBT people) were unlikely to be afforded a high priority.

3.82 There was also some level of concern expressed that neither crimes against disabled people nor against LGBT people would be viewed as being as high a priority as racist crime, and may remain, in effect, a secondary priority. There was also a view expressed by some that this would be justified in terms of scarce resources, particularly given the relatively low levels of reporting.

3.83 It was suggested that, for some CSPs where no specific problem had been identified to date, crime against disabled people and LGBT people motivated by prejudice, malice or ill-will was unlikely to become a policy priority. One suggested that:

> *"… this is unlikely, unless we begin to see trends coming through".*

It was also suggested by one CSP that this was unlikely to be afforded a higher priority as it was considered that it was being dealt with "quite well" by existing policies and practices.

3.84 One city-based CSP suggested that this form of crime was not currently a high priority and that "nobody is screaming to make it one". Another CSP indicated that it was currently consulting on its future priorities, and it was suggested that it would be a surprise if crime against disabled people or LGBT people specifically was identified as a potential high priority.

3.85 One rural CSP suggested that, in the light of scarce resources, addressing alcohol-related issues would be likely to remain the key priority for the partnership. Other CSPs also identified a range of other priorities (including, in some cases, home safety and road safety in relation to disabled people) which were likely to be afforded a higher level of priority in their new strategies due in 2008.

3.86 It was suggested by one interviewee that:

*"The funding route curtails activities, as the CSP has to weigh up problems across the board. It is even harder in a rural situation, as minority groups are more spread out."*

3.87 It was suggested by a small number of CSPs that there was, in effect, no need to make crime against disabled people and LGBT people motivated by prejudice, malice or ill-will a higher priority, as their CSP had a catch-all priority dealing with vulnerable individuals and victims, or relating to violence more generally, which could be used to take forward work if this was seen to be required. This is, as was set out earlier, the situation in a number of CSPs at present.

3.88 A small number of CSPs (as well as some police officers) indicated that one reason for the relatively low priority given to crime against disabled people and LGBT people, and a reason why it may remain so, was the lack of focus on this by the Scottish Executive, and the perceived lack of leadership shown on the issue.

3.89 It was suggested that the decision not to move for a statutory aggravation of "hate" crime had "sent a message" about this issue. It was also suggested that, even in terms of the overall approach to community safety and antisocial behaviour, the Scottish Executive had not indicated that these areas *should* be a priority.

3.90 As will be set out later, a number of CSP and police interviewees suggested that clear direction from the Scottish Government was required for "hate" crime generally, and specifically for crime against disabled people and LGBT people in order that it could to be afforded a sufficient level of priority in all areas.

**OVERVIEW**

3.91 This section has set out the development of Community Safety Partnerships, and the policy framework which guided the development of their current strategies. The current status of policies on crime against disabled people and LGBT people motivated by prejudice, malice or ill-will has also been described, together with summarising some of the perceptions of interviewees about the reasons for the current level of priority given to the issue. Finally, views of interviewees about the likely future level of priority have been summarised. The nature and scale of links between CSPs (and, to some extent, member organisations) and disability and LGBT organisations is also an important consideration in

the means of addressing the needs of these groups, and these issues are considered in the next section.

# SECTION 4: CONTACTS BETWEEN PARTNERSHIPS AND DISABLED PEOPLE AND LGBT PEOPLE

4.1    One of the key issues arising from much of the work undertaken on the interaction between equalities groups and the public sector is the extent to which there are effective mechanisms in place to ensure, firstly, that policy makers recognise the need to work with equalities groups, secondly, that there are ways in which their views can be channelled, and finally, that these views are then acted on and feedback is provided on the process and the outcome.

4.2    This research was not an audit of the contacts between public bodies and equalities groups but it did focus on the specific contacts between disabled people and LGBT people and both Community Safety Partnerships and police forces which relate, directly or indirectly, to crime and community safety issues.

4.3    In relation to disabled people at least, the Disability Equality Duty provides a framework for consultation and participation. As yet, there is no comparable duty relating to LGBT people, although, as will be set out below, many interviewees suggested that their partnerships or forces do engage with both LGBT groups and individuals.

## THE EXTENT OF CONTACTS WITH COMMUNITY GROUPS

4.4    It was clear from this research that some CSPs have little or no direct contact with either or both disabled people and LGBT people. As one CSP interviewee noted:

> *"There has been little in the way of direct consultation / engagement by the partnership with the communities concerned."*

4.5    One CSP interviewee suggested that the police in their area *"might be more likely to have contact"*. Another CSP suggested that one service within the council had been given lead responsibility for (in this case) work with LGBT people, while another noted that individual member services would be "likely" to do work in their own right.

4.6    As will be set out below, however, there were wide variations in this, with some agencies having extensive direct contacts, and others having none.

**Availability of local groups and capacity issues**

4.7   One of the key difficulties identified by both CSP and police interviewees was the apparent lack of local disability or LGBT groups with whom a relationship could be built.

4.8   It is clear from evidence from both the DRC and the Equality Network that there are significant gaps in the coverage, as well as in the capacity of both disability and LGBT groups across Scotland. Overall coverage was described as "patchy".

4.9   In relation to disability groups, this issue had come to light in the last year as some public bodies struggled to identify organisations with which to work in relation to the development of Disability Equality Schemes. The DRC noted that the gaps are particularly noticeable in rural areas, but not confined to these. In some cases, there are few, if any groups, while in others, the groups lack the capacity to engage at the level required by (in this case) community planning partners. A number of interviewees noted that a small number of individuals generally carried the burden of representation of a wide range of groups.

4.10  These issues were confirmed by a range of interviewees across Scotland, in both rural and urban areas, which reported difficulties in finding representative disability groups with which to work.

4.11  The DRC has been taking steps to try to build capacity at a local level. It was also suggested that some local authorities may be taking steps to try to develop the capacity of both disability and LGBT organisations. This was generally identified as being taken forward through equalities specialists.

4.12  Similar issues were found to exist with LGBT organisations. In some CSP areas, there are no formal LGBT groups of any kind. The relative strength of the LGBT voluntary sector in Edinburgh and Glasgow is not reflective of Scotland as a whole. Many of the same issues relating to capacity also apply to LGBT groups. Most exist to provide a service of some kind, with "representation" being a secondary function.

4.13  It is clear that, in some cases, national organisations serve as a proxy for local contacts. On the basis of this research, it seems that this is more likely to be the case with LGBT organisations than with disability organisations. A number of police forces and CSPs identified that their

most common contact was with Stonewall, rather than any local individuals or groups.

4.14 Some central belt CSPs identified that they had little contact with LGBT groups, but assumed that work was being taken forward in Glasgow and Edinburgh. Similarly, in one rural area, it was suggested that work tended to concentrate on the main town, and that it had proved difficult to take work forward in other areas.

4.15 In some areas, it is clear that one organisation has become the de facto representative organisation for either disabled people or LGBT people, even where that organisation deals with a specific issue, or a specific sub group (such as young people).

4.16 One CSP, in a rural area, suggested that, in the absence of any groups, or even any individual identifiable contacts, the partnership itself had made a conscious decision to try to "represent" the whole population.

4.17 A small number of CSPs also identified concerns with the "representativeness" of their contacts. One noted, for example:

> *"A long time ago, there was a group we had contact with, but it seems to have folded and there is nothing in the area. Even when there was a group, it's the same people who attend all the time and it is not always representative."*

**Steps taken to identify individuals and groups**

4.18 A number of interviewees indicated that they had taken direct and indirect steps to try to identify groups of either disabled people or LGBT people. Among the examples provided were:

- Through Councils for Voluntary Service, and through directories of voluntary and community organisations.
- Via national organisations such as the DRC, the Equality Network and Stonewall.
- Through other departments of the local authority, including equalities specialists, as well as specialists in other areas, for example, architects (described by one interviewee as a "valuable" source of contacts).
- By "piggy-backing" on other processes, such as consultations on the Disability Equality Scheme.

- By asking current contacts to identify other potential contacts.

4.19 In some cases, CSPs indicated that they had previously tried and failed to convene meetings with, or develop groups involving either disabled people or LGBT people. One example provided by a CSP suggested that a proposed meeting with adults with a hearing impairment had had to be cancelled due to lack of take up.

## WIDER CONSULTATION WITH GROUPS BY CSPS AND POLICE FORCES

4.20 In a number of cases, the links between CSPs and voluntary and community groups were at one step removed, for example, through a wider communities group convened by another service.

4.21 A small number of CSPs suggested that their local authority operated a citizen's panel, public services panel (or similar) through which issues could be raised. It was also noted, however, that the time likely to be allotted to community safety through this route might be relatively small, and only pressing issues might be raised. One CSP identified that its local authority had, in the past, developed action plans around communities of interest, including disabled people and LGBT people, and that these were shortly to be re-visited.

4.22 One police force identified a network of equality forums (including one covering disabled people, and one covering LGBT people) in its area, jointly funded by the police, local authority and the NHS. These were described as meeting regularly, and being useful in allowing community members to ensure that issues relevant to them were both identified and dealt with by the partners. The local authority in that area identified that these groups were seen as integral to its overall approach to engaging with equalities groups.

4.23 In some other cases, local authorities (and some police forces) also identified having access to a Disability Forum (or LGBT forum) set up specifically to address relevant issues, which included crime and community safety. These groups were generally described very positively by interviewees, with a clear view that members of the community were empowered to raise any issues of relevance to them. Examples were provided of a wide range of issues which had been addressed by such forums (whether for disabled people or LGBT people) including home safety, road safety and fear of crime. As will be

set out in more detail in the next section, however, most interviewees considered that crime against disabled people motivated by prejudice, malice or ill-will had never, or at least rarely been identified as an issue.

4.24 One CSP interviewee identified that the Community Planning Partnership was in the process of establishing a diversity working group, part of whose remit would be to consider community safety issues. One of the potential benefits of this approach, as identified by the interviewee, was that the group would be able to consider work relating to equalities groups across a range of services and policy areas, and take a clearer view of gaps and overlaps.

4.25  In a small number of areas, input to community safety issues from disabled people and LGBT people was managed through a voluntary sector community safety forum. These were also described very positively by interviewees. These groups are typically coordinated by the local CVS rather than the council, and it was suggested that these would normally include representation from equalities groups (or would ensure that their views are sought on key issues).

4.26 In some cases, respondents indicated that they had chosen to consult with disabled people and LGBT people as a matter of course about a range of community safety issues other than crime. One CSP, for example, identified that it was in process of consulting with both groups, among others, about the future of its community warden service.

**Membership of groups**

4.27 It is clear from comments provided by interviewees that not all "representative" forums actually have representation from all equalities groups. Largely (in the view of interviewees) as a result of the lack of infrastructure in some areas, it was clear that some groups lacked representation from either disabled people or LGBT people.

4.28 It was also noted that, in some cases, even where there is representation, capacity issues may make it difficult for members to attend on a regular basis.

**Specific engagement about crime issues**

4.29 In a small number of cases, contacts were more direct and relevant to the issue of crime against disabled people and LGBT people. In one area, an LGBT Community Safety Forum was identified with

particular responsibility for community safety. In the same area, the CSP has also convened a forum primarily for adults with learning disabilities, but this is also attended by other disabled people. In both cases, any issues raised are fed back to, and would be dealt with by the Community Safety Partnership, or individual partners. (It is also worth noting that, in each case, individual cases can be brought to the forums, and can then be referred to, for example, the antisocial behaviour team.)

4.30  Other examples included one CSP which is revising its core policy on crimes motivated by prejudice, malice or ill-will in partnership with a range of community groups, including those representing disabled people and LGBT people. A further interesting strand of this approach is that the partnership invited organisations it believed could assist in taking forward the resulting work in some way, suggesting a long term commitment to engagement with communities of interest on these issues.

4.31  One large local authority provided an example of a major exercise undertaken with LGBT community groups which had identified a number of community safety issues which have been taken forward in partnership with the police and the LGBT community. A similar exercise, supplemented by on-going consultation, was also identified in another large local authority.

4.32  Some police forces identified that they have a proactive policy of engagement with both disabled people and LGBT people, for example, through hosting open days and surgeries in community facilities, and in partnership with community groups. It was also suggested that police forces are generally proactive in seeking out groups, and offering to attend to discuss issues of common interest.

4.33 One police force described a wide range of initiatives to engage with both disabled people and LGBT people, encompassing not just the force, but also the wider partnership. It was noted that a best value review has both streamlined the overall approach to community safety and identified ways of engaging with equalities groups. In relation to community safety, there is now direct representation by both disabled people and LGBT people (as well as other equalities groups). The CSP has also taken proactive steps to work with representative community groups (both disabled people and LGBT people) to engage with wider communities of interest, through, for example, regular open meetings. It was also noted that the police have regular meetings with representatives of both disabled people and LGBT people to discuss

common issues, and that any issues raised are fed back through the force and to the wider Community Safety Partnership.

4.34  As will be set out in more detail in the next section, in a number of areas, current racist incident monitoring structures have been, or are being extended to encompass crimes motivated by prejudice, malice or ill-will against other groups.

**Issues about contacts relating to future working**

4.35  At a general level, a number of CSPs indicated that, in their view, issues facing both disabled people and LGBT people would gain a higher profile in the future. One CSP interviewee suggested:

> *"There's a need to raise disability up the agenda – it's nowhere at present".*

4.36  A number of CSP interviewees indicated that they intended to increase their level of interaction with either (or both) disabled people and LGBT people. It was also suggested that specific groups (such as adults with a hearing impairment) would be targeted.

4.37  A small number of initiatives were also identified of a more general nature (such as booklets, websites and DVDs) which may serve to develop fresh lines of communication (and identify issues).

4.38  A number of interviewees expressed frustration with the current situation, indicating that they would prefer to be able to engage with disabled people and LGBT people but could not do so as a result of the lack of capacity.

4.39  In terms of engagement, it was suggested that a generic approach to crimes against equalities groups was more flexible than a "racist", or "homophobic" crime approach in isolation, as this allowed for changes in emphasis, or the adding of new target groups where required. An example of this, although not specifically relating to either disability or sexual orientation / gender identity, was that in some areas, migrant workers were found to be being added to the list of groups potentially at risk of crime motivated by prejudice, malice or ill-will.

4.40  In terms of future working, it was suggested that groups considering these forms of crime should be more flexible in terms of membership than is currently the case at present. It was suggested that

this would allow "anyone who is relevant" to be drawn into the work of the group as and when necessary.

**OVERVIEW**

4.41 This section has summarised the nature of the links between CSPs and disabled people and LGBT people. It has identified a number of the capacity constraints affecting the voluntary sector in some parts of Scotland and the ways in which this has impacted on the work of CSPs. The following section identifies examples of some specific local work by CSPs and police forces to address some of the community safety issues affecting disabled people and LGBT people.

## SECTION 5: CSP WORK WITH DISABLED PEOPLE AND LGBT PEOPLE

5.1    This section will provide examples of work being undertaken by CSPs and police forces with disabled people and LGBT people at a local level. Some examples of work to address broad community safety issues are considered first[16], before focusing on work to address crime against disabled people and LGBT people.

### WORK WITH DISABLED PEOPLE AND LGBT PEOPLE ON BROAD COMMUNITY SAFETY ISSUES

5.2    A number of CSP and police interviewees suggested that there is a good deal of general work on-going with both disabled people and LGBT people. Much of this was identified as being led by equalities specialists within the council, or diversity managers (variously described) within police forces. A number of CSPs suggested (as identified earlier) that these contacts also allow disabled people or LGBT people to raise concerns about crime, or about fear of crime, and that this represents another means of information gathering to help inform the level of priority which will be given to the work in the future.

5.3    Some of the work identified could be considered routine in the context of community safety. For example, in relation to disabled people, much of the work identified related to home and fire safety, and to road safety. A number of public information campaigns were also identified, and some examples of the broad community safety work taking place with disabled people and LGBT people are set out in the next few subsections.

5.4    Much of the broader work identified relating to LGBT people was about personal safety. A number of examples were provided of campaigns relating to, for example, securing drinks, and of infrastructure measures, such as the employment of marshals and the installation of CCTV in known trouble spots. It was also noted that police forces have been proactive in setting up open days and surgeries for LGBT people, and have participated in LGBT events.

5.5    As noted earlier in the report, it was identified that a number of education services are undertaking work to address bullying in schools,

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[16] While these constitute examples of the types of work highlighted by some, it is recognised that there is likely to be similar work being undertaken in other CSPs.

and, in some cases, the wider community both from the perspective of assisting victims, and trying to change the attitudes and behaviour of perpetrators. It was suggested that at least some of these initiatives arose out of on-going participation and consultation, and this suggests that this could be one means by which action could be stimulated in relation to crimes against disabled people and LGBT people motivated by prejudice, malice or ill-will in the future.

## Identifying issues and needs

5.6   As well as some work taking place in some areas to meet with groups (set out in the previous section), there were a few examples of other work to identify general issues and needs. For example, one CSP identified commissioning a fear of crime survey with booster groups to ensure that the views of equalities groups would be adequately represented. Another noted a more general new strategic assessment of community safety across the area, within which it was hoped to pick up issues for LGBT people (although not disabled people). Another noted that a residents' survey carried out in the past had helped to identify a higher level of fear of crime amongst disabled people.

5.7   One police force noted that a survey of homophobic crime had recently been carried out at the "Pride Scotia" march.

5.8   One partnership noted that a forthcoming review of the role and remit of Community Wardens would include consultation with disabled people and LGBT people.

5.9   One respondent noted that the local authority had carried out equality impact assessments for various aspects of their work, including the work of Community Wardens (which highlighted the need to raise awareness with staff about the needs of equalities groups and their legislative responsibilities).

## Road safety

5.10 Road safety work which was mentioned tended often to focus on issues such as pavement safety and safe crossings. Some examples of road safety work to tackle issues for disabled people involved the identification by one partnership of access to bus stops having caused problems for disabled people, and ongoing work to develop footpath improvements and road marking.

5.11 Other examples included work to ensure safe road crossings for people with visual impairments. One partnership also identified that there was a member of architectural staff with a specific focus on disability issues. Another noted that work was taking place with a parallel transport liaison group to consider safe transport and road safety. One also noted that the abuse of parking spaces designated for disabled people had been identified as a community safety issue, and the partnership was planning to support and fund an awareness raising campaign on this issue in partnership with local service providers.

**Home safety, security and fire safety**

5.12 One CSP identified a range of work to tackle bogus callers or cold callers, suggesting that this was aimed at older people but was relevant to disabled people. This respondent stated that disabled people did not tend to "badge" themselves as disabled people, and would generally be dealt with as part of such wider initiatives. Another, however, noted undertaking specific work with disabled people in settings such as sheltered housing and disability groups, considering crime prevention issues such as bogus callers and other issues.

5.13 A CSP noted that, as a matter of policy, security measures would be fitted to homes if disabled people needed them, as a matter of priority (including cameras, locks, lights etc.). This was identified by several partnerships as part of the response to the identification of safety issues affecting individual disabled people or LGBT people.

5.14 It was also identified by one CSP that they worked with the fire service in fitting fire alarms suitable for people with hearing impairments. Another noted that work was developing in relation to exploring fire safety issues for disabled people (stating that this was a particular issue for people with learning disabilities), and similar issues were raised by other CSPs.

5.15 Some respondents made reference to local schemes focusing on other aspects of home safety and the involvement of their partnership in these. For example, one noted (in identifying work relevant to disabled people) that they were active partners in a local initiative providing advice and security equipment to elderly people. Another noted (in discussing work relevant to disabled people) that they were hoping to introduce the "Message in a Bottle" initiative, whilst again noting that this was aimed at elderly people.

5.16 The identification of the relevance of these types of work to disabled people was often highlighted in interviews as constituting the main links between community safety work and disabled people.

**Information provision and communication**

5.17 There were also seen to have been some developments to information provision, in order to enable access to community safety information by disabled people with particular impairments. For example, some of the strategies made reference to being available in other formats. One interviewee noted that their CSP was currently preparing a DVD about the work of Community Wardens with subtitles and a commentary. (They were also revamping their website and noted that this would take account of access issues.)

5.18 There were also examples of the provision of specific information (sometimes targeted), including:

- An information guide for adults with learning disabilities, bringing together interactive programs and DVDs, with advice on home safety, security, abuse, and fire safety. This also features a personal safety DVD and is being used in day centres, as well as being available in local libraries and from partner agencies.
- A poster campaign relating to spiked drinks, targeting LGBT people.
- Planned roadshows for people with learning disabilities.
- A conference on the right to be safe, with the use of an artist and graphics as a way of making it easier for people to speak.
- The provision of advice by a police officer to a group of Transgender people, following from a request by community members.

**Adults with learning disabilities accused of crime and antisocial behaviour**

5.19 One issue raised by a small number of police and CSP interviewees was the need for improved awareness among antisocial behaviour staff and police officers about the wider issues involved where adults with learning disabilities are reported to be the perpetrator of either antisocial behaviour or crime.

5.20 As was set out earlier, concerns were expressed by some interviewees that some adults with learning disabilities are being exploited to commit crimes on behalf of others. Cases were also identified where individuals have been the subject of complaints to either councils or police forces where the issues involved are complex, and where the subject of the complaint (i.e. the person with learning disabilities) may themselves actually be the victim, or may be being unjustly targeted.

5.21 It was noted by some interviewees that joint work is on-going to ensure that cases which are reported through either antisocial behaviour or police routes are fully investigated in order to identify whether any wider issues may be relevant. It was noted by one interviewee that this is particularly important given the recognition that some adults with learning disabilities may be reluctant to, or may face barriers to reporting incidents or crimes where they are the victim.

## WORK TO ADDRESS CRIME AGAINST DISABLED PEOPLE AND LGBT PEOPLE

5.22 The issues faced in trying to assess the level of crime against disabled people and LGBT people were set out in Section 2. All police forces, and some CSPs were found to be undertaking work to try to improve both the identification and reporting of crime. Material relating to the latter will be summarised later in this section.

### Definitions of crime motivated by prejudice, malice or ill-will

5.23 It is clear that, where the definition of "hate" crime is being considered at all, the experience of working with racist crime has led to the use of a "McPherson" definition, basically, that a crime is considered to be motivated by prejudice, malice or ill-will if either the victim, or another person believes this to be the case. Although this was not the definition adopted by the Scottish Executive Working Group, it is used by ACPOS (as well as by agencies in England and Wales) as set out in detail in  Annex 4.

5.24 This clearly has a number of advantages, particularly where the wider concept of "hate" crime as crime motivated by prejudice, malice or ill-will is not well understood by victims, particularly disabled people, as it allows police officers to subsequently classify an incident or offence at a review stage.

5.25  It was also suggested that the definition is easy to understand and to use in practice (although this is not necessarily true, as it requires either the victim or the reporter to be aware of the broad concepts, and it is clear that this is far from being widespread).

**Identifying crime against disabled people and LGBT people**

5.26  A number of local approaches were identified as being taken to help to identify the level of crime against disabled people and LGBT people.

*Community surveys and other forms of recording*

5.27  Sections 5.6 to 5.9 identified some work to identify general issues and needs. A number of partnerships identified that they were in the process of, or about to undertake, some form of community survey. In some cases, it was suggested that this "should" pick up crime issues as these affect disabled people or LGBT people.

5.28  One interviewee, however, was more sceptical, suggesting both that victims were no more likely to report incidents in this way than at the time of the incident (although given the experience of the British Crime Survey, this may not be wholly true) and many may not recognise that what had happened to them was a crime motivated by prejudice, malice or ill-will. This is consistent with other issues raised in this research relating to the recognition by victims that they have been victims of crime. This suggests that any questions would have to be framed carefully, with explanatory text.

5.29  A small number of other initiatives were identified through which agencies were beginning to record data which may assist in identifying issues relevant to crime against disabled people and LGBT people. One CSP, for example, is in the process of revising its overall approach to data gathering for antisocial behaviour to ensure that more information on victims is gathered.

5.30  One authority indicated that it had commenced recording gender in relation to antisocial behaviour referrals, which could include some issues relevant to crime against disabled people and LGBT people. It was suggested however, that it had been agreed that information on disability and sexual orientation would not be collected, as the process of asking these questions was seen to make the telephone operators

and callers uncomfortable. It was indicated, for example, that operators had previously expressed concerns about being asked to identify whether a caller was a tenant or owner occupier, and the sensitivity of the issues of disability and sexual orientation was seen to make the question inappropriate in such a method of contact.

## *Police recording systems*

5.31 It is clear that all police forces now have in place some form of recording system to allow the identification of specific classes of victim or offence. While these are not "hate crime" recording systems per se, it was generally felt that these were at least a reasonable proxy for this. Systems for recording crimes against LGBT people have been in place for at least three years, while those for disabled people are newer, and in their early stages of implementation.

5.32 The basis of the recording is similar across forces, even though the actual nature of what is recorded appears to vary slightly. (Strathclyde Police has a slightly different system, although the practical effect in terms of the ability to flag incidents and victims is the same.) As there is no general statutory offence which is available to be used in the event of a disabled person or LGBT person being the victim, most offences are (as set out earlier) likely to be common law offences. These, in common with other offences, are capable of being "flagged" or "tagged". Essentially, this is a tick box in the system which allows offences to be marked as being one of a number of types. For example, domestic abuse offences, and offences aggravated by the use of weapons, can be flagged. Similarly, offences motivated by racial hate or religious prejudice can be also be tagged using the same approach, even where a statutory aggravation is available (see Annex 4 for more details on the existence and use of statutory aggravations).

5.33 A number of relatively small local issues have arisen in the implementation of these systems, particularly in relation to definitions of disability, and it appears that some forces have not necessarily found it easy to develop categorisations which are either fully meaningful or consistent.

5.34 The exact nature of the flags used also appears to vary slightly across forces, and concern was expressed by some interviewees that this could lead to inconsistent recording and, potentially, to patterns of offending, or patterns of victimisation being missed. However, given the level of monitoring in place across forces at present (set out below), and

given current volumes of incident reports, this seems unlikely unless there is a sharp rise in these.

5.35 It was noted by two forces that work has been undertaken with officers to improve their awareness of equality issues generally, and to introduce them to the use of the recording system. It was suggested that this is common to all forces, although not all mentioned this. Training and awareness raising issues will be dealt with in more detail later.

*Police monitoring*

5.36 It was also clear that there is a high level of scrutiny of crimes involving disabled people and LGBT people in all forces. Each interviewee described a process which is designed to ensure that all cases are identified where a disabled person or LGBT person is the victim of a crime motivated by prejudice, malice or ill-will, and appropriate follow up action taken.

5.37 Two examples are provided below, but these are typical (if not identical) to the approaches being taken in other forces:

- In one force, each crime report is assessed by a team consisting of officers of various ranks (including senior ranks) and any involving equalities groups are identified. Where follow up is required, an officer would be detailed to do this. Where follow up from another agency would be desirable, this is also actioned. An example was provided of a referral being made to a community mental health team as a result of consideration of an incident report.
- In another force, the lead officer for "hate" crime receives all crime reports and scrutinises these for any incidents involving equalities groups. In this case, the lead officer also receives all reports arising from the partnership's remote reporting system.

5.38 It is also worth noting that most police forces have identified lead officers who would normally receive not only relevant crime and third party reports, but also other intelligence. In some forces, one officer covers all equalities groups, while in other forces, individual officers lead for one or more groups. A number of police interviewees indicated that their force had developed procedures to ensure that all officers are

aware of the identity of these lead officers, and provide them with all relevant information as it is identified.

*Approaches to partnership monitoring*

5.39 In most areas, groups currently meet to manage, oversee, or advise on multi-agency racist incident monitoring procedures. These groups have a variety of names, and, although, on the surface, are similar, they may, in reality, be slightly different in composition or focus. Some areas have no formal groups of this kind, with relevant information being circulated by other means.

5.40 A number of interviewees indicated that racist incident monitoring groups (however described) were being extended to cover other forms of crime motivated by prejudice, malice or ill-will. These appear to be called different things in different areas, including references variously to "hate crime" and "diversity". One authority indicated that the extension from "racist" crime to "hate" crime had met with resistance from some current members among community groups.

5.41 It is by no means the case that the CSP always leads on the monitoring of crimes against equalities groups. In some areas this sits, for example, with a multi-agency group. In some cases, the CSP is not directly a member of this group (although it may, for example, receive minutes through membership of other groups). In other areas, monitoring sits with a grouping primarily focussed on equalities issues.

5.42 The frequency of monitoring by partnerships varies across Scotland. One CSP in a rural area suggested that reports on racist and homophobic crime were monitored on a half-yearly basis. In another area, covering both urban and rural areas, a group is convened every 4 weeks, and receives all crime reports (as well as any third party reports) where the victim is from any equality group.

**Remote or third party reporting of incidents**

5.43 It is worth making a distinction between the various forms of reporting crime incidents where disabled people and LGBT people are the victims, as these are readily confused. The terminology used also varies across areas, and this does not particularly assist in developing a clear picture of provision. Broadly, the four main forms of reporting incidents and crimes are:

- Directly to the police via a police office, the 999 system, or through a call centre. This is the traditional method and has, as set out in Section 1, a number of difficulties for some equalities groups (although some forces indicated that, as part of their wider commitment to diversity, training had been provided to first responding officers, station based officers and call centre staff to make them more aware of what to do when a crime motivated by prejudice, malice or ill-will is reported).
- Indirectly to the police, via a website. These systems are particularly designed for crimes where the reporter has no wish for the police to take immediate action.
- Indirectly via a third party or remote site, which may be a local authority department, another service or a voluntary organisation, with no support provided directly (although leaflets describing, for example, Victim Support, may be available)
- Indirectly via a third party with support provided directly. Generally, these arrangements involve a voluntary organisation working with the police or Community Safety Partnership.

5.44 Remote or third party reporting for racist incidents is now available over most of Scotland, and, as noted earlier, this is being progressively extended to cover other groups. Remote reporting, or third party reporting, for disabled people and LGBT people is now available in a few areas across Scotland.

5.45 Generally, one feature of remote or third party reporting is that the victim (or someone acting for the victim) can request that no action is taken. In some cases, reports can be provided anonymously (although some concerns were expressed about this, particularly in cases where lead officers within police forces believed that further action was required in response to an apparent pattern of behaviour). One force indicated that, even though it accepted anonymous reporting, it had instituted a range of additional questions designed to identify key features of the victim, useful for intelligence and monitoring purposes.

5.46 A number of police officers stressed that the final decision on whether or not to investigate further, or to take action, should rest with them, not with the victim. A number of scenarios were identified, including where specific offences or serious offences had been

committed, where there were concerns about the safety of any vulnerable person (however defined) or where the police believed that the incident was being reported through a remote, third party (or internet) channel inappropriately and should have been reported through the 999 system.

5.47 This notwithstanding, it was also suggested that there were clear benefits to the police and to CSP from reports received, even where no action was requested. However, it was suggested by one police interviewee that there was a need for some evaluation of these approaches in order to ensure that the maximum benefit was being derived by those reporting incidents, and that the police were receiving enough information for intelligence purposes.

5.48 One of the key aspects of these approaches, stressed by some police and CSP contacts, was that any staff providing a reporting service, with or without an expectation of support, should be expected to undergo training. Both general aspects of the process (empathy, confidentiality) and specific aspects of this were stressed. It was suggested that training would be required for staff in terms of their awareness of the issues facing victims from either group, and any specific needs they may face. (It appears from information provided by CSPs and police forces where remote or third party reporting is already in place that training has been a feature of its roll-out.)

5.49 It was also stressed that, even where remote or third party reporting is in place, there is no guarantee that it will be used. One CSP indicated that it had had third party reporting for LGBT people for around two years, and this had not led to any reports. In response to this, it is worth noting that the CSP concerned had undertaken additional awareness raising and advertising.

5.50 A number of interviewees pointed to the experiences of remote and third party reporting for racist crime which took some time to become established, for victims within the relevant communities to become aware of it and for a sufficient level of trust to be developed. It was suggested that this would also be likely with reporting arrangements for both disabled people and LGBT people (although it was also suggested that the experiences of providing a service to ethnic minority communities would be beneficial in allowing services to other equalities groups to become established quickly). One CSP noted:

*"Our feeling is that there is a lot that can be learned from dealing with racist crime and there is 'no point in reinventing the wheel'".*

### The extent of remote or third party reporting

5.51  As might be expected, the most extensive provision of remote or third party reporting was found in larger authorities, particularly Glasgow and Edinburgh. Overall, it was found that there are more opportunities for remote reporting by LGBT people than disabled people, although it is worth noting that, in some areas where this facility is being introduced for the first time, both groups are covered.

5.52  Relatively few examples were identified of remote or third party reporting for disabled people, and these were primarily aimed at adults with learning disabilities. Examples of this were identified in a small number of areas, in each case, where a voluntary organisation was both undertaking the reporting and providing support to the victim (in conjunction with the police and Victim Support as required).

5.53  One CSP indicated that it had participated in the development of a publication aimed at providing a range of advice to disabled people, and that it had taken a page in this to promote the existing remote reporting opportunities through both third parties and council offices and staff.

5.54  Feedback was provided on one relatively new service, instituted by the CSP and police, working with a voluntary organisation working with adults with learning disabilities. It was suggested that the commencement of the service had led to a small number of issues being raised, but among the individuals concerned, there was said to be a "sense of relief" that a "non-threatening" route was available to them to report their concerns.

5.55  Remote or third party reporting for LGBT people has been in place for more than 6 years in Glasgow, and has been progressively introduced in other areas. The most extensive network of remote reporting, as set out earlier, exists in Glasgow and Edinburgh. It is interesting to note that, in a survey of LGBT people carried out by Tayside Police (Tayside Police, 2007), as many as 74% of respondents (many of whom had indicated that they had not previously reported crimes in which they had been a victim) would use remote or third party methods.

5.56 One CSP identified that it had introduced remote reporting for LGBT people in 2003/4 using two local LGBT voluntary organisations as the intermediaries. This was seen as very positive both by the CSP and police, as well as by the voluntary organisation concerned. As the CSP interviewee noted:

> *"The project is a good way of doing this, as it represents a 'safe' intermediary for people who may otherwise be concerned about reporting incidents to the police or to the new helpdesk".*

5.57 In another area, a total of 7 organisations were found to be participating in remote reporting for LGBT people and it was identified that extensive training had been provided to the organisations concerned. As part of the roll-out of this, extensive publicity was sought. Interestingly, this was also seen to have led to an increase in crimes being reported through other, more traditional channels.

5.58 An example was provided of a number of violent incidents reported through a third party voluntary organisation which, when reviewed by police officers, appeared to represent a pattern of offending and victimisation. Although the crimes had been reported anonymously, the police launched an enquiry which resulted in an individual being detained, even without the specific details of victims being revealed.

5.59 Examples were also provided of police surgeries, usually within community premises, at which members of the public can report any incidents, either where they were the victim, or on behalf of someone else. One force noted that reports made in these surgeries were treated in the same way as third party reports and could, therefore, be made anonymously, with no further action being taken (if this was the wish of the reporter).

### Difficulties with remote reporting

5.60 It was suggested by some CSP and police interviewees that remote or third party reporting is not necessarily straightforward either to develop or implement. It was suggested that difficulties may be posed for the process by the lack of an infrastructure of both disability and LGBT groups (noted earlier). One interviewee indicated that, while attempts had been made to identify a means of developing third party or remote reporting in their area, this had had to be deferred as a result of the lack of any organisations able to provide this.

5.61 In one area where remote and third party reporting has been established for some time, it was noted by the CSP that one of the issues faced was turnover, not only in terms of staff within organisations, but also in terms of the organisations themselves. It was noted that a number of the organisations involved in providing third party reporting had recently undergone changes of name, structure or location, which required changes to, for example, publicity materials and the support material provided to participating services.

**New initiatives relating to remote or third party reporting**

5.62 A number of CSPs noted that they were in the process of introducing remote reporting in some form. One rural CSP indicated that it was about to introduce remote reporting through council offices and public libraries. It was also noted that staff involved in the management of this would be trained by the police. It is worth noting that the pre-publicity for this service specifically identified both disabled people and LGBT people as groups who may benefit from this.

5.63 One CSP provided information about a new recording system available through a wide range of services and locations, which would subsume not only crime, but also a wide range of antisocial behaviour incidents. This is currently being piloted by the local authority, but will be rolled out to other partners in due course. One of the features of this approach is the provision to allow the apparent motivation for the incident to be recorded, as well as information about the incident itself, the victim and the perpetrator. It was suggested that this would allow the identification of patterns of behaviour, allowing resources to be targeted at an early stage to address the issues, or to prevent a recurrence.

5.64 Other CSPs and police interviewees also identified smaller initiatives which may provide further information either on "hate" crimes per se, or on the prevalence of these. In some cases, these initiatives were relatively small scale, for example, providing guidance to services on the need to record data to allow a break down of service referral, or usage data by equality group.

**Other forms of support**

5.65 A number of interviewees, both from police forces and CSPs (as well as Victim Support) identified that victims of crime from any equality group would be treated as a priority in terms of receiving support and

assistance. This would include an automatic referral of the victim by the police to Victim Support, and an automatic referral to VIA if a prosecution was being undertaken.

5.66 A number of CSPs suggested that some form of third party reporting, and some forms of support, were in place through a range of antisocial behaviour routes, for example, community wardens, housing investigation teams and local service networks. It was stressed by some interviewees that any council staff could receive a complaint from a member of an equality group and would take action on this.

5.67 In some cases, partnerships have developed some form of helpline dealing with issues facing equalities groups. Generally, however, these are primarily directed towards members of ethnic minority communities (although one example was identified of an LGBT helpline with funding from a police force).

5.68 One CSP provided funding to some small projects with disability-related voluntary organisations, including a "text to speech" project helping to make access to community justice more widely available. Another identified that they had been considering how to support people with learning disabilities who found themselves in the criminal justice system. One partnership was considering a part time post which could provide support to staff working with people with learning disabilities in the system.

5.69 One police force identified that a civilian worker had been employed to help develop work with victims from equalities groups living in regeneration areas. This was seen to be beneficial in terms of both identifying and supporting victims of crime motivated by prejudice, malice or ill-will (in association with other agencies, such as Victim Support).

5.70 This basic approach was also identified by other CSPs, including one example where Victim Support staff had been co-located with antisocial behaviour teams, and had a specific remit to provide assistance to the victims of crimes (whether or not these are prosecuted). In another area, it was suggested that, in the absence of any suitable disability or LGBT voluntary organisations, Victim Support could provide the support element for an extended third party reporting system.

5.71 One CSP identified that it had developed an "Emergency Reassurance Protocol", primarily in response to the need to work with ethnic minority communities in the aftermath of incidents which might pose the threat of reprisal attacks. It was also suggested that this approach could be used, if required, to help provide reassurance to other communities of interest, for example, in the aftermath of a serious incident or incidents where a member or members of equalities groups were the victim.

## STAFFING AND TRAINING ISSUES

5.72 As well as work to address broad community safety issues and to address crime against disabled people and LGBT people, a number of CSPs and police forces identified work taking place relating to staffing and training issues. This also impacts on work to address issues faced by disabled people and LGBT people and is summarised in the paragraphs below.

### Recruitment and workplace issues

5.73 A small number of examples of recruitment work were provided, as a means of increasing the representation of disabled people or LGBT people within organisations promoting community safety. One partnership, for example, noted that the fire service in their area had employed a member of staff to promote recruitment of minority groups. One police service noted a range of ways of promoting opportunities for disabled people and LGBT people, while another noted that they take every opportunity to promote the service to equalities groups as a potential employer.

5.74 There is a Gay Police Association in Scotland (GPA), which aims: to work towards equal opportunities for gay police service employees; to offer advice and support to gay police service employees; and to work towards better relations between the police service and the gay community. The work of the GPA is supported by ACPOS. There is also an ACPOS LGBT Reference Group which meets quarterly and is made up of police officers from all the Scottish Forces and representatives from LGBT communities. The group is carrying out work on a range of issues including police staffing and recruitment.

5.75 There is also a National Disabled Police Association (NDPA) to which all Scottish forces are affiliated. The NDPA aims to promote

disability rights and equality of opportunity within the police services of the United Kingdom and the wider community.

**Training**

5.76 A number of police forces noted that they had invested a great deal of time and effort into diversity training and awareness raising of various kinds.

5.77 One CSP interviewee noted that their partnership had carried out a "significant amount" of training for staff in dealing with racist incidents, and that, in line with the policy-led move to addressing crimes motivated by prejudice, malice or ill-will against all equality groups, this training was being extended to cover other groups. Another police interviewee noted that ranks above sergeant were to receive disability equality training in the first instance.

5.78 All police forces in Scotland have run NEOTS (National Equal Opportunities Training Strategy) courses, with training also delivered centrally through the Scottish Police College.

5.79 One police interviewee noted that all staff had been provided with 3 days' training covering all six strands of equalities, following on from the development and adoption of a force-wide equality and diversity strategy. This was delivered to officers across ranks, and with differing levels of experience of the issues. One useful aspect of good practice (which, while not unique, is worth reinforcing) is that a number of disabled people and LGBT people contributed to the delivery of this training. It was noted that this training had been positively evaluated, and was now being extended to other community safety partners.

5.80 Some developments to other forms of training were also noted. For example, one partnership noted that Community Wardens undertake training such as mental health first aid, cultural diversity and disability awareness. (Additionally, it was suggested that these staff are aware of, and will report disability issues if they arise.) One partnership noted that a new training programme was being developed for front line staff in relation to incidents involving disabled people and LGBT people.

**Awareness raising for staff**

5.81 A number of police and CSP interviewees indicated in various ways, and in response to various questions, that awareness of "hate"

crime issues is not generally high, either among service providers, or among disabled people and, to a lesser extent, LGBT people. In relation to service providers, one CSP noted:

> *"There is a real danger of complacency. Simply because this is not reported does not mean it's not there."*

5.82 A number of initiatives were identified to try to raise awareness among key target groups of staff, some of which were tied to training relating to, for example, remote or third party reporting, or wider diversity training (see above).

## RAISING THE AWARENESS OF VICTIMS

5.83 A number of interviewees, particularly among police forces, also identified working with representative groups of disabled people to try to raise awareness among both committee and ordinary members of groups. Two police forces also indicated that they had undertaken a number of press interviews relating to rises in crimes against disabled people and LGBT people, and the need for these to be reported.

5.84 One police interviewee also stressed that a key aspect of the awareness raising work they had done, particularly with disabled people was to make people aware that crimes were being committed, and that people did not "simply have to put up with it".

5.85 Some initiatives specifically directed towards adults with learning disabilities have been identified in this section, as have a small number of initiatives targeted at wider groups of disabled people (for example, through booklets and DVDs). One CSP noted that it was considering holding a conference to consider these issues.

5.86 Similarly, a number of initiatives designed to raise awareness among LGBT people have also been identified, including open days, surgeries and the production of publicity material focusing on community and personal safety advice.

### Preventive work

5.87 Some other examples were given of preventive work. For example, individual partnerships noted:

- Funding a play that challenged homophobic bullying in schools and funding work in schools relating to bullying of people with learning disabilities.
- Work with primary school pupils to raise awareness of issues facing young people with learning disabilities.
- Funding youth diversionary activities specifically for LGBT young people, or having criteria for funding local projects which involved targeting disabled young people.
- Work to identify "hotspots" of anti-social behaviour which would help to enable targeting.
- Delivery of personal safety training to groups of LGBT young people.
- Development of safe space for LGBT groups to meet.

5.88 Although examples of each of these forms of work were not widespread, and were identified in small numbers of cases, they provide an indication of some preventive work being undertaken.

## WORK REQUIRED IN THE FUTURE

5.89 Overall, views of interviewees about the future of work in these areas were mixed. It was noted by one CSP interviewee that:

*"Work on race is maybe 10 years ahead of work with LGBT people, and maybe 15-20 years ahead of disability".*

5.90 As noted in Section 2, a number of CSPs indicated that they had, or were about to embark on re-structuring, generally to bring together antisocial behaviour and community safety work.

5.91 It would be fair to note that while some CSPs not currently active in this area were positive about the prospects of work taking place to address crime motivated by prejudice, malice or ill-will against either disabled people or LGBT people in future, some were less positive. One interviewee suggested:

*"If something came up, we would look at this. Community safety work is reactive and it would have to come onto the radar first."*

5.92 As noted previously, in some cases, CSP interviewees clearly considered that work to address such crimes, as well as other work with disabled people and LGBT people would achieve a higher priority in the future. For example, one CSP interviewee noted:

> *"This needs to be highlighted more as an overall issue for CSPs and not as a separate issue – it needs to be brought into the body of the work and not as an add on."*

5.93 One CSP suggested that there was a danger (in their view) that equalities issues become "tick boxes" within community safety work, and that what was required was a change in culture, and a recognition of the need to mainstream work in these areas. It was also suggested by one police interviewee that there may be a danger in focussing on numbers (whether large or small, and whether or not these increase) with the result that the focus on *victims* may be lost.

## Concerns about future work to address crime against disabled people and LGBT people

5.94 A number of CSPs expressed other concerns about future work in this area. Some of the frustration related to perceived limitations to the ways in which CSPs are funded by the Scottish Government. One CSP representative, for example, noted:

> *"At a national level, because partnerships are restricted in what they can do because of funding they are not encouraged or supported in work with minority groups. There is a need to be more relaxed about the use of funding. If the partnership can demonstrate effective work, then they should be allowed to do it."*

5.95 It was also suggested that the impact assessment processes likely to be undertaken by CSPs in the development of new strategies may not necessarily show crimes against disabled people or LGBT people motivated by prejudice, malice or ill-will as a key issue, or a key priority. In this context, it is clear that some interviewees felt frustration that, at least under the current arrangements, it was perceived to be difficult to carry out work except in the highest priority areas (although, as set out earlier, a number of CSPs appear to have overcome this). One CSP noted, for example:

*"The 'Scottish Executive' objectives can be restricting. We feel that the violence reduction agenda means that it is difficult for rural areas where there is not a lot of violence. We have to try to evidence things but it is difficult."*

5.96  This notwithstanding, it was also noted by a number of CSPs that the timing of this research was opportune in that it provided a means by which these issues could be raised before new strategies, and new funding streams are fully agreed.

5.97  In this context, it was also suggested by a small number of interviewees that there was a need for national leadership, and for clear direction on these issues from Ministers and the Scottish Government. Paralleling this, it was also suggested that there was a need for a stronger lead on these issues within partner agencies at a local level, and from CoSLA and ACPOS nationally.

5.98  Finally, in this context, a number of interviewees from both CSPs and police forces indicated that the lack of either a statutory offence or statutory aggravation of hate crime against disabled people or LGBT people has, in the words of one police interviewee:

*"… not helped in focusing on this issue".*

**Priorities**

5.99  A number of areas were identified as priorities for future work in relation to crimes against disabled people and LGBT people. A number of these have been highlighted in this section, but will be summarised here. In all cases, the bullet points should be taken to mean "in some areas", as there were no issues which were seen to be a priority by all CSPs or all police forces. Areas identified included:

- Working to develop the awareness of both disabled people and LGBT people about crime and the available responses to this.
- Building the confidence of communities to report crime.
- Working to develop recording systems further, to gather information on the extent and nature of crime motivated by prejudice, malice or ill-will, and through this, improving the information and intelligence available to, and through the police.

- At a technical level, working with ACPOS to develop guidance standardising the flags used, and the definitions of these to allow for consistency across Scottish forces.
- Increasing the number and effectiveness of remote and third party reporting sites.
- Working with victims of crime motivated by prejudice, malice or ill-will.
- Training staff, both front line staff involved in reporting arrangements, and others involved in policy development.
- Working in schools to educate both potential victims and potential perpetrators about issues and consequences.

5.100  One CSP suggested that more could be done by local authorities as *employers* with their own staff members to try both to educate them about crime issues affecting their day to day work, but also as disabled people, LGBT people, friends, family members and neighbours. One police interviewee suggested that more needed to be done by CSP partners to work with, and if necessary, discipline staff members who display inappropriate attitudes, or in any way appear to condone bullying, harassment or other forms of attacks on equalities groups.

**OVERVIEW**

5.101  This section has summarised some of the work being carried out at a local level to identify and address community safety issues and in particular crime against disabled people and LGBT people motivated by prejudice, malice or ill-will. Much of this work relates to improving recording and monitoring systems, but examples were also provided of initiatives to improve levels of reporting, particularly where support to victims is also provided.

5.102  The final section will summarise the conclusions arising from the research, and offer a number of recommendations for future work.

# SECTION 6: CONCLUSIONS AND RECOMMENDATIONS

6.1   This final section summarises the conclusions arising from the findings in Sections 2 to 5. A small number of recommendations are set out later in this section.

## CONCLUSIONS

### Broad community safety issues

6.2   Although this research was not in any sense an audit of contacts between CSPs and equalities groups, nor of all aspects of work being undertaken by CSPs, it is clear that there is a good deal of work taking place of relevance to the concerns expressed by disabled people and LGBT people.

6.3   On one level, disabled people and LGBT people face the same issues as anyone else in the wider community. Thus, mainstream community safety and antisocial behaviour work has at least as much relevance to equalities groups as other groups. Initiatives, for example, such as those to address town centre violence, alcohol and drugs issues and the dangers posed by young drivers will also impact on disabled people and LGBT people.

6.4   In the case of disabled people (and to a lesser extent, LGBT people) there are also additional community safety issues which are, in some cases, being addressed.

6.5   Thus, for example, much work is being undertaken across Scotland to address home safety and security, and fire safety issues relevant to disabled people, and, in the case of some groups, such as adults with learning disabilities living independently, these may involve a number of agencies working together.

6.6   For both disabled people and LGBT people, there is some evidence of initiatives designed to address specific fear of crime issues, some general in nature, some arising from specific concerns raised through consultation mechanisms.

6.7   The overall picture, however, as with crime issues, is of inconsistency. There is no evidence of a "menu" of initiatives (although fire safety and some forms of crime prevention appear more or less

universal). It is likely, therefore, that there is wide variation in the policy approach, and in the initiatives being undertaken across Scotland.

## Crime issues

6.8   It is clear that, following the Scottish Executive Hate Crime Working Group report, the prominence of the issue of crime motivated by prejudice, malice or ill-will against disabled people and LGBT people has increased. It would be fair to say, however, that most aspects of this work are at an early stage.

### *The understanding of "hate crime"*

6.9   Although the Scottish Executive Hate Crime Working Group report has been influential in some quarters, particularly among police forces, as well as some CSPs, it is clear that a common understanding of "hate crime" as crime motivated by prejudice, malice or ill-will is some way off.

6.10  At a basic level, many disabled people do not recognise that what is happening to them is a crime, and, as a result, that they can do something about it. Some police officers interviewed as part of this research expressed frustration with this, and provided examples of proactive steps they had taken to work with disability organisations to raise awareness of the issue, and to try to encourage people to report incidents.

6.11 It is less clear that LGBT people are unaware that what is happening is a crime, and may not recognise any underlying motivation. However, there is strong evidence that many LGBT people simply put up with routine harassment and even intimidation and violence, rather than reporting it.

6.12 Within some CSPs, there is clearly a lack of awareness of crime against disabled people and LGBT people as an issue. In some respects, the situation is similar to that which applied to racism in the early 1990s, or to domestic abuse in the mid-1990s. There is a lack of awareness that it is happening, misconceptions about the nature and impact of such crime, and a lack of systematic work to address it.

### *The extent and nature of crime against disabled people and LGBT people*

6.13  This research confirms that there is, as yet, no clear picture of the extent or nature of crime against disabled people and LGBT people in Scotland.

6.14  Literature summarised in Section 2 makes it clear that specific crime motivated by prejudice, malice or ill-will does exist. Victim testimonies given to researchers also make this very clear. The impact of this on individual victims is also clear, and the *additional* impacts of any forms of such crimes are now well-documented.

6.15  It is simply not tenable that less than 300 crimes motivated by prejudice, malice or ill-will were perpetrated against LGBT people in Scotland, and none at all against disabled people, in 2006-07.

6.16  It is now widely recognised by senior police officers, and by some CSPs, that these statistics do not mean that crime of this type is not an issue (as appears to be the position of some CSPs) but that they illustrate structural barriers to reporting, and structural weaknesses in recording.

## CSP policies and priorities

6.17 CSPs are free to set their own local priorities, based on an assessment of the issues facing their communities, and reflecting the views of local residents. While the Scottish Government sets the overall policy context, priorities at a local level are a local matter.

6.18 The snapshot of CSP strategies from 2005 and 2006 demonstrates that crime against disabled people and LGBT people was not, at that time, widely regarded as a priority. As set out in Section 3, very few CSPs even acknowledged hate crime (other than racist crime) as an issue for consideration, or as an area of work.

6.19 CSPs were constrained in the number of priorities which they could identify, and it is perhaps not surprising that crime against specific equalities groups did not feature highly. Many other crime and antisocial behaviour issues have a higher level of prominence, and arguably affect more people. These include various forms of disorder, drug and alcohol-related issues, home safety and security, and road safety.

6.20 Some CSPs clearly felt constrained by the Scottish Executive's funding methodology, but this was by no means the case for all. While no CSP had a higher level priority dealing with crime against disabled people and LGBT people (and relatively few had priorities dealing with racist crime), virtually all had some form of priority dealing with, for example, violence, personal safety or victimisation, which could, if required, have been used to justify work in relation to these crimes. Some CSPs did this. Others made either active or passive choices not to do so.

6.21 The Scottish Executive has also made it clear that it would have been responsive to any CSP which wished to amend its priorities to include any hate crime issues, or pursue additional areas of work to either identify or address this.

6.22 It is reasonable to conclude that, had crime against disabled people and LGBT people been identified as a particular problem by any CSP, the strategic guidance from the Scottish Executive current from 2005 would not have been an insurmountable barrier to taking work forward.

6.23 Some CSPs, and all police forces identified dealing with racist hate crimes as a current priority. As set out in Section 5, most areas now have some form of remote or third party reporting, usually with support being provided by a voluntary organisation. Most areas also have some form of oversight of the reporting process, either within the police or on a multi-agency basis, allowing patterns to be identified, and policy recommendations made.

6.24 A majority of CSPs have not, however, addressed hate crimes against disabled people or LGBT people directly over the life of their current strategy.

6.25 The effect of this is that there are significant variations across Scotland between CSPs in the extent to which crime against disabled people and LGBT people is recognised, and in the work which may be being undertaken. In some areas, a good deal of work is being undertaken within a broad policy priority, while in others, it is clear that the issue has not even been recognised.

6.26 It is important to stress that this has no impact on the way *individual* victims of crime are likely to be treated. Assuming they are willing to, and able to, report the incident, any disabled person or LGBT

person would be afforded a high priority by all agencies within the justice system, including the police and courts, and by information and support agencies such as VIA and Victim Support.

6.27  This is, however, an emerging area of work, and it is clear that, at least in some CSP areas, there has been a step change in the level of understanding of, and work to address (or at least to begin to address) crime against disabled people and LGBT people.

6.28  A number of interviewees suggested that this has flowed in part from the work undertaken to address racist violence, and this is certainly true, but it is clear that work is also being taken forward as a result of both the focus on the issue following the Hate Crime Working Group report, and through the commitment of a number of "champions" within key organisations.

6.29  One senior police officer summarised the nature of these changes as they impact on the policing of hate crime:

> *"Frontline staff do recognise this as a priority and it is very rare that officers' responses have to be picked up. They know it is a priority. Most of those who commit hate crimes will be detained in custody for court the next day. There is almost a presumption of arrest and court, not the opposite. We are taking it very seriously and the vast majority will go to court."*

6.30  There have been a number of policy developments relevant to these areas of work which are clearly important. While Disability Equality Schemes clearly apply only to disabled people, there is evidence that, through these, progress has been made in engaging with disabled people and putting in place mechanisms to ensure that disabled people are able to feed back their concerns to public bodies. There is some evidence that these principles are also being applied to LGBT people in some areas.

6.31  It seems likely that, with the advent of the CEHR, this will increase, and the baseline position would be to engage with all six equalities strands, rather than just race and disability as directed by current legislation.

**Structural issues**

6.32  It is clear that there is wide variation in the structural arrangements in place both for dealing with crime and for equalities issues generally. In some areas, there are clearly strong links between CSPs and equalities specialists, while in other areas these seem less well developed. Compounding this, there may be inconsistency between strands, with, for example, good links on LGBT issues, but not on disability (or vice versa).

6.33  It is clear that some CSPs consider that there is no need to have specific policies in relation to equalities groups, and by extension, specific crime issues impacting on these groups, as these are "covered" by the policies of the main partners. While this may be true to an extent, it seems unlikely that this would be wholly true. While the Disability Equality Schemes of the main public sector partners may be likely to cover at least most of the issues facing disabled people, it seems unlikely that most authorities would have a comparable policy in relation to LGBT people (although, as noted in the text, police forces have diversity strategies, as well as Disability Equality Schemes).

6.34 It is clear that, following the implementation of the Disability Discrimination Act, community safety partners (although not necessarily partnerships) have in place proofing processes either to address race and disability issues, or all equalities strands. Paralleling this, a number of CSPs also indicated that they provide community safety "proofing" to other council policy teams. These links appear to provide one means by which awareness could be raised about crimes affecting disabled people and LGBT people.

6.35  As described in detail in Section 5, there are now multi-agency reporting arrangements in place for racist incidents in most areas, and detailed procedures in place to allow information to be shared between services. In some areas, these arrangements have, or are being extended to include other equalities groups, including disabled people and LGBT people.

6.36  The locus of these groups varies across Scotland, with some being with CSPs, some within equalities teams and some in other services. It is interesting to observe that some CSPs are not represented on these groups, and only receive minutes through mutual reporting structures.

**The participation of disabled people and LGBT people**

6.37  The research has indicated clearly that the participation of disabled people and LGBT people in community safety work generally is patchy, and varies considerably across Scotland. In some areas there is close and joint working on issues of mutual interest, while in other areas, there is little or no contact evident.

6.38  One factor in this (although clearly not the only factor) is that the infrastructure of both disability and LGBT organisations is poorly developed in some parts of Scotland. While most CSP areas have at least some disability organisations, a majority of CSPs would not have access to a local LGBT organisation. In these cases, at least some CSPs and police forces are recognising the need to do some consultation, and have worked with national bodies, such as Stonewall or the Equality Network.

6.39  There is a clear lack of capacity in the voluntary sector to carry out representative work of this nature. This was an issue evident to some public bodies in developing their Disability Equality Schemes and, should a general duty be developed which is relevant to LGBT people, it can be assumed that this will also prove difficult.

6.40 Most voluntary organisations exist to provide services for their constituencies of interest, not to represent their sector. Few if any are paid for this role, and many staff and volunteers do this in their own time. The representational work done by both disability and LGBT service delivery organisations (and individual community members) in this area, while clearly valuable cannot be sustainable. Recognising this, a number of CSPs, and some police forces (as well as NHS bodies and fire services) were identified as investing in the longer term development of voluntary and community sector capacity.

**Work to identify and address crime against disabled people and LGBT people**

6.41 All Scottish police forces now have in place a mechanism for recording "hate" crime against any equalities group. As yet, this is in its early stages, and it is clear that there may be some inconsistencies in terms of, for example, the definitions of "disabled person" and some aspects of the definition of gender identity. There may also be issues relating to the use of a catch-all "vulnerable" flag, which immediately loses the information-richness of more specific flags (and, in any case,

its use would be fundamentally inappropriate in the vast majority of cases).

6.42 It is worth noting that police forces have invested, and are investing in awareness raising training for first responders and supervisors to help them to be more aware of the need for using these flags, as well as the need to address the needs of particular types of victim. At a broader level, police forces, and some CSPs, have invested in various forms of training of relevance to diversity, often covering a large proportion of their staff.

6.43 Although there are likely to be teething problems with recording systems, the fact of having at least some statistical information will be welcome. Evidence from the implementation of recording of racist incidents, and from Strathclyde Police's recording of crimes where LGBT people are the victims, however, strongly suggests that simply having the means to record an incident does not mean that it will be reported.

6.44 The experience of remote and third party reporting of racist crime clearly shows the benefits this can bring firstly, in the likelihood that a crime will be reported; secondly, in the likelihood that a victim will be supported; and thirdly, in that the police will be provided with intelligence or evidence, either to prosecute the perpetrator or to try to prevent a recurrence.

6.45 Remote and third party reporting for disabled people and LGBT people remains unusual. Although there are opportunities for this in a relatively small number of CSPs, much of Scotland is not covered. Even within CSPs and police forces, there are gaps, either in terms of geography or in terms of coverage. For example, within Lothian and Borders, there are large variations between the five local CSP areas in the number of partners involved. Similarly, while there are at least some partners offering access for adults with learning disabilities, there are virtually none (other than generic local authority offices) for other disabled people. Even in Glasgow, where there are more partners involved than in any other CSP, there are gaps. In rural areas, with limited exceptions, there may be no remote or third party reporting opportunities at all.

6.46 It is clear from the research that this is beginning to be addressed. There is a broad move to build on the experience of addressing racist crime, and to use this to address "hate" crimes against other equalities group. It is promising that remote reporting will be available in more

areas by the end of 2007, largely through the designation of local authority local service bases.

6.47 Progress in terms of providing reporting *with support* is, however, much slower. It is clear from evidence provided by both CSP and police interviewees that there is a good deal of frustration that, while there is local willingness to support remote and third party reporting with support, capacity constraints in the disability and LGBT voluntary sectors make this all but impossible in many areas. In the short term, it is difficult, particularly given the constraints on voluntary sector funding, to see how this could be improved.

6.48 At a wider level, it is clear that a good deal of work has been undertaken with staff in local authority, police and fire services to raise awareness of both diversity issues, and within this, "hate" crime. A number of interviewees indicated on-going investment in this area.

**Work for the future**

6.49 The comments at the end of Section 5 about the relative status of both understanding and work relating to various equalities groups are worth reiterating here. Following the Stephen Lawrence Inquiry, rapid progress has been made in identifying and addressing racist crime. Over the last 3 years, some progress has been made in relation to homophobic and transphobic crime (for example, in relation to recording) but, as yet, very little progress has been made in relation to crimes motivated by prejudice, malice or ill-will against disabled people.

6.50 Whether the estimate of the extent to which work on crimes against disabled people and LGBT people is behind work on racist crime is accurate or not, it is clear that work is at a very early stage with both groups. Evidence on prevalence and impact as set out in Section 2 suggests that there remains a good deal of ground to be covered.

6.51 It is positive that at least some CSPs and all police forces recognise that this is an issue for consideration for the next period of CSP funding. The findings of this research, however, suggest that there is currently substantial inconsistency across Scotland and these disparities are likely to get worse unless there is clear national direction from the Scottish Government.

**RECOMMENDATIONS**

6.52  On the basis of these findings, a number of recommendations are set out below. These relate to broader community safety issues, and to crime motivated by prejudice, malice or ill-will where disabled people or LGBT people are the victims.

**Legislation, policy and guidance issues**

6.53 In relation to legislation, policy and guidance for tackling community safety issues and crime relevant to disabled people and LGBT people in Scotland, it is recommended that:

- Legislation to create a statutory aggravation of hate crime against disabled people and LGBT people should be introduced to Parliament at an early stage.
- A common definition of "hate crime" or "crime motivated by prejudice, malice or ill-will" should be agreed, along with clear definitions of who is included in relevant groups covered by the definition (e.g. disabled people; LGBT people etc.).
- Guidance on these issues should be prepared by the CEHR (perhaps with the participation of other relevant agencies such as the Crown Office and ACPOS) and disseminated to all CSPs, stressing the relevance of "hate" crime to their role.
- This guidance should be used by ACPOS (in consultation with the Scottish Government and Crown Office) to develop a definitive and consistent set of flags within police systems to allow the identification of such crimes, and to support the development of reliable aggregate data within and across forces.
- CSPs should be required by the Scottish Government to make specific reference to a commitment to equality within their new strategies.
- CSPs should also be required to address crime against equalities groups within their new strategies, acknowledging under-reporting, identifying the need for support services and stressing a "zero tolerance" approach to hate crime.
- CSPs should also be required to undertake equality impact assessments of their work with disabled people

and LGBT people, ensuring that both disabled people and LGBT people are involved in these processes, and that feedback is provided not only on the findings, but also that remedial work is undertaken, in line with the good practice set out in the DRC's guidance on Disability Equality Schemes.

- Disability Equality Schemes in partner organisations should make reference to community safety work, and to the need to address crimes against disabled people. This should also apply to LGBT people where partner organisations have chosen to develop Diversity Schemes, or where subsequent legislation requires such a scheme to be developed.
- Minimum standards should be developed for local areas to guide their responses to crimes against disabled people and LGBT people, and CSPs should be required to adhere to these.
- CSPs, in identifying new policy developments, should give consideration to the implications of these for disabled people and LGBT people, particularly in terms of hate crime issues.
- Where CSPs are asked to provide input to policies developed by other services, consideration of relevant crime issues should form part of this input.

## Structural issues

6.54 In relation to the overall structure for tackling community safety and crime issues as these relate to disabled people and LGBT people, it is recommended that:

- Consideration should be given to the establishment by the CEHR and the Scottish Government of a national cross-strand partnership to examine and address crime motivated by prejudice, malice and will in Scotland and to provide a specific focus on this issue. The group should consider the key issues, develop a strategic approach and make recommendations. It should complement specific work in individual strands to address such crime, and should consider issues such as: service provision; education and awareness; current practice; new developments; monitoring and review etc.

- Support mechanisms (both anonymous helpline provision and face to face support) should be identified and developed for all groups affected by these crimes. This could perhaps be provided through the development of specialist provision within existing organisations.
- Each police force should identify a designated lead officer for disabled people and LGBT people. This post should involve liaison with the community and the development of initiatives to address crime.
- "Champions" should be identified in other relevant organisations to support and promote work to address hate crime.
- Clear links should be developed between wider equalities work in partner organisations, monitoring groups considering crimes against equalities groups, and CSPs and their associated working groups.
- Arrangements should be identified by all CSPs to ensure the input of the views of disabled people and LGBT people (as well as other equalities groups) to their work. Where necessary, this should include a specific commitment to investing in the capacity of voluntary and community organisations to allow this to happen. In recognition of the wider commitment both by UK and Scottish Governments, CSPs should provide support to participating organisations on the basis of full cost recovery. This should help to ensure that representation is consistent, that representatives are well-prepared and that the mainstream work of their organisations is not excessively disadvantaged by participation in community safety and similar processes.
- Remote reporting arrangements should be developed further to include additional organisations of and for disabled people and LGBT people (as well as other agencies) and the availability of this should be publicised widely.
- The Scottish Government, working with the CEHR and ACPOS, should give urgent consideration to commissioning work to determine the feasibility of establishing a national baseline service to support disabled people and LGBT people who wish to use

remote and third party reporting in areas where this is not currently available, or where there are gaps. (This could be done through, for example, a national helpline, or through investment in a network of specialist support staff within Victim Support Scotland).

## Monitoring and evaluation issues

6.55  In relation to ongoing monitoring of hate crime in Scotland, and the evaluation of initiatives, it is recommended that:

- A regular statistical bulletin should be compiled, detailing the prevalence of reported and recorded crimes against equalities groups over an agreed period, with information gathered from all forces and CSPs and disseminated widely (ideally through the Scottish Government's Statistical Bulletin series).
- This should be accompanied by the provision of anecdotal information about issues arising in particular areas, new issues emerging and new developments to practice.
- Regular research should be undertaken with disability groups and LGBT groups to examine experiences of crime and issues which constrain reporting, as well as experiences of current arrangements.
- Where CSPs are undertaking community surveys, these should include specific questions on crimes against equalities groups. This should also apply to relevant surveys carried out by other individual partners.
- The issue of specific crimes against disabled people and LGBT people should be raised and discussed regularly at CSPs' national networking meetings.
- Initiatives to address such crimes should be evaluated, and the findings of these evaluations shared.

## Information, awareness-raising and training issues

6.56 In relation to information, awareness-raising and training, it is recommended that:

- Awareness raising work should be developed and carried out with the general public, alongside targeted work to raise awareness amongst groups which may be affected by crimes motivated by prejudice, malice or ill-will, including disabled people and LGBT people. This should focus on the identification of such crime, the need to ensure that this is not tolerated, and the actions which can be taken.
- Equality training (including training on disability and LGBT issues) should include a specific focus on these forms of crime.
- Representatives of CSPs should be encouraged to participate in equality training.
- A specific awareness-raising event on crimes against equalities groups should be held for CSPs, with input from a range of relevant organisations (particularly those within which there are examples of well-developed good practice).

6.57 It is suggested that all of these recommendations should be considered at an early stage in the work of the CEHR. This will help to ensure that the current commitment to addressing community safety and crime can be harnessed, and the existing examples of good practice built upon. In turn, this should help to ensure a coherent and consistent approach to these issues across Scotland, in terms of promoting community safety, preventing crime motivated by prejudice, malice or ill-will in the future, addressing the behaviour of the perpetrators and providing support to those who experience such crimes.

**ANNEXES**

## ANNEX 1: METHODOLOGY

Reid Howie Associates was commissioned by the Disability Rights Commission (DRC) in July 2007 to carry out a policy scoping study on Community Safety Partnerships' policies in relation to disabled people and LGBT people. The work took place between July and September 2007, and involved a number of strands.

## AIM OF THE STUDY

The aim of the policy scoping study, as set out in the brief, was:

> *… to identify and critically examine the extent to which community safety plans currently engage with, and reflect the needs and concerns of, disabled and LGBT members of the community. The report will also make recommendations on the opportunities and challenges presented by national community safety policy (e.g. the Community Safety Partnership Award Programme) and equality law (e.g. the Disability Equality Duty). The paper is to identify gaps, and what may need to change, to be improved or be introduced. The paper's conclusions will be used by the DRC and its successor organisation, the Commission for Equality and Human Rights (CEHR).*

It was envisaged that the policy scoping study would help to:

- Provide an overview of current practice.
- Identify gaps and good practice in current community safety plans.
- Develop a set of recommendations for future community safety policy for government and the CEHR in Scotland.

## THE METHODS USED

The research involved a number of strands, as set out below.

### *Current legislation and guidance*

In order to provide a wider context for this work, the first stage involved undertaking a brief review of current legislation and guidance as this impacts on both hate crime and the work of Community Safety

Partnerships. This was carried out using published sources, and included, for example:

- Reviews and guidance available through the Scottish Government's "Safer Scotland" website.
- Wider guidance on Community Planning, including guidance (and national standards) for Community Planning and Community Safety Partnerships on community engagement, particularly with minority or excluded groups.
- Literature (albeit limited) on crime and other relevant issues affecting disabled people and LGBT people.

***Examination of current Community Safety Partnerships' materials***

Alongside the examination of relevant literature, the identification and review of Community Safety Partnerships' own materials was also carried out, particularly in relation to their strategies (although including other material, where this was made available).

Although much of the information was available through websites, it was recognised that CSPs may have other policy documents which may not necessarily be publicly available (e.g. policy statements, protocols, remote reporting agreements etc.) For this reason, an e-mail request was made to CSPs at an early stage in the work, inviting them to provide any materials considered to be relevant. (At the same stage, they were provided with detailed information about the work, and asked to nominate a contact person to liase with the researchers.)

It was also recognised that CSP strategies would not necessarily reflect all of the policies or approaches of the police, which were clearly also an important consideration within this research. For this reason, contact was made with the Association of Chief Police Officers in Scotland (ACPOS) requesting contacts within each individual force, who could provide additional information. Again, this material was used to supplement the literature and internet search.

It was also recognised, however, that there would be significant limitations to focusing upon written material alone, as it was considered unlikely that this would generate much information specific to issues affecting disabled people and LGBT people. For that reason, a range of other approaches were used, to supplement this material.

*Telephone surveys of CSPs and police forces in Scotland*

A telephone survey was carried out with all of the CSPs in Scotland, in order to identify further information about the <u>actual</u> ways in which issues facing disabled people and LGBT people are addressed. Discussions were held with all 32 CSPs, and a wide range of information gathered.

Similarly, discussions were held with nominated contacts in police forces across Scotland. Most of the forces participated in this way (6) with only two in which the absence of the relevant police officers during the research period meant that the discussions could not take place.

The discussions with both the police and CSPs focused on the identification of the extent and nature of the interaction between the CSP and the communities covered by the research; views of the extent and nature of crime (and other community safety) issues affecting disabled people and LGBT people; the CSP and / or force's response to these issues, and suggestions for development.

In most cases, information was gathered from the discussions to address all of these issues (despite some Partnerships being involved in changes to staffing or structure at the time of the research). Discussions with the CSPs generally lasted around 20 minutes (although some were much longer). There was only one case of a CSP in which a recent change of structure and staff meant that their information focused on the outline of their new approach rather than on the other substantive issues. The discussions with the police also covered a large amount of material, lasting up to an hour in some cases.

Overall, from these sources, a large amount of detailed information was gathered from this element of the research to address the key aim of the research.

*Inclusion of disability and LGBT organisations*

It was also recognised that organisations of and for disabled people and LGBT people might also be aware of local work taking place, and may wish to highlight their views of specific issues. For this reason, the key research questions were sent via e-mail to some local disability and LGBT organisations which were identified by national representative organisations. While it was not intended that this should be a survey of these organisations, it was considered important to provide these

organisations with the opportunity to provide relevant information from their own areas. A small number of additional initiatives were highlighted in this way.

## *Follow-up discussions*

In the course of the research, some specific issues were raised which required further information-gathering from relevant organisations, and additional discussions were held with the following:

- The Disability Rights Commission (about capacity issues for disability organisations).
- The Equality Network (about capacity issues for LGBT organisations).
- Victim Support (about issues for disabled people and LGBT people as victims of crime).
- The Fire Service National Community Safety Co-ordinator (about the role of the Fire Service in relation to the relevant issues).
- The Scottish Government (about the overall national policy context).

## *Analysis of the data*

A substantial amount of qualitative information was gathered in the study. A common framework was designed for the analysis of the information, which included:

- Information about the policies of Partnerships, particularly relating to equalities issues.
- Information about current priorities, and the level of priority for hate crime against disabled people or LGBT people.
- Perceptions of the level of crime against equalities groups generally, and disabled people and LGBT people specifically.
- The nature and extent of contact, consultation with, and involvement of disabled people and LGBT people.
- Action taken and initiatives planned to address community safety issues and crime affecting disabled people and LGBT people.

- Examples of good practice and suggestions for the future.

The analysis was undertaken largely qualitatively, identifying common issues and themes, as well as specific points raised by individual interviewees. This allowed the comprehensive consideration of the range and depth of points raised and the identification of specific examples. It also enabled the broader cross-cutting issues to be highlighted.

The report was intended to "scope" the issues arising from consideration of Community Safety Partnerships' policies relating to disabled people and LGBT people. It was not intended to provide a statistical account, nor an "audit" of practice. It is, however, able to highlight the key issues emerging, as a means of enabling consideration of the way forward for such work in the future.

All of the methods which were used enabled the aims of the research to be addressed, and provided a wealth of information which has been summarised in the report.

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## ANNEX 3: GLOSSARY OF ABBREVIATIONS

| | |
|---|---|
| ACPO | Association of Chief Police Officers |
| ACPOS | Association of Chief Police Officers in Scotland |
| CEHR | Commission for Equality and Human Rights |
| CoSLA | Convention of Scottish Local Authorities |
| CPS | Crown Prosecution Service (England and Wales) |
| CSP | Community Safety Partnership |
| DDA | Disability Discrimination Act |
| DRC | Disability Rights Commission |
| DTI | Department of Trade and Industry |
| LGBT | Lesbian, Gay, Bisexual and Transgender |
| MSP | Member of the Scottish Parliament |
| NSF | National Schizophrenia Fellowship |
| SE | Scottish Executive |
| VIA | Victim Information and Advice |
| VSS | Victim Support Scotland |

## ANNEX 4: HATE CRIME

It is useful to briefly review issues related to crime motivated by prejudice, malice or ill-will.

## The wider context

Work to address crime motivated by prejudice, malice or ill-will is taking place within the wider framework of both criminal and social justice. Although the incoming Scottish Government has yet to set out its detailed policy framework in relation to these areas, it is unlikely to vary in intent from that of the previous administration, summarised in the first paragraph of the Working Group on Hate Crime consultation documents (Scottish Executive, 2003b):

> *"The Scottish Executive is committed to a just and tolerant Scotland in which diversity is valued and every citizen is treated with respect. There is no place in Scotland for discrimination and prejudice. Criminal acts motivated by prejudice are particularly repugnant."*

## Definitions

The Scottish Executive Working Group on Hate Crime (Scottish Executive, 2003b) agreed a definition, that it is a:

> *"Crime motivated by prejudice, malice or ill-will towards a social group."*

The Association of Chief Police Officers (ACPO) in England and Wales developed a definition of homophobic crime which is useful in highlighting some of the underlying issues (Association of Chief Police Officers, 2000). The definition offered was:

> *"Any incident which is perceived to be homophobic by the victim or any other person. In effect, any incident intended to have an impact on those perceived to be lesbians, gay men, bisexual or transgendered people."*

The Association of Chief Police Officers in Scotland (ACPOS) has developed a slightly different version of this:

*"Any incident that is perceived to be homophobic by the victim, or any other person. Victims may be lesbian, gay, bisexual or transgender, or perceived to be or mistaken for any of these."*

These definitions are based on the widely used definition of racist crime developed by Lord McPherson following the Stephen Lawrence Inquiry. It is also, in an amended form, the definition adopted by the CPS in England and Wales (Crown Prosecution Service, 2002). Clearly, this definition could also be readily adapted to include crimes against disabled people. As will be set out in Section 2, this is the most common "definition" used by CSPs in Scotland, largely as a result of its adoption by police forces.

In essence, such a definition is important in stressing that the perception of the *victim* is central, rather than any specific legal test.

**The law at present**

Scots Law as it relates to crimes against disabled people and LGBT people is common law. Common law (edited from (Marshall, 1999) is:

*"… essentially judge-made law, laid down in decisions of the courts and found in the law reports".*

In contrast, statutory law is enacted law, created by the legislature. In the case of Scotland, the relevant legislature can be the European, UK or Scottish Parliament.

*Common law*

In practice, most of the hate crime offences where the victim is a disabled person or LGBT person are likely to be the common law offences of murder and culpable homicide, attempt murder, assault and breach of the peace.

*Non offence incidents*

It is also worth noting that many disabled people and LGBT people experience abuse and harassment which would not always be regarded as a crime if it were reported to the police, but this does not detract from its impact on the individuals concerned. The bullet points below have been adapted (to make them less LGBT – specific) from a survey of

LGBT people across Scotland by Beyond Barriers (Morgan and Bell, 2003) and identify ways in which participants suffered as a result of their sexual orientation or gender identity:

- Offensive graffiti or vandalism relating to the status of the individual as a disabled person or LGBT person.
- Other damage to personal property or home (which could include, for example, rubbish being posted through the letterbox or door locks being glued shut).
- Abusive/obscene mail (or hate mail) or phone calls.
- Threats.
- Malicious gossip or rumour spreading.
- Verbal abuse or name calling (by strangers or by people known to the victim).
- Offensive and patronising behaviour (again, whether by strangers or people known to the victim).

**Statutory approaches to hate crime**

Although hate crime is generally covered by common law, there have been an increasing number of examples of some hate crimes being addressed by statutory, rather than common law.

In Scotland, for example, some aspects of racist crime, and some aspects of sectarian crime, are now covered by statutory law (see e.g. Scottish Executive, 2003b). In these cases, where the Crown believes that an offence has been *aggravated* by either of these factors, this is identified in the charge. In the event that the alleged offender is convicted, the aggravation must be taken into account by the sentencer, and any portion of the sentence specifically relating to this must be identified separately.

Section 74 (2) of the Criminal Justice (Scotland) Act 2003 identifies the following tests:

*For the purposes of this section, an offence is aggravated by religious prejudice if -*
*(a) at the time of committing the offence or immediately before or after doing so, the offender evinces towards the victim (if any) of the offence malice and ill-will based on the victim's membership (presumed membership) of a religious group, or of a social or cultural group with a perceived religious affiliation; or*

> *(b) the offence is motivated (wholly or partly) by malice and ill-will towards members of a religious group, or of a social or cultural group with a perceived religious affiliation, based on their membership of that group.*

The Criminal Justice Act (2003) in England and Wales introduced a specific statutory aggravation relating to either a victim's presumed or actual sexual orientation, or any presumed or actual impairment. Section 146 of the Act sets out a small number of tests to address whether or not the offence was wholly or in part related to a hatred of either group (similar to those set out in S74 (2) of the Criminal Justice (Scotland) Act 2003 above)[17]. There is no similar provision in Scotland, although the Scottish Government has expressed its intention to legislate on this during the current Parliament.

It is interesting to note that the English legislation contains a caveat absent in the Scottish legislation described earlier, which is potentially significant in the context of future policy. Section 146(4) states:

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

In essence, the English legislation makes it clear that the presence of any other motivation in the mind of the offender is considered to be irrelevant by the court.

A specific example of how this could relate to a crime perpetrated against a disabled person is given in the Scottish Executive Hate Crime consultation report (Scottish Executive, 2003b). It was suggested that an offender could argue that he or she targeted a victim because of a perceived vulnerability (in effect because they were an easy target), rather than because they were presumed to have some form of impairment. In this case in England and Wales, the aggravation would still apply.

It is also interesting that S146(5) identifies that:

> *"In this section "disability" means any physical or mental impairment."*

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[17] The CPS had treated homophobic crime as an aggravation since 2002.

The Sentencing Guidelines Council (again covering England and Wales) also issued guidance in 2004 (Sentencing Guidelines Council, 2004), following the Criminal Justice Act, which makes clear that, in deciding culpability (one of the strands which sentencers use to decide the "seriousness" of the offence), one of the factors must be the *nature* of the victim. The guidance makes it clear that, for example, an offence against a disabled person (or a young or old person) should render the offender "more" culpable, and, therefore, likely to attract a higher level of sentence. This is separate to any consideration of aggravation (see above) which includes offences motivated by hate for the victim based on any of a number of defining characteristics.

The Sentencing Commission for Scotland (Sentencing Commission for Scotland, 2006) took a similar approach, setting out, in relation to the considerations for sentencers of the harm caused by the offence, that:

> *"1.10 The nature of harm will depend on personal characteristics and circumstances of the victim and the court's assessment of harm will be an effective and important way of taking into consideration the impact of a particular crime on the victim."*

Similarly, in relation to culpability, the Commission stated that:

> *"Culpability will be greater if:*
>
> *- an offender deliberately causes more harm than is necessary for the commission of the offence, or*
> *- where an offender targets a vulnerable victim (because of their old age or youth, disability or by virtue of the job they do)."*

## The Scottish Executive's review group

In 2002, the Scottish Executive set up a "Cross Party Working Group on Possible Legislation to Tackle Religious Hatred". The Working Group report (Scottish Executive, 2003a) recommended that a specific statutory aggravation relating to sectarian offences be created, and this was added to the then Criminal Justice Scotland Bill by way of an amendment from Donald Gorrie MSP.

It was recognised at the time that this approach could also be used to create statutory aggravations relating to offences where disabled people or LGBT people were the victims. To attempt to achieve this, Robin Harper MSP inserted an amendment to the Bill, identical in scope (although worded differently) to that proposed by Donald Gorrie MSP.

At that time, the Scottish Executive did not support Robin Harper's amendment, and it was withdrawn. The Scottish Executive did, however, agree to set up a Working Group on Hate Crime to consider further the issue of whether or not legislation was required. The Working Group was convened in summer 2003, and published a consultation document in January 2004 (Scottish Executive, 2003b). A final report of the Working Group was published in October 2004 (Scottish Executive, 2004b).

The Working Group developed a set of proposals which formed the basis of consultation, and which broadly followed the pattern suggested by Section 74 (2) of the Criminal Justice (Scotland) Act 2003. Although the consultation document was broadly welcomed, and most of those responding agreed that such a provision would be desirable, this was not accepted by the Scottish Executive (Scottish Executive, 2006b).

Following the election in May 2007, the Scottish Government has intimated that it intends to introduce a statutory aggravation of hate crime against disabled people and LGBT people, although no date for this has yet been set.