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THE HATE CRIME REPORT 2016

Homophobia, biphobia and transphobia in the UK

Nick Antjoule

FOREWORD

Thirty-four years ago Galop was set up by a group of lawyers who sought to challenge society's intolerance to ensure that members of their community who had been victimised had somewhere to get help. This heritage is still at Galop's core. Our mission remains working to make life safe, just and fair for lesbian, gay, bisexual and trans (LGBT) people.

Over the years we have developed knowledge and understanding of the needs of hate crime survivors through our direct client work. We use this as widely as possible to inform, raise awareness and ensure that the needs of LGBT people are being heard.

In 2013, the first Galop National LGBT Hate Crime Report was published. It used existing data to give insights into the prevalence of hate crime, as well as survivors' experiences of the criminal justice system. This second edition not only provides an updated analysis of UK data, but publishes for the first time the results from Galops' in depth quantitative and qualitative study published here as part of a pan-European project. This is given context and meaning through the inclusion of case studies from our direct client work.

Our ambition is that this report educates, raises awareness and gives insight into experiences of hate crime, support services and the criminal justice system. We have provided a list of recommendations that we believe, acted upon will continue to ensure that the UK remains a world leader in tackling anti-LGBT hate crime.

I would like to take this opportunity to thank Nick Antjoule for producing this report and the whole of the Galop team who work hard to make life safe, just and fair for LGBT people.

Nik Noone, Chief Executive

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1 OVERVIEW

This report presents evidence about the needs and priorities of LGBT communities in relation to hate crime. It includes analysis of an online community survey of 467 LGBT people, which asked about experiences of hate crime and interactions with services. It also analyses interviews and written submissions from 18 individuals who have either experienced hate crime, or are professionals working on this issue. Despite progress on this issue, the results presented here suggest that homophobia, biphobia and transphobia remain a significant part of LGBT peoples' lives. Additionally, it found that individuals face considerable barriers to accessing assistance in terms of policy, practice and legislation.

Key findings

Experiences of hate crime

- **4 in 5** LGBT people had **experienced hate crime**
- A **quarter** had experienced **violent hate crime**
- A **third** experienced **online hate crime**
- A **tenth** experienced **sexual violence** as part of a hate crime

Reporting

- A **quarter** of LGBT people reported the last hate crime they experienced
- Common **barriers to reporting** included feeling it would not produce a result, being unsure if it was a crime, and feeling it would **not be treated seriously**.
- **40%** of those who reported did not find the process easy, mostly due to the perception that **justice professionals** had **not received training on LGBT issues**
- A **quarter** said they would **not report in future**, mostly due to the fear it would **not be taken seriously**

Satisfaction

- **Half** of those who reported a hate crime to the police did **not feel satisfied** with the outcome, which **compares poorly** with other types of crime
- The main reason for dissatisfaction was feeling that **reporting produced no result**
- There are a **lack of referrals** to anti-hate crime **support services**

Laws

- A **tenth** of people who experienced hate crime felt that **laws** on this issue are **inadequate**. Legal gaps include:
  - A lower maximum sentence and recording problems for homophobia, biphobia and transphobia compared with other types of hate crime
  - Exclusion of trans people from Northern Irish hate crime laws
  - Exclusion of intersex people from hate crime laws
  - The absence or weakness of laws against inciting hatred against LGBT people
  - Victim rights are not backed by domestic law in England, Wales and Northern Ireland

Criminal justice outcomes

- Roughly **1%** of sexual orientation hate crimes committed go on to be **proven as hate crimes** by a court
- At least **7,016 homophobic and transphobic hate crimes** were recorded by UK police during 2014/15. That was an increase from at least **6,409 the previous year**.
- England & Wales held **68 successful transphobia** trials and **1,009 successful homophobia trials** during 2015/16
- Northern Ireland held **41 successful LGBT hate crime** trials in that period
- Scotland charged **1,020 homophobic crimes** and **30 transphobic crimes** in that period

2 THE SCALE OF HATE CRIME

The survey found that 4 in 5 LGBT participants had experienced hate crime related to their gender identity or sexual orientation in their lifetime (79%). This was consistently high across all sexual orientations and gender identities, including trans people (79%), lesbian women (77%), gay men (77%) and bisexual people (75%). It was also high for both women (79%) and men (78%). People who identified themselves as pansexual were especially likely to have experienced hate crime (90%), alongside people who identified their gender as 'other' or non-binary (85%). Bisexual women were more likely to have experienced hate crime (79%) than bisexual men (64%). Of the two intersex participants, one had experienced hate crime.

LGBT population

There are currently no census figures about LGBT communities, but government research identifies that 3.4% of people are lesbian, gay or bisexual in England & Wales [1]. This includes 1.6% gay men, 0.8% lesbian women, 0.6% bisexual women and 0.4% bisexual men. There is a need for research about the size of trans populations, but one study estimates that 0.5% to 0.8% of people in the UK could broadly be defined as trans [2]. Combining these two studies suggests that LGBT people account for up to 4.2% of the population. Applying this to the UK population estimate of 65,110,000 [3], a rough LGBT population figure of up to 2.7 million is reached.

Number of people targeted

Combining the survey findings of this study with the population data above produces an estimate that up to 2.1 million LGBT people in the UK have experienced hate crime due to their sexual orientation or gender identity. This estimate includes roughly 800,000 gay men, 500,000 bisexual people, 400,000 trans people and 400,000 lesbian women in the UK who have been the target of anti-LGBT hate crime in their lifetime.

1. Integrated Household Survey, January to December 2014: Experimental Statistics, Office for National Statistics, 2015

2. Gender Variance in the UK: Prevalence, incidence, growth and geographic distribution, GIRES, 2009

3. United Kingdom population mid-year estimate, Office for National Statistics, 2015

3 TYPES OF ABUSE

Violence

The survey found that 1 in 4 LGBT people had experienced physical assault as part of a hate crime (25%). Of the broad groupings, trans people were most likely to have experienced violence (32%), followed by gay men (31%), lesbian women (19%) and bisexual people (18%). Men were more likely to have experienced violence (29%) compared with women (17%). It also appeared to identify high levels of violent hate crime against gender fluid people (35%), gender non-binary people (34%), and pansexual people (33%), though caution should be used in generalising this finding due to relatively low numbers. One interviewee described his experience of homophobic violence:

I was in a park… and two men asked for a light. We were attacked by a group of six other men, who began to kick, punch and stab us. They shouted homophobic abuse and kicked my head like a football.

Bisexual man interviewee

The survey found higher levels of reporting among those who experienced violence (42% compared with 25% in general). However, those who did report violence were less likely to feel satisfied with the outcome (38% compared with 49% in general). When asked the reason, this group were more likely to identify lack of staff training on LGBT issues as the reason for their dissatisfaction. One survey participant wrote:

Police dealing with the issue were slightly transphobic and had no understanding of the issues. Needs training on hate crime and about LGBT issues. Heterosexual trans woman survey participant

Verbal abuse

According to the survey, 3 in 4 LGBT people have experienced verbal abuse as part of a hate crime (75%). Trans people were the most affected group (77%), followed by gay men, (75%), lesbian women (70%) and bisexual people (67%). This illustrates the large role that verbal abuse can play in LGBT people's lives. One interviewee described her experience of verbal abuse:

I experienced verbal abuse and was told to get out of his park. He used homophobic language incorrectly toward me, as a trans woman. I thought; is this really happening in this day and age? I should not have to take this, to be attacked for who I was.

Queer trans woman interviewee

Threats

1 in 3 LGBT people surveyed had experienced threats as part of a hate crime (33%). That includes threats against trans people (40%), gay men (34%), lesbian women (25%) and bisexual people (25%). People who reported hate crime involving threats tended to be slightly less likely to be satisfied with the outcome (40% compared with 49% in general). They were more likely to say the reason for their dissatisfaction was that the investigation ignored the hate motivation. Those who experienced hate motivated threats were also more likely to say they would not consider reporting future hate crimes they experience (31% compared with 12% who experience other forms of hate crime).

Online hate crime

The survey found that 1 in 3 LGBT people had experienced online abuse targeting their sexual orientation or gender identity (31%). It identified trans people as the group most likely to experience online hate motivated abuse (44%). This was followed by lesbian women (31%), gay men (31%) and bisexual people (24%). It also appeared to identify high levels of online hate crime against pansexual people (41%) and people who identified their gender as non-binary or 'other' (42%), though caution should be exercised in generalising this finding due to low numbers.

People who had experienced online hate crime were slightly more likely to say that they did not find it easy to report (46% compared with 40% in general) and were less likely to be satisfied with the outcome (38% compared with 49% in general). They were also more likely to say they did not think they would report hate crime in future (34% compared with 12% in general). An interviewee spoke of the increasing role of hate crime on online platforms:

Over the last year, we have seen a big increase in online hate crime committed using social media.

Charity worker interviewee

Sexual violence

The survey found that 1 in 10 LGBT people said the hate crime they experienced involved some form of sexual violence (9%). Trans people were most likely to have experienced sexual violence as part of a hate crime (16%), followed by bisexual people (10%), lesbian women (8%) and gay men (7%)

This group were slightly less likely to be satisfied with the outcome of reporting (43% compared with 49% in general). They were also more likely to say they thought they would not report next time they experience hate crime (21% compared with 11% in general). The main reason given for this was their fear that it would not be treated seriously (66% compared with 44% in general).

4 REPORTING

Under-reporting

The survey found that 1 in 4 LGBT participants had reported the most recent hate crime they experienced to the police (25%). Lesbian women were most likely to have reported (31%), followed by gay men (25%), bisexual people (22%) and trans people (22%). This finding of low levels of reporting is supported by other community research. For instance, a survey of over 6,000 LGBT people in the UK had a similar finding that only 25% who had experienced hate crime reported it. That compared favourably against the 17% European average found by the same study [4]. High levels of non-reporting were acknowledged by participants, exemplified by the following:

4. EU LGBT Survey, Fundamental Rights Agency, 2012

Most offences still do not come to the attention of the police so there is still a lot more to do. Mark Hamilton, National Police Chiefs Council

Barriers to reporting

Reasons given for not reporting included feeling that it would not produce a result (24%), being unsure if it was a crime (22%), feeling it would not be treated seriously (12%), fear it would make the situation worse (7%) and fear of a negative reaction from police to their identity (5%). In contrast to the barriers above, the survey found high levels of literacy about reporting mechanisms, with just 2% saying they did not report because they were unsure how or where to do it. A survey participant detailed their reasons for not reporting:

Firstly, it didn't actually cross my mind *to* report it – despite being active in the local LGBTIQ+ community. Secondly, exploring my gender identity (to which the abuse was directed) was still quite a new and sensitive topic for me at the time. Additionally… friends told me many a shit story about being laughed at/disregarded, as well as the whole queer thing coming out in the wash to the extended family should the incident get media coverage. Queer/gender queer survey participant

Another survey participant wrote of further barriers:

I thought police would see it as pointless and time wasting. But also I just couldn't be bothered with all the palaver it would cause. And like most people, it's kind of part of life and you would spend too long reporting it all otherwise. Gender non-conforming pansexual survey respondent

Meanwhile, other participants wrote of their different approaches toward reporting 'serious' and more everyday incidents, demonstrated by the following:

I will report if it's really serious. Petty hate crime like this is constant and I don't have the time or energy to pursue every instance. Bisexual intersex survey participant

Experiences of reporting

Among those who reported the most recent crime they experienced, 40% indicated they did not find the process easy. The most common reason given was the perception that justice professionals had not received training on LGBT issues (68%). Others found it difficult having to repeat what happened several times (47%) or felt there were too many steps to go through (44%). Lastly, some participants were apprehensive about the prospect of disclosing their sexual orientation and/or gender identity (27%), as demonstrated by the following survey response:

The police were super helpful and nice, but I'm paranoid about outing myself and overcoming that is difficult. Agender pansexual survey respondent

Future reporting

Three quarters of participants thought they would probably report hate crime they experience in future (74%). However, a quarter said they would probably not report in future (26%). The most common reason given for deciding not to report in future was the perception that it would not be taken seriously (44%). Other reasons included feeling that reporting would not be worthwhile (36%), low standards of police training on LGBT issues (24%), fearing police would react negatively to their identity (21%), and discomfort about having to disclose their identity (14%). Several trans and pansexual respondents also wrote that reporting had previously caused them more problems than it solved and that they used non-reporting as a strategy to protect information about their identify from being shared without their consent. One interviewee spoke of damage to his confidence in justice agencies caused by a previous reporting experience:

Imagine if in a years time I get beaten up again – do you think they would believe me if I report it? I don't think so. If I get hurt again and I tell the police and say look, this has happened again, I don't think they would go after [the perpetrators]**. I don't think anything would happen.**

Bisexual man interviewee

5 RECORDING MECHANISMS

Hate crime data

This study found that only a quarter of LGBT participants reported the most recent hate crime they experienced. This is indicative of a sizable gap in the data collected by justice agencies. Interviewees also pointed out the issue of under-reporting by victims and non-recording by agencies. Meanwhile, acknowledgement was given to the success of UK mechanisms to collect and record hate crime compared with international norms. This policy objective to improve reporting is demonstrated by the following written submission:

The UK data is probably the strongest anywhere in the world, however, the Crime Survey of England and Wales shows that most offences still do not come to the attention of the police so there is still a lot more to do. Mark Hamilton, National Police Chiefs Council

UK recorded hate crimes

To contextualise the above, information about recorded hate crime within the UK is included below. Differences in data transparency across the UK mean it is not possible to obtain complete national figures about recorded hate crime, but adding together the national data presented here reveals that at least 7,016 LGBT hate crimes were recorded by police in 2014/15. That includes a minimum of 6,409 sexual orientation crimes and 607 transphobic crimes. That was an increase from the previous year when at least 6,123 were recorded by police in the UK, including 5,542 sexual orientation and 581 transphobic crimes. This rise was generally interpreted by policy makers interviewed by this study as a signifier of successful policies to tackle under-reporting and improvements in recording.

England Police forces in England record the most hate crimes by far, but they also serve the largest population. They recorded 4,987 sexual orientation hate crimes in England during 2014/15; a rise from 4,204 the previous year. They also recorded 540 transphobic hate crimes compared with 510 the year before [5]. That is 9 LGBT hate

5. Hate crime, England and Wales, 2014 to 2015: appendix tables, Home Office, 2015

crimes for every 100,000 people in England. LGBT hate crimes account for just 12% of all hate crimes recorded in England.

Northern Ireland The Police Service for Northern Ireland recorded 209 homophobic hate crimes recorded during 2014/15; a rise from 179 the previous year[6]. Though Northern Irish hate crime legislation excludes transphobia, 8 transphobic crimes were recorded that year and 8 the previous year. That means there are 12 LGBT hate crimes reported for every 100,000 people in Northern Ireland each year. LGBT hate crimes accounted for 10% of all hate crimes recorded in Northern Ireland in 2014/15.

6. Trends in Hate Motivated Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2014/15, PSNI, 2015

Scotland Police Scotland do not publish hate crime data, but the Crown Service & Procurator Fiscal Service give details of hate crimes charged each year[7]. They charged 841 sexual orientation hate crimes during 2014/15; a slight drop from 889 the previous year. They charged 21 transphobic crimes and 25 the year before. That is 16 LGBT hate crime charges per 100,000 people in Scotland. LGBT hate crime accounted for 15% of all hate crime charges recorded in Scotland during 2014/15.

7. Hate Crime in Scotland 2014-15, Crown Office, 2016

Wales Police forces in Wales recorded 351 sexual orientation hate crimes in 2014/15; an increase from 270 the previous year[5]. It also recorded 38 transphobic crimes, which was a decrease from 47 the year before. That is 11 LGBT hate crimes for every 100,000 people in Wales. LGBT hate crimes account for 18% of all hate crimes recorded in Wales.

International comparison

Many anti-LGBT offences are reported to the police all over the world, but few are ever recorded as hate crimes by authorities. The success of UK policies on hate crime data collection are underlined by the high number of homophobic and transphobic hate crimes recorded compared against other countries. For instance, 2014 hate crime data submitted to the Organisation for Cooperation and Security in Europe[8] shows the UK records almost five times more anti-LGBT hate crimes (6,202) than the next biggest recorder, the USA (1,287), despite having a population only one fifth as large. This was followed by Spain (513), Sweden (493), Germany (129), Finland (40), Italy (27), Ireland (8), Poland (8) and Croatia (2). Significantly, the UK is one of only three countries in that list which recorded any transphobic crimes.

8 www.hatecrime.osce.org/what-do-we-know

6 SATISFACTION

Low satisfaction

Roughly half of survey participants who reported a hate crime were satisfied with the outcome it produced (49%), while the remaining half were dissatisfied (50%). Context for this figure can be found in the Crime Survey for England & Wales, which also found that half of people who report hate crime are satisfied with how it is handled by police (52%)[9]. That compares poorly with the much higher satisfaction rate for other types of crime detailed in the same report (73%). It also found that victims of hate crime were less likely to feel they had been treated with respect by the police (51% compared with 81% of crime victims in general). This theme was echoed in a number of interviews and survey responses, such as the following:

9. Hate Crime, England and Wales, 2014/15, Home Office, 2015

[The police] **were curious about me rather than my attacker. The police woman was good but she was inexperienced and had no training on trans issues. The follow up police calls were poorly handled, not trans aware and unfriendly.**

Queer trans woman interviewee interviewee

Although lack of outcome was a major reason for dissatisfaction among those who reported, another key reason was the feeling that the hate motivation had been ignored by the investigation, with 33% of those who were dissatisfied stating this as the reason. One interviewee said:

There's a failure to understand [hate crime] **at quite a deep level. There are individual officers who are very good, but when it comes to responding to a victim in a way that's appropriate and being willing to push it through the criminal justice system, it's not so great.**

Charity worker interviewee

Successes

Despite satisfaction rates being low compared with crime in general, the fact remains that half of people who report hate crime appear to be satisfied by the response they receive. That translates into a large number of people each year. While pointing out problems, the following interviewee discussed the progress made by police forces in gaining the support of those who report:

[The response] **varies. At the best, it's brilliant. We did an audit in 2011 of hate crime responses in eleven force areas. There were certain things that we are poor at like speed of getting to a job and keeping people updated.** [Good things included] **most victims were complimentary of force responses, as first police officers to attend were perceived as being understanding and sympathetic.**

Paul Giannasi, Ministry of Justice

Satisfaction influences confidence

Numerous survey and interview participants pointed to the role which LGBT community reporting experiences play in shaping community confidence in institutions. Feeling that you are taken seriously by authorities can help in feeling that reporting was a worthwhile experience, which in turn can impact future preparedness to report. The following interviewee spoke about the positive response to her report having resulted in a beneficial impact for her and the local area:

I'm satisfied that my case was handled well by the police. I had regular phone calls, they involved my attacker's social worker and school and the court told him to stay away from me. I feel it did some good and local young people may have been told about the consequences. Queer trans woman interviewee

Victim-centred approach

From these results, it seems clear that a strategy to increase reporting without improving the response to existing reports would be of limited effectiveness. A useful step toward this is good quality staff training and development aimed at understanding the perspectives of people who experience hate crime. However, we believe that a more fundamental cultural change is needed in the beliefs and attitudes driving the work of criminal justice institutions. As long as police and state prosecutors see their primary focus as achieving prosecutions and other such hard outcomes, serving the needs of victims will only ever be an indirect means of achieving that goal. The results of this study make clear that such results are not a realistic prospect for the vast majority of people who experience hate crime. Despite this, such individuals often still have a need to be listened to by state institutions, to feel they have been taken seriously and to have the abuse they experienced condemned by authorities.

7 CRIMINAL JUSTICE OUTCOMES

Achieving results

Most participants who reported hate crime did not feel it resulted in any criminal justice outcome. The most common reason for participant's dissatisfaction with the response of agencies was the perception that their report did not produce any result (57%). This was followed by feeling the perpetrator received no sanction (33%) or that the criminal justice outcome secured had been too light (7%). This was echoed in interviews, with the accessibility of criminal justice processes being a major theme. One interviewee said:

The processes are clunky. They're slow. They're incredibly inaccessible to the victim. And, without support, you just give up halfway through, which means that even if you do make it through, the quality of your evidence is compromised because you're so worn out by the process. Charity worker interviewee

Despite the problems with the legal process identified above, senior statutory participants outlined their commitment to achieving results in hate crime cases, as follows:

The CPS is committed to supporting victims and communities affected by hate crime by bringing perpetrators to justice and ensuring that the courts are able to pass appropriate sentences.

Geraint Evans, Crown Prosecution Service

Prosecution data

To contextualise these findings, information about hate crime prosecutions are included below:

England & Wales The CPS is England & Wales' state prosecutor. The police referred 24% of the LGBT hate crimes they recorded to the CPS for a charging decision during 2015/16 (1,309 referrals). They completed 1,469 LGBT hate crime prosecutions that year, of which 83% resulted in a conviction [10].

That included 68 successful transphobia trials, representing 12% of transphobic crimes recorded by police that year. It also included 1,009 successful homophobia prosecutions, representing 19% of the homophobic crimes recorded by police that year. By comparing prosecution data with the 29,000 homophobic hate crimes estimated to be committed in England & Wales each year [9], it appears that 3% of all such crimes go on to be reported, investigated, prosecuted and result in a guilty verdict. The fact that only 38% of successful court cases are awarded an increased sentence to acknowledge the hate motive [9] means that just 1% of estimated homophobic crimes committed go on to have their hate motive acknowledged by a court.

Northern Ireland The Public Prosecution Service (PPS) is Northern Ireland's state prosecutor. The police referred 63 LGBT hate crime cases to them during 2015/16. It brought 67 LGBT hate crime cases to trial that year, 41 of which resulted in conviction, meaning it had a 61% success rate. That included 77 cases they made a charging decision about, 31 of which came to trial and 16 of which were successful. It also included 55 homophobic hate crime cases which PPS considered to meet the legal criteria to be 'aggravated by hostility', 36 of which went to trial and 25 of which resulted in conviction [11]. It is worth noting that North Irish law makes no provision for dealing with transphobic hate crime.

Scotland The Crown Office and Procurator Fiscal Service (COPFS) is Scotland's state prosecutor [12]. They charged 1,050 anti-LGBTI hates crime during 2015/16 and prosecuted 949 of them. That

10. Hate Crime Report 2014/15 & 1015/16, CPS, 2016

11. Statistical Bulletin: Cases Involving Hate Crime 2015/16, PPS, 2016

12. Hate Crime in Scotland 2015-16, Crown Office, 2016

included 1,020 homophobic crimes charges with court proceedings commenced in 86% of them. There were 30 transphobic crimes charged, with court proceedings being commenced in 77% of them. No data is publicly available on the outcome of those trials.

Re-evaluating criminal outcomes

This evidence suggests that a criminal justice outcome is not a realistic prospect for the majority of LGBT people facing hate crime. It also appears that criminal penalties are not targeted toward reducing the prejudice driving hate crime offending, which limits their usefulness in preventing further offences being committed. We believe that alternative approaches could be usefully explored to administering criminal penalties in dealing with hate crime offending. Hate crime is rightly marked out for extra measures to acknowledge the increased level of harm it causes to individuals and society. Prison plays an important role in sentencing high risk offenders, but we believe that sentencing policies for low risk hate crime offenders could usefully take a different approach. This could involve giving penalties that are more closely targeted toward challenging the prejudice driving an individual's actions alongside use of specialist hate crime restorative justice programmes where appropriate. These would need investment and should not be seen as a means of cutting costs, but we believe a cost-neutral shift could be made by diverting resource from expensive long sentences toward developing evidenced-led hate crime restorative and offender programmes to promote accountability and undermine the prejudices and negative assumptions that drives an individual's offending.

8 HATE CRIME LAWS

The strength of UK responses

Interviewees spoke about the effectiveness of UK legal approaches to tackling hate crime compared with international norms. Reasons given include the wide range of groups covered, the flexible definition employed by justice agencies and the frequency that such laws are used. This was summed up by the following written submission:

I believe that the UK has one of the strongest legislative frameworks globally and provides a framework for independent criminal Justice agencies and judiciary to find a effective balance between protection from harm and free speech. Mark Hamilton, National Police Chiefs Council

This perspective was elaborated in the following interview:

For me, the cornerstone is the enhanced sentencing legislation… which I think is really robust. I think we still have some issues around application and recording of when we use those powers, but for me the legislation is relatively robust as it is. Paul Giannasi, Ministry of Justice

Legal deficiencies

Despite the relative strength of UK legislation, 11% of survey respondents who experienced hate crime felt there was no appropriate legal framework for dealing with their case. A primary theme in interviews with professionals was the disparities between hate crime strands, described by the following interviewee:

[Hate crime law] **is wrong because it's uneven.** [That means] **the police and anyone dealing with it sees** [homophobia, transphobia and disability hate crime] **as unimportant issues.** Charity worker interviewee

This viewpoint was echoed in the following written submission:

The introduction of the specific racially and religiously aggravated offences in the Crime and Disorder Act 1998 was a major step forward towards recognising the particularly unpleasant nature of such crimes... However, it is unfortunate that sexual orientation, transgender identity and disability hate crime do not have the same specific offence provisions as race and religious hate crime, including the increased maximum sentences. All protected characteristics should receive equal protection by the criminal law.

Anonymous statutory interviewee

The problematic message sent by these differences was also pointed out by the following interviewee:

In terms of national legislation, of course it's been very piecemeal in the way it's developed... What we have is a disparity in law across all the protected characteristics that makes it difficult for messaging about what is seen to be important and what isn't.

Jackie Driver, Equality & Human Rights Commission

UK approaches

Laws covering hate crime have been incrementally created to cover different groups, leading to a fragmented and illogical legislature with significant deficits for LGBT and disabled people. In order to understand the gaps pointed out above, an explanation of the legal position is included below:

England & Wales A number of specific race and faith hate crime offences exist, for instance, 'racially aggravated assault'. These have a higher penalty than ordinary offences. Courts treat all other hate crimes as normal offences until someone has been found guilty, when an increased level of punishment is given to acknowledge the motive behind the crime.

Scotland An offence of racially aggravated harassment or behaviour exists, while all other hate crimes are treated as normal

offences until sentencing, where the hate component is treated as an aggravating factor.

Northern Ireland Instead of creating specific hate crime offences, all hate crimes are treated as normal offences, with the hate component acting as an aggravating factor during sentencing. This applies to race, faith, sexual orientation and disability, but not transphobic crimes.

Deficiencies

The following gaps in laws covering LGBT people were described by participants:

Lower maximum sentence Homophobic, transphobic and disability hate crime offences carry a lower maximum sentence than race and faith crime in England & Wales. For instance, racially or religiously aggravated common assault can attract up to 2 year sentence, while for LGBT or disability the maximum is 6 months. Meanwhile, in Scotland, a conviction for racial harassment carries a 7 year maximum sentence, while anti-LGBTI, faith or disability harassment has a maximum of 5 years.

Recording Where someone is found guilty of a homophobic or transphobic hate crime, the hate element is not normally recorded on an individual's criminal record. This is because there are no specific hate crime offences that can be named on their Police National Computer record. That means future trials and probation services cannot see if someone is a serial hate crime offender and no work can take place to manage any risk they pose. Meanwhile, where specific race or faith offences exist they can be recorded in a way that makes their hate motive clear.

Trans and intersex inclusion There is still no legislative provision for dealing with transphobic hate crime in Northern Irish law. Although Scottish hate crime laws explicitly cover hate crime against intersex people, no such provision exists in England, Wales or Northern Ireland.

Victim rights People who experience hate crime have the right to various entitlements from justice agencies in relation to assessment, information, referral to services etc. These are set out within the England & Wales Victims' Code and Northern Ireland's Victim Charter. At Galop, we see many of our service users not receiving these entitlements, yet the only way to enforce these rights is through the internal complaints mechanism of the relevant organisation (such as the police or CPS) which can be a frustrating experience for individuals. We believe these entitlements for victims should be a legal right instead of a voluntary code. We therefore recommend they be backed by law, such as exists in Scotland's Victims' Rights Regulations 2015.

Incitement Various laws prohibit the stirring up of hatred against certain groups. These are sometimes called 'incitement' or 'hate speech' laws. There are no laws preventing stirring up hatred against trans people in England, Wales and Northern Ireland. A law preventing stirring up hatred based on sexual orientation exists in England & Wales but it is weaker than similar laws covering race and faith. In practice, all laws in this category are set at a high threshold of seriousness and are infrequently used, but allowing the disparity to remain sends an unhelpful message.

9 REFERRAL TO SPECIALIST SERVICES

Specialist hate crime services

Access to good quality advice, support and assistance that understands identity-related needs is a vital component in serving the needs of people experiencing hate crime. A range of specialist services exist to act as peoples' companion and champion within and outside of the criminal justice process, yet participants' accounts indicate that few people are told about such services when they report. Ordinarily, people who report hate crime have their details passed to the organisation Victim Support by the police. That is a good option for many people, but not for others who feel marginalised by mainstream services, are fearful of receiving a prejudicial response or who want a service geared toward understanding their practical and identity-related needs.

[The police] **referred me to Victim Support… No, they didn't refer me anywhere else. I was with Victim Support but I prefer Galop because they know what I'm about. They know how difficult it is for people like me. They're more sensitive. I talked to Victim Support and I had a lovely young lady but she couldn't help and it wasn't for me.**

Bisexual man interviewee

Police referral and signposting

Voluntary sector workers described problems with police referral systems automatically using Victim Support as their default support organisation for all people facing hate crime. They also pointed out that information about hate crime support services is not generally shared with people who report hate crime. One interviewee gave the following account that their hate crime service had never received any referrals from the police:

I think we have a real battle to get the police to tailor the referral process to link people with specialist victim services. In four years of hate crime work, we've never had a single referral from the police.

Charity worker interviewee

The right to specialist referral

The Code of Practice for Victims of Crime created a right for everyone who reports hate crime to be offered a referral to a specialist support service, where available in that area (such as Galop and other services), in addition to a general support service (such as Victim Support). At Galop, we are proud of having built good referral relationships with police officers who regularly discuss our services with those who report. However, from a general voluntary sector perspective, very few of the people who report hate crime are referred to specialist hate crime services, or even told about them. This means the majority of individuals are forced to seek out specialist advice and support unaided by statutory services, with many never hearing about services which could have benefited them. The issue was touched on in the following account:

If the case has been properly flagged, then appropriate referral should follow. It is clear from the accounts of some witnesses that the provision of the required information is not always consistent.

Geralllt Evans, Crown Prosecution Service

A further interviewee discussed the need to make further headway on this issue:

There has been some progress to routinely inform victims about support services but, again, there is also poor practice and more work to be done. Jackie Driver, Equality & Human Rights Commission

Another interviewee pointed to the complexity of the voluntary sector landscape as a source of difficulty in referral arrangements:

Services can be sporadic… In London, you've got a pan-London organisation like yours, that is an easy place to refer to. In some of the rural areas, it may be far less clear as to who might be able to assist.

Paul Giannasi, Ministry of Justice

Identity-specific needs

Although one participant pointed out that general support organisations can provide a good service to people facing hate crime, others felt that generic services were often not equipped to understand and meet the identity-related needs of marginalised communities. This issue was discussed by an interviewee speaking of his experience of support services:

Most of the time I feel low self-esteem because I can't say what I want to say. I'm really confident with [Galop] **but, with the other** [support organisations]**, I can't say bisexual or gay. I have to act, which is really hard and that makes me tired, so I'd rather not say nothing to them.**

Bisexual man interviewee

General victim support referrals

The above findings are supported by Stonewall research which found that just 26% of those who report homophobic crime to the police are referred to any kind of support service. Although most did not feel they needed advice or support, others would have liked it but felt unable to seek it out because they were unaware of a service suited to their needs (16%), or they did not know where to look (13%). Others feared encountering prejudice related to their identity from support services (7%) or were uncomfortable having to out themselves to support services (7%)[13].

13. Homophobic Hate Crime, Stonewall, 2013

10 LGBT DIVERSITY

Intersectionality

Sexual orientation and gender identity are just two facets among many that shape how LGBT people experience hate crime. Sex, race, faith, disability, income, social background, age and a host of other factors are an integral part of their everyday lives, but also influence how they perceive and interact with services. Participants spoke about the overlapping forms of hate crime faced by those with intersectional identities and encountering unique barriers to accessing services. The need to account for diverse individuals' needs is summed up by the following interview:

For me, the key thing is an approach across all areas of diversity. It's about intersectionality… because you can't put people in separate boxes. [The police] **don't deal with intersectionality because they can't get their heads around the fact that we might be more than one thing.** Charity worker interviewee

Trans and intersex diversity

The need for greater understanding by services of the complexities of gender identity was raised numerous times. This particularly focused on the needs of trans, non-binary and intersex people, as demonstrated by the following:

I would want to see greater inclusion. More counting in of trans and non-binary people and partners of trans people. Plus [recognition] **that cisgender gender non-conforming people are targeted** [by transphobia]**.** Charity worker interviewee

Complexity

Participants spoke about LGBT people facing multiple entrenched forms of disadvantage (social, economic and health), which interact with hate crime to create increased impacts and barriers to accessing services.

There can be a lack of understanding and training, plus, on occasion, homophobia, biphobia, transphobia and anti-sex work attitudes. Poor handling of people with mental health issues, drug problems and communication difficulties is [also] **a problem.** Charity worker interviewee

Prejudice within LGBT spaces

Some participants described experiencing discrimination and abuse within LGBT environments, including transphobia and biphobia encountered from lesbian and gay people. Interviewees also described experiences of prejudice based on race, faith, disability and misogyny. One interviewee said:

The intersection of race and homophobia has been noticeable this year, with many more clients coming forward experiencing racism within the LGBT scene. Charity worker interviewee

Good practice example

The Community Alliance to Combat Hate (CATCH) is a coalition of leading specialist anti-hate crime organisations. It is a pioneering project that brings the expertise and trust built by identity-specific organisations to an intersectional cross-strand service. During its first reporting period, 33% of CATCH service users experienced intersectional hate crimes. CATCH is led by Galop and includes the Community Security Trust, Tell MAMA, and The Monitoring Group.

The introduction of the specific racially and religiously aggravated offences in the Crime and Disorder Act 1998 was a major step forward towards recognising the particularly unpleasant nature of such crimes... However, it is unfortunate that sexual orientation, transgender identity and disability hate crime do not have the same specific offence provisions as race and religious hate crime, including the increased maximum sentences. All protected characteristics should receive equal protection by the criminal law.

Anonymous statutory interviewee

11 RECOMMENDATIONS

We call on authorities to:

1. Review training arrangements for professionals working with LGBT victims
2. Review police forces referral arrangements to hate crime support services
3. Remedy the deficiencies in LGBT and disability hate crime laws
4. Expand Northern Irish hate crime laws to include transphobia
5. Include intersex people within English, Welsh and Northern Irish hate crime laws
6. Ensure the hate motive of an individual's conviction is recorded on their criminal record
7. Build preventive educational programmes for perpetrators of hate crime
8. Create good practice guidance on anti-hate crime restorative justice
9. Give legal backing to rights within the Victims Code and Victims Charter
10. Support the professionalisation and capacity building of anti-hate crime support and advocacy work
11. Support community-based work to challenge online hate crime
12. Support the creation of a regular survey of LGBT perceptions to contextualise changes in recorded hate crime
13. Work alongside Galop in our specialist role tackling violence against LGBT people

12 GALOP'S ANTI-VIOLENCE SERVICE

About Galop

Galop provides support, advice and direct assistance to people facing violence or abuse, including homophobia, biphobia and transphobia. We are independent, confidential, centred on service users holistic needs and focused on empowerment. A key part of our work is providing a supportive space for our clients to talk in a non-judgemental environment. We provide direct assistance with criminal justice issues such as reporting, navigating police and court systems, acting as a companion and helping when things go wrong. We assist with a full range of non-criminal justice needs to address safety, wellbeing, housing, social and financial needs. We also run a hate crime mentoring service that matches people who would benefit from extra support with specially trained and supervised volunteers who have previously recovered from hate crime. A key factor in the success of this work is our anti-violence approach, which integrates hate crime, sexual violence and domestic abuse into one organisation to better address the intersecting issues between them.
Find out more about our services at **www.galop.org.**

Every time there's an issue I need help with, Galop is there. They've helped me a lot. I couldn't continue my education. I couldn't even think straight. Without help from Galop, I don't think I could have become active again so quickly [after being attacked]**. Every time I call everyone takes it so seriously.** LGBT community member interviewee

Galop's outcome data

Galop uses a number of satisfaction and outcome measurement systems to measure progress toward coping, recovery and improved safety. They showed that 82% of Galop clients facing hate crime felt more able to cope with their situation as a result of the service they received during 2015/16. It also found that 96% of clients felt more informed about their rights and 84% felt less likely to be the target of abuse because of work conducted by Galop to improve their safety.

[My advocate] **was amazing. She was understanding, always responding to my emails. Making sure I felt safe. Knowing that she was always there to help with my needs. Honest and kind. Never gave up on my case and never gave up on me. She always went the extra mile. She gave me hope and showed me the way to recovery. Now I am on the mentoring program and it has been a massive help and support system, which is helping me grow stronger every day. Without her, I would not be here typing these words, so *thank you* from the bottom of my heart.**

Galop service user

ABOUT THIS STUDY

Methodology

The online survey was distributed through online community networks of LGBT activists, individuals and professionals. Attempts were made to reach LGBT individuals from a range of identity, social and geographical groups. The interviewees were identified through Galop's contacts within statutory and voluntary sector organisations combatting hate crime. The interviews with individuals who had experienced hate crime were conducted with previous clients of Galop's casework service. Significant efforts were made to ensure the experience was as comfortable and positive as possible for those individuals.

Defining hate crime

There is no settled definition of hate crime and the behaviours it includes. For instance, professionals interviewed as part of the study generally pointed toward criminal justice-focused definitions, but it was clear they were interpreted in a variety of ways. For the purpose of the survey, we avoided a complex definition, simply asking 'Have you ever experienced hate crime because of your real or perceived sexual orientation and/or gender identity?' That was followed by an example list of homophobic, biphobic or transphobic abusive behaviours.

The sample

The survey received 522 responses. Of those, 55 were from respondents who identified themselves as cisgender, heterosexual and not intersex. These were removed, leaving a sample size of 467 responses from LGBT individuals.
The gender demographic of this sample included people who identified as male (49% or 228 individuals), female (33% or 152 individuals), trans male (10% or 48 individuals), 'other' gender, many of who recorded themselves as gender non-binary (9% or 40 individuals), trans female (8% or 38 individuals), gender fluid (6% or 26 individuals) and intersex (0.4% or 2 individuals). In terms of sexual orientation, the sample included people who identified as gay men (40% or 187 individuals), bisexual (19% or 89 individuals), lesbian (16% or 73 individuals), pansexual (11% or 51 individuals), heterosexual (11% or 53 individuals), other (6% or 28 individuals) and asexual (5% or 23 individuals).

Community-focused research

Galop's role as an LGBT anti-violence organisation is important contextually in understanding the findings of this study. Our day to day work on this issue over the past 35 years has given us a depth of knowledge on hate crime faced by LGBT communities. Our understanding of this issue is rooted in direct work with individuals. This perspective as a community-based organisation has shaped our approach to designing and conducting this study. Our ambition is that this practice based approach will compliment different approaches used by academic institutions doing excellent work in this area, such as Birkbeck, Lancaster, Leicester, Surrey, Sussex and Portsmouth to name a few.

About UNI-FORM

This study forms part of the UK element of UNI-FORM, a project bringing together community-based organisations and justice agencies to tackle hate crime and online hate speech against LGBT people. It is an initiative funded by the European Commission under reference JUST/2014/RRAC/AG/6723.
The project is being implemented in Belgium, Estonia, Hungary, Ireland, Latvia, Lithuania, Malta, Portugal, Spain and the United Kingdom. This research is an integral part of the project and is designed to form an evidential basis for our initiatives to improve reporting, share good practices and improve the understanding of hate crime. For more information about this project, visit **www.uni-form.eu.**

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