Essentials in the victim-centred approach to tackling hate incidents

This RaceActionNet briefing considers the essentials of the victim-centred approach to tackling hate incidents and sets out the key elements in tackling hate incidents and the hate crime strands defined by the new Cross-Government Hate Crime Action Plan (Home Office, September 2009).

Introduction

Tackling hate incidents and hate crimes effectively is important not only for the sake of the victims and their families but also - since the effects are felt deeply by the groups and communities to which the victims belong - to reduce the damage to community cohesion and social inclusion.

The main objectives for organisations tackling hate crime and hate incidents, set out in the new cross-government action plan published in September 2009, are:

1. Increase victim and community confidence particularly in the criminal justice system - including increasing the proportion of victims and witnesses of hate crime who report it.
2. Prevent hate crimes from occurring or escalating in seriousness - including improving local responses to hate crime, particularly where there are high levels of hate related incidents.
3. Improve access to and take-up of victim support.

Five essentials in tackling hate incidents from a victim perspective

1. Proper recognition of hate incidents

A 'hate incident' is defined in the action plan as a non-crime incident which is perceived by the victim or any other person as being motivated by prejudice or hate.

The hate element is considered to be present if the act was motivated by hostility or prejudice based on one of the 'hate crime strands', which may be the victim's:

- race
- religion or belief
- sexual orientation
- disability status or
- transgender status.

A 'hate crime' is a criminal offence which is perceived by the victim or any other person as being motivated by prejudice or hate based on any of the same hate crime strands (see more below).
2. **Victim-centred response to hate incidents**
All incidents and crimes should be dealt with as motivated by hate or prejudice if the victim, a witness, the perpetrator, the investigating officer or any other person believe that the incident was motivated by hate or prejudice based on one or more of the hate crime strands.

The victim does not actually have to possess the characteristic. If the perpetrator perceived them as having the characteristic, or of associating with people who have the characteristic, then the incident should be treated as a hate incident or hate crime.

3. **Encourage reporting and proper recording of hate incidents**
Reporting of hate incidents should be encouraged since they are known to be under-reported. It is important that information about hate incidents is recorded properly so that all practitioners are aware that the case contains a hate element. Detailed records are crucial when victims are suffering from the cumulative effect of incidents of abuse and harassment.

4. **Support and protect victims of hate incidents**
Victims of hate incidents should be provided with support and protection together with the reassurance that the anti-social behaviour will be stopped. This may make it more likely that they will attend court and give evidence.

5. **Work with partners on strategy and tackling casework**
Organisations tackling hate incidents should work with partner agencies when setting a strategy and dealing with individual cases to ensure co-ordinated action.

**Five ‘hate crime strands' and ‘intersectionality'**
The ‘hate crime strands' are the types of hostility or prejudice for which an incident or crime should be pursued as a hate incident or hate crime. They are race, religion or belief, sexual orientation, disability status and transgender status.

Although people who suffer from a particular type of hate incident or hate crime may face common issues, every victim should be treated as an individual with their own needs.

These ‘hate crime strands' do not exactly match the ‘protected characteristics' of equality discrimination law. ‘Age' is not included as a hate crime strand; incidents directed against elderly people should be dealt with as part of a policy on protecting vulnerable people. Similarly incidents perpetrated on the
basis of a person's gender (other than transgender status) are best dealt with elsewhere, for example in policies on tackling domestic violence.

**Intersectionality**

The word ‘intersectionality’ used in the Hate Crime Action Plan refers to the interaction between different aspects of a person’s identity which are relevant when dealing with hate incidents and hate crimes. These interactions may determine how victims react to the incident or crime, and the kind of support they need.

Some hate incidents and hate crimes are motivated by hostility based on more than one of the hate crime strands. For example verbal abuse directed against a person because they are both Christian and of Pakistani ethnic origin. Or theft motivated by hostility towards someone because they are both a person with a learning disability and from a black or minority ethnic community.

A survey by Stonewall found that black and minority ethnic lesbian and gay people are twice as likely to have experienced a physical assault than the average for lesbian and gay people. Gay men were also found to be over two and a half times more likely to be the victim of a hate incident involving a physical assault than lesbians.

An analysis of anti-semitic incidents recorded by the Metropolitan Police Service between 2001 and 2004 also found that male victims experienced proportionally more incidents involving violence and fewer incidents involving malicious communication than female victims.

**Race**

In terms of the law a person's ‘racial group’ is defined as a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

This could include Gypsies and Travellers, refugees or asylum seekers or others from less visible minorities. For criminal offences, there has been a legal ruling that Jews, Sikhs and those of ‘non-British' origin can fall within the definition of racial group.

The meaning of the legal term 'racial group' was considered by the House of Lords in R v Rogers (2007). It was decided that saying ‘bloody foreigners’ and ‘get back to your own country' demonstrated hostility to a 'racial group'. Those of 'non-British origin' can fall within the definition of racial group. Whether the evidence itself proves that the defendant's conduct demonstrated hostility to such a group, or was motivated by such hostility, is a question of fact to be decided in each case.
**Religion or belief**

The legal term 'religious group' means any group of people defined by reference to their religious belief or lack of religious belief. For example, this would include Muslims, Hindus and Christians, and different sects within those religions - as well as people with no religious belief at all. People who are victims of religious hate incidents may have been singled out or targeted because the perpetrator assumed to know their religion on the basis of their racial appearance or clothing. The European Monitoring Centre for Racism and Xenophobia (EUMC) conducted a comparative study on Islamophobia in the European Union which found that attacks on Muslims were mainly directed towards recognisable traits of Muslims, referred to as “visual identifiers”, such as the hijab.

**Sexual orientation**

'Sexual orientation' describes attraction to others of the same sex. A lesbian is a woman who is attracted to women; a gay man is a man who is attracted to men; and a bisexual person can be either a man or a woman who is attracted to both men and women. Collectively, people who are lesbian, gay or bisexual may be referred to as members of the ‘LGB’ community (or, with transgender people, ‘LGBT’ community).

According to research by Stonewall, a lesbian, gay and bisexual charity, gay men who have experienced a hate incident are more likely to have reported it to the police than lesbians. Lesbians however are twice as likely as gay men to report incidents to their local council, a third party reporting service or a lesbian, gay and bisexual organisation.

**Disability**

The Disability Discrimination Act (DDA) defines a person as "disabled" if they have a "physical or mental impairment, which has a substantial and long term adverse effect on that person's ability to carry out normal day-to-day activities". People who have cancer, multiple sclerosis or HIV are deemed to have a disability under this definition.

However in the case of disability hate crime, "disability" is defined more narrowly as any "physical or mental impairment" in section 145 Criminal justice Act 2003.

Impairment covers both physical and mental impairments, including sensory impairments such as those affecting sight or hearing, and in the case of mental impairments, those relating to mental functioning such as learning disabilities.

Research by Sheffield Hallam University found evidence to show very high rates of susceptibility by disabled people, particularly those with mental health disabilities, to becoming a victim of anti-social behaviour, often as a result of their impairment.
Transgender

A person's personal sense of being either a man or a woman (known as their ‘gender identity’) is usually consistent with their visible sex characteristics of a person. For some people however there is a profound sense of dissonance between their physical gender and their gender identity. As a result they may live in the role which accords with their gender identity, perhaps by cross-dressing (being a ‘transvestite’) or undergoing medical treatment.

The umbrella term to describe people expressing their gender in this way is ‘transpeople'. Some people, having made a permanent transition to the new role in which they intend to live for the rest of their lives, will obtain legal recognition in the form of a Gender Recognition Certificate (GRC). A person’s gender is distinct from their sexual orientation.

Recent research in Brighton and Hove found that in the last 5 years just over a quarter of transpeople had been the victim of hate crime.