

Court cases expose hate crime problems in justice system

Two court cases involving prolonged, violent attacks on disabled people have again exposed problems within the criminal justice system over its treatment of disability hate crime.

In one case, a judge refused to treat a case in which four people subjected a young woman with learning difficulties to a sustained period of torture – including branding her face with a hot iron, slashing her with a knife, smashing her over the head with dinner plates and beating her with a saucepan until the handle broke off – as a disability hate crime.

The man and three women subjected the woman – who considered them to be her friends – to the series of brutal beatings last September in Torquay, Devon. Three of them were jailed for eight years for assault and false imprisonment, while the other received three years.

Detective Inspector Chris Yarwood, of Devon and Cornwall police, said officers investigated the case as a disability hate crime, while evidence to show it was motivated by disability-related hostility was presented to the Crown Prosecution Service (CPS).

He said he was particularly keen for that to happen because of “quite striking” similarities with the horrific case of Steven Hoskin, a man with learning difficulties from Cornwall, who died in 2006 at the hands of “friends” who abused and humiliated him and treated him as a slave, before forcing him to plunge to his death from the edge of a viaduct.

A CPS spokeswoman said the violence inflicted on the Torquay woman was treated as a hate crime because there was evidence of disability-related hostility and the offences “displayed many of the elements that are common in cases of this type, namely the exploitation of a friendship with the victim and sustained group violence”.

But she said the judge decided that the CPS had not proved the offences were disability hate crimes under section 146 of the Criminal Justice Act, so did not increase the sentences.

In the second case, Kenneth Oakes, who had learning difficulties and visual and speech impairments, was repeatedly beaten up by Amendeep Singh Rai, and left with 43 rib fractures following at least four vicious attacks over three weeks.

Oakes died on 28 January 2010 as a result of injuries he suffered in the last attack in Rai’s flat in Stanley Street, North Shields, just hours after the two men had shared a takeaway.

Northumbria police said Oakes, who worked for Rai’s father, was “beaten to death by a man he believed to be his friend”, and was a victim of “extreme bullying against a vulnerable person”.

Rai was sentenced to six years in prison after pleading guilty to manslaughter, but the police and CPS admitted that they had not treated the case as a disability hate crime.

The CPS claimed it was clear from early in the investigation that Rai's motive was financial, as he was angry that some of the cannabis plants Oakes had been growing for him were missing.

A CPS spokeswoman said: "We considered the circumstances of this case carefully to establish whether or not disability-based hostility was a factor in the case. In this case there was no other evidence [other than Oakes being a disabled person] which would lead us to treat the offence as a disability hate crime."

Stephen Brookes, a coordinator of the Disability Hate Crime Network, said he found both cases "distinctly disturbing", and said they proved the criminal justice system was "still not getting its act together".

He said: "The kinds of responses we are getting make it more difficult to tell disabled people to come forward with confidence [to report disability hate crimes] because the system itself is not confident. I find it very disconcerting."

Meanwhile, Greater Manchester CPS has successfully applied for an increased sentence under section 146 in the case of a woman attacked in an Oldham pub because she had a facial disfigurement.

Rachel Rooney, 31, of Capesthorpe Drive, Oldham, taunted Chantelle Richardson about her appearance on 4 September last year, before punching her.

The CPS said Rooney's actions were "clearly motivated by hostility towards Chantelle's disability" so it asked the court to consider an increase in her sentence. The judge agreed and jailed Rooney – who had admitted an assault charge – for eight months.

17 March 2011

Virtual protest 'will help send message to government' on cuts

Disabled people unable to attend the TUC's mass march and rally over government spending cuts will be able to take part instead in a "virtual" protest online.

Disabled campaigners will be at the front of the protest march on Saturday 26 March, which will start at London's Victoria Embankment and end with a rally in Hyde Park.

But those unable to attend the [March for the Alternative](#) because of access issues, lack of support or impairment-related reasons will be able to back the fight against spending cuts by taking part in an online protest.

The campaign group Disabled People Against Cuts (DPAC) is encouraging disabled people who will not be able to attend the protest to [email a short message of support](#), their photograph and the first half of their postcode.

Each message will be added to an online map of the UK to show the scale of support across the country. Messages should be emailed to dpac26march@gmail.com.

Linda Burnip, a founding member of DPAC, said: "I think this is a really important opportunity for us to show that disabled people are not just going to sit back and be attacked over and over again.

"It is really important to show people who may feel hopeless and that they can't do anything that together we can do something."

She said the protest would send the government the message that "we can fight back, we will fight back and we are stronger together".

For disabled people who can take part in the London protest, there will be a shorter route for those not able to cover the whole route.

The TUC is also hoping to organise a "static demonstration point" near Hyde Park Corner for those unable to join the march. There will also be a wheelchair-accessible area for the rally in Hyde Park.

The user-led arts mental health charity [CoolTan Arts](#) and [Disability LIB](#) are organising a "history walk" at the same time as the TUC protest, which will give people with experience of mental distress and others uncomfortable with large crowds the chance to make their voices heard against the cuts.

17 March 2011

Disabled peers queue up to attack government over work test changes

Disabled peers have called on the government not to push ahead with new regulations that will make it even harder for people to claim out-of-work disability benefits.

Lord [Colin] Low, Baroness [Rosalie] Wilkins, the Countess of Mar and Baroness [Celia] Thomas were deeply critical of the regulations that are set to further tighten the controversial work capability assessment (WCA).

The government's own benefits advice body – the social security advisory committee – has already recommended that several of the changes should be postponed until the

government has evaluated the results of pilot projects in Aberdeen and Burnley that have been using the WCA to reassess claimants of old-style incapacity benefit (IB).

The changes to the WCA – which tests eligibility for the new employment and support allowance (ESA) – were recommended by an internal review carried out under Labour.

But government figures show the changes will increase the proportion of new claimants found fit for work and so ineligible for ESA from 66 per cent of those who complete assessments to about 73 per cent.

Campaigners have argued repeatedly that the WCA is not fit for purpose, and have called for major improvements before the government starts to reassess about 1.5 million IB claimants, a process that is due to begin next month.

Baroness Wilkins, a Labour peer, said the changes introduced through the regulations were “premature” and that disability organisations had expressed “serious concerns” about them.

She said: “The cost of people having to go to tribunals when their assessment needs to be overturned is enormous in terms of stress, worry and consequent ill health, but it is also a waste of time and money for the country.”

Baroness Thomas, a Liberal Democrat peer, said there was “puzzlement” as to why the government was pushing ahead with the changes when the pilot results had yet to be evaluated.

Lord Low, a crossbench peer, said the number of disabled people able to qualify for ESA would “drop dramatically” if the new regulations were introduced, with whole groups of disabled people excluded from claiming ESA.

The Countess of Mar, another crossbencher, said she was “deeply unhappy” with the changes, which she said would prove “hugely costly, both financially and emotionally, to claimants”.

She and other peers questioned why the government could not wait until it received further advice later this year from its independent expert Professor Malcolm Harrington, who is now examining how the WCA deals with people with mental health conditions, learning difficulties and fluctuating conditions.

Lord Freud, the Conservative welfare reform minister, insisted that the regulations would improve the WCA and increase the number of disabled people provided with “unconditional support”, and were part of a process of “continuous review and refinement” of the WCA.

He said the Department for Work and Pensions had carried out “rigorous testing” of the changes and had used that to make “further refinements”.

Meanwhile, the Commons work and pensions committee, chaired by the disabled Labour MP Dame Anne Begg, is seeking evidence for a [new inquiry into the reassessment programme](#).

It will look at how decisions are reached, the timescale of the programme, the WCA itself, the appeals process and what happens to claimants after they have been assessed.

The deadline for written evidence is 14 April.

17 March 2011

Review raises fears over government's plans for care duties

Disabled people have "reasons to be very nervous" about a government review which questions whether local authorities should still have a legal duty to assess disabled people's care needs, say campaigners.

A wide-ranging review led by the Communities and Local Government (CLG) department has "identified" 1,294 statutory duties that have been imposed over the years on local authorities through legislation.

The review says: "While some duties remain vital, others may no longer be needed or may create unnecessary burdens or restrictions on local authorities."

The duties include a string of social care obligations, such as the duty to assess a disabled person's care and support needs, and to improve its adult social services when they are found to be "failing" by the Care Quality Commission.

Others include the provision of disabled facilities grants and "short breaks" for carers of disabled children.

Solicitor Frances Lipman, from Disability Law Service, said the government could be planning to "water down" some of the duties, for example by making it harder for a disabled person to secure an assessment of their needs.

She said: "At the moment you just need to have an appearance of need and you get an assessment, even if you may not be likely to get services because your needs are not severe enough.

"There is no absolute entitlement to anything apart from the assessment, which is why it is so important that that remains.

“There is not an enormous amount of social care duties, but the ones that are there are quite fundamental.”

Anne Kane, policy manager for Inclusion London, said: “Anything the government is reviewing in that regard must raise concerns because of what they have proposed in other areas.

“Because of the extreme need of individuals who may be affected any restrictive change could have a very serious impact, even if it looks superficially minor.”

Neil Coyle, director of policy for Disability Alliance, said there were “a lot of reasons to be very nervous for disabled people” about the review, including “big concerns” over the inclusion of the duty to assess disabled people’s needs.

He said that – in the wake of the government’s “unprecedented” healthcare reforms, which themselves have little support and “clear risks” for disabled people – it was not possible to say that crucial social care duties were safe.

He said: “We really don’t know. Let’s not make any assumptions about what the government will or will not do.”

The [“informal consultation exercise”](#) closes on 25 April.

17 March 2011

TalkTalk directed disability complaints to non-existent helpline

The phone company TalkTalk has apologised after telling disabled customers who wanted to lodge complaints to call a helpline that has been disconnected for the last 12 months.

Some customer services staff have been directing disabled customers who want to complain to the number – which is also displayed on its website – even though it was cut off in March 2010.

Less than six months ago, the communications watchdog Ofcom published “shocking” research which found phone companies – including TalkTalk – were providing “inadequate, misleading or non-existent information” about the services they must provide for disabled customers, such as priority fault repair, alternative format bills and free directory enquiries.

In the wake of the research, TalkTalk promised Ofcom it would review all its staff training, induction materials and courses.

Mark White, who runs the campaigning website [The Political Cripple](#), has been trying to lodge a complaint with TalkTalk about his telephone bill.

Because of his impairment, he cannot file a written complaint, and wanted to lodge his complaint over the telephone as a reasonable adjustment.

But he has repeatedly been told by TalkTalk's customer services department to phone a dedicated telephone number for disabled people, even though it has been disconnected since March 2010.

A TalkTalk spokeswoman said the "disabled and elderly" support number was disconnected in March 2010 "following internal reviews showing low call volumes". The company decided instead to train all its customer service staff to assist disabled people.

The spokeswoman said TalkTalk was "disappointed" with the service White had received.

She said TalkTalk had now launched a review of how to "improve the way we offer access to our disabled customers. Once this review has been complete, we will send reminders out to all of our agents about the correct information that they should be providing."

An Ofcom spokeswoman said it was concerned to hear that disabled people had been directed to a disconnected number, and would raise the issue with TalkTalk.

White said: "The complaints system is inaccessible. They say they have trained all their staff but their staff don't know anything about disability.

"I have been denied access to the statutory complaints procedure because they have cut the line off. What they are doing is discriminating against disabled people left, right and centre. The problem with TalkTalk is they don't listen listen."

17 March 2011

Questions raised over council's equality impact refusal

A local authority has refused to explain why it will not release an assessment of how its savage spending cuts will affect disabled people and other minority groups.

Members of Lambeth council pushed through a package of spending cuts last month, including a decision not to renew annual contracts worth £118,000 with People First Lambeth (PFL).

Without the funding, PFL – one of the country's leading self-advocacy organisations – said it would be forced to close.

But the council has refused to provide Disability News Service with a copy of the equality impact assessment (EIA) it claims it carried out on its proposed cuts to adult social care services – including PFL’s funding – which were agreed by the council on 23 February.

A Lambeth council spokesman said: “We are satisfied that we have fulfilled our EIA requirements. An EIA was carried out as part of the overall savings proposals for Adults and Community Services.”

He said the assessment – a legal requirement which obliges public bodies such as councils to assess the impact of policies on disabled people and other groups – was “in the process of undergoing some reviews but it will be available for public inspection very shortly”.

But one leading lawyer said the council’s failure to provide the EIA could open it up to a judicial review.

Louise Whitfield, a judicial review expert with solicitors Pierce Glynn, who specialises in public sector equality duties, said: “If the final decision has been taken, the EIA that was considered when that decision was taken should have been complete so it could inform that decision properly, and it also should be in the public domain.”

She added: “It seems very odd to me to suggest that they should not publish any of it or they are finishing it off. How can they finish something that should have been in front of decision-makers?”

Whitfield, who represented the charity that last month succeeded in a judicial review of London Councils’ decision to slash spending on its grants programme, said she believed Lambeth council’s apparent failure to complete and publish an EIA could provide grounds for a judicial review.

Anne Kane, policy manager for Inclusion London, added: “We have concerns about the devastating impact on equality that public sector cuts are going to have, including those local government cuts that are passing on the impact of central government cuts.

“We would want to be sure that all public authorities were properly assessing the impact on equality of any cuts... and being transparent in how they are doing that.”

16 March 2011

Funding cuts put future of self-advocacy movement in doubt

Serious concerns have been raised about the future of the UK's self-advocacy movement, with four-fifths of organisations under threat of closure, according to a leading disabled activist.

Andrew Lee, director of People First (Self Advocacy), said that 80 per cent of his organisation's members could be forced to close, or had already done so, because of cuts to their funding by local authorities.

His charity, the country's leading self-advocacy organisation, is itself concerned about its future, he said.

Because of council funding cuts, the number of People First's members – all local self-advocacy organisations across the UK – has dropped from 120 to 97.

Lee said the funding cuts raised a real risk for the future of the self-advocacy movement.

He added: "I have seen the shock on people's faces of knowing that self-advocacy groups they have known for years have closed and the realisation that their group could be next."

He spoke out as a new report, [Social Care – the continuing crisis](#), provided new evidence that many local authorities are further restricting access to support for disabled people.

The report was published by the Learning Disability Coalition, whose members include People First (Self Advocacy), The National Forum for People with Learning Difficulties, Mencap and the National Autistic Society.

Of 61 councils in England that responded to a coalition survey, 36 per cent said they had increased charges for services for people with learning difficulties or had consulted on doing this as a result of government spending cuts, while 21 per cent had raised their eligibility criteria or consulted on doing so, and 20 per cent were cutting services for adults with learning difficulties.

Of 342 people with learning difficulties and their families and carers who took part in the coalition's online survey, 20 per cent had been told their hours of support would be cut, while 19 per cent had been told their funding would be reduced.

Lee said he was "horrified" by the results of the surveys and believed the impact of the cuts on people with learning difficulties would take 15 years to "put right".

He said: "I think it will take 15 years to get to where the support structures for people with learning difficulties were before the cuts. Any politician that says anything different is living in cloud cuckoo land.

"People are really, really worried about losing their support packages that help them to do the basic things in life that people without disabilities take for granted every single day.

“I am concerned about the damage it will do to people who have aspirations to work and to live independently.”

He said he did not believe that jobs lost from disabled people’s organisations and the public sector would be replaced by new jobs for people with learning difficulties in the private sector.

He said: “I am very, very sceptical about the private sector’s willingness or ability to actively take on disabled people that want to work.”

16 March 2011

Thousands of disabled people to be forced into unpaid work

Thousands of disabled people are set to be forced to do unpaid work in order to continue receiving their out-of-work benefits, despite the government’s own benefits advice body saying the scheme should not go ahead.

The government introduced new rules this week which will give Jobcentre Plus advisers the power to force claimants of jobseeker’s allowance (JSA) onto new “mandatory work activity” placements.

Participants will be expected to spend up to 30 hours a week for four weeks on the “placements”, which will be introduced from next month and delivered by “contracted providers”. Those who fail to comply could lose their JSA for three or even six months.

The government’s own equality impact assessment says 10,000 people a year are expected to be forced to take part, with more than a quarter likely to be disabled.

But the social security advisory committee (SSAC) said it was concerned that the scheme appears to punish claimants just for displaying “the wrong attitude”, while taking part could actually reduce their chances of finding paid work.

It is the third time in just over a month that SSAC has criticised key parts of the government’s welfare reform agenda. Last month, it delivered a scathing assessment of the work capability assessment and the government’s disability living allowance reforms.

The committee said those forced to take part in the placements would be those who had done “just enough to satisfy the conditions of entitlement to benefit” but had – in the opinion of Jobcentre Plus – “little or no understanding of what behaviours are required to obtain and keep work”.

The committee said the government's own evidence shows disabled people are among those who would find it most difficult to take part in such unpaid work activity, and so were more likely to face losing their benefits for failing to comply.

And it said it was concerned that there was no procedure for monitoring whether providers running the schemes were exploiting claimants.

Disability Alliance (DA) said increasing numbers of disabled people would be found "fit for work" through the government's welfare reforms, and so could be subject to the placements.

Neil Coyle, DA's director of policy, said it was "essential" that reasonable adjustments were made for disabled people on the scheme.

He said there were increasing reports of disabled people – such as those with mental health conditions – feeling they had to comply with strict conditions imposed on their benefit entitlement, despite the risks to their health.

The government rejected seven of SSAC's 18 recommendations, and partially accepted two, while it rejected the recommendation that the scheme should not go ahead. It promised "robust monitoring" of placements.

Employment minister Chris Grayling said the scheme was "designed to give people that extra push to make sure they are really keeping active and focused on what it takes to get into work".

15 March 2011

Seeking parliamentary selection was 'absolute nightmare', says disabled politician

A disabled councillor has described to MPs and peers the "absolute nightmare" she experienced when trying to win selection as a parliamentary candidate.

Marie Pye, a Labour councillor in Waltham Forest, said she had had an "incredibly positive" experience as both a council candidate and an elected councillor.

But she contrasted this with her two attempts to seek selection as a parliamentary candidate, where she was told to "get rid of the stick" and subjected to "intrusive" questioning from individual local party members about her impairment and ability to do the job, which reduced her to tears.

Pye, former head of public sector delivery at the Disability Rights Commission, was speaking at a joint meeting of the all party parliamentary disability group (APPDG) and other related groups on disabled people's access to elected office.

The meeting followed February's publication of a government strategy on the issue.

David Buxton, a Liberal Democrat councillor with Epsom and Ewell council in Surrey, and a Deaf British Sign Language (BSL)-user, said he could no longer afford to seek selection as a parliamentary candidate because of the cost of interpreters.

His last attempt cost £5,000 in interpreters' fees, which would have reached £20,000 if he had not found interpreters willing to volunteer.

Baroness Brinton, the Liberal Democrat peer, told the meeting that her party's spring conference had just approved a new leadership programme for outstanding candidates from under-represented groups.

The programme will offer mentoring, training, shadowing MPs and money to overcome access barriers by funding adjustments such as taxis and BSL-interpreters. She said 10 per cent of those selected would be disabled people.

"Priority" parliamentary seats will have to shortlist at least two candidates from the programme, which she said would give disabled people "a real chance of winning elections".

Baroness Warsi, the Conservative party's co-chairman, said there was a need to "create a level playing-field" but the "fundamental change" needed was to "people's attitudes", while candidates should not be compensated "because they are disabled".

Fiona Mactaggart, the shadow equalities minister, who has a long-term health condition, backed funding for disabled candidates because of the extra costs they face.

She added: "If you have a parliament that doesn't reflect the diversity of the British public then the confidence in democracy is diminished."

Anne McGuire, the co-chair of the APPDG and a former Labour minister for disabled people, who also has a long-term health condition, said: "We need to raise our game. It is still not good enough. People are facing too many barriers."

The government's £1 million-a-year package of proposals includes a new Access to Elected Office Fund to help disabled people meet the extra disability-related costs of running for office, plans to change attitudes about disabled politicians among the public and political parties, a network of disabled MPs and councillors to act as role models, and new training opportunities for disabled candidates.

A [consultation](#) on the proposals ends on 11 May.

15 March 2011

Remploy redundancies 'could lead to factory closures'

A union has raised major concerns that a voluntary redundancy programme could lead to the closure of some of Remploy's 54 remaining sheltered factories.

The government-funded company has announced that 773 people – including 544 of its 2,800 disabled factory staff – have applied for voluntary redundancy, under a programme announced in January.

Remploy – the country's largest "specialist" employer of disabled people – insisted this week that no factories would close as a result of the programme, and that it had not yet decided how many employees would be allowed to take voluntary redundancy.

But the GMB union said that if all 773 applications were accepted, the company would lose nearly a quarter of its 3,370 workforce.

Phil Davies, GMB's national secretary and head of its manufacturing section, said: "I am very, very concerned with what's going on as a lot of these 544 [disabled] people will not get jobs. The vast majority will not get jobs because of the [economic] climate."

He said a union survey found that few of those who took voluntary redundancy three years ago when the Labour government closed 29 Remploy factories as part of a modernisation programme were now in work.

Davies said he was also concerned that some people with mental health conditions and learning difficulties had not received the right support to make their decision about voluntary redundancy.

He added: "I am sad to think that we have 544 people who are gainfully employed, doing skilled work and being supported and contributing to society, who may find it very difficult and are being promised jobs that cannot be delivered."

He said the voluntary redundancy programme cast doubt on the long-term future of the factories.

But a Remploy spokesman said: "We have said it. The government have said it. The purpose of this scheme is not to close factories and we will not be [closing them]."

He said that, following the modernisation programme in 2008, of the 200 people who had accepted Remploy's offer of help in finding jobs, 90 per cent had found work.

And he said Remploy had put in place a range of support measures for all employees to help them decide whether to take voluntary redundancy.

Remploy said the redundancies were necessary because its factories had faced “significant challenges” due to the “general decline in the manufacturing sectors in which we operate and the economic difficulties presented by the recession”, with many “operating significantly below capacity and unable to provide meaningful work for our employees”.

The government has pledged £111 million-a-year funding for Remploy until 2012-13, but has yet to reach a decision on its long-term future.

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News provided by John Pring at www.disabilitynewsservice.com