

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Cabinet Member for Community Development, Equality and Young People’s Issues Delegated Powers
2.	Date:	10 October 2011
3.	Title:	Outcomes of the Inquiry into Disability–Related Harassment by the Equality and Human Rights Commission All wards
4.	Directorate:	Chief Executive’s Directorate

5. Summary

This report provides an overview of the key findings from the “Hidden in plain sight” Inquiry into disability–related harassment by the Equality and Human Rights Commission (EHRC) to which the Council was required to make a submission earlier this year.

6. Recommendations

Elected Members are asked to:

- 6.1 **Note and comment on the contents of the report.**
- 6.2 **Note that the areas for improvement within the submission to the EHRC as part of the inquiry will be reviewed to incorporate lessons learned and the inquiry recommendations.**
- 6.3 **Agree to receive a future progress report.**

7. Proposals and Details

7.1 Background to the inquiry

The Pilkington-Hardwick case in 2007 and other recent cases of severe harassment and abuse of disabled people, coupled with earlier research by the EHRC in 2009 "*Promoting the Safety and Security of Disabled People*", indicated that "violence and hostility towards disabled people was widespread in Britain" and it is an issue that needs to be better understood and tackled.

7.2 Shaowei He

RMBC was called upon to give evidence regarding the murder of Shaowei He¹, one of ten serious cases considered by the inquiry in which disabled people died or were severely injured, and submitted a joint response with South Yorkshire Police and NHS Rotherham. The case was included on the basis of her having a learning disability, although this had never been formally assessed, and the case seemed to be primarily one of domestic abuse and exploitation.

Shaowei He was found dead in the garden outside a takeaway in Kilnhurst Road, Rawmarsh, on 23 March 2006. She had died from haemorrhaging and shock due to multiple injuries from a range of weapons used against her and from hypothermia from being left outside all night in temperatures of minus four degrees centigrade. Lun Xi Tan, her husband, and Su Hua Liu, his new partner, were convicted.

Shaowei He had registered with a local GP in Rawmarsh and the only contact with the practice was a new patient consultation in August 2005. RMBC records do not show that the Council had contact with Shaowei He through either Adult Services or the Community Safety Unit, but two Environmental Health Officers carrying out a routine visit to the premises a month before the murder had noticed some injuries.

7.3 Areas for improvement identified in Rotherham's submission

The joint submission to the inquiry was a comprehensive report which identified the areas for improvement set out below. Support and advocacy for disabled people and public awareness raising are two areas where the Commission is recommending that local authorities play a lead role and these were identified in our submission.

1. RMBC - update Hate Incident/Crime Strategy and Policy followed by the development of an e-learning module, training workshops for front-facing staff and a managers session.
2. Continue to explore further opportunities for other partners to sign up to the new police Antisocial Behaviour case management IT based system.
3. All partners to continue to implement the hate incident communications strategy throughout 2011 to raise awareness with the public and with workers/officers of how and where to report incidents, and what constitutes a hate incident/crime.
4. Continue to ensure support and advocacy is in place to support learning disabled people.
5. All partners to improve links with smaller communities in Rotherham such as the Chinese community, and newer communities in Rotherham e.g. from Eastern

Europe and Africa, to raise awareness of safeguarding, hate crime and domestic abuse, and to reduce potential isolation.

6. Review how incidents are recorded by those processing reported incidents/referrals in different agencies such as SYP, CSU, ASBU and Safeguarding Teams to ensure consistency in recording hate incident motivations across all services.
7. Continue to look at Serious Case Reviews and their recommendations from other areas of the country and use them to review and inform our policies and procedures.
8. Respond to the new guidance expected from central Government in relation to dealing with bullying in schools, and similarly to other guidance that is anticipated regarding homophobic, and disability- and transgender-related hate incidents/crime.
9. Encourage more schools to sign up to work towards the Anti-Bullying Standards and consider a centralised recording system.
10. Continue to review and evaluate the effectiveness of our responses to reported incidents, taking account of victim feedback, and sharing learning across services and partners.
11. Review the information used to develop performance reports in the context of better disaggregation of equality monitoring data.
12. Implement any recommendations resulting from the inquiry.

7.4 Conclusions from the inquiry

The EHRC has concluded that the scale of disability-related harassment goes far beyond the extreme cases explored in detail by the inquiry, but much is unrecognised and unreported. It refers to “a culture of disbelief” that exists around disability-related harassment with complaints not taken seriously and not responded to appropriately. Many disabled people experience daily “so-called low level harassment” which erodes their confidence and isolates them from wider society, but there is still a paucity of data to demonstrate the true extent of disability-related harassment and to help authorities to understand it and to be able to prevent it. The EHRC has found that the “focus on help and protection within the adult safeguarding system can be at the expense of ensuring justice and redress”. A greater understanding and application of the ‘social model of disability’² is advocated in order to make progress in tackling disability-related harassment. The Commission also noted a lack of evidence of public bodies promoting positive attitudes towards disabled people under their statutory responsibility.

Common problems identified in the report are:

- Incidents are often dealt with in isolation rather than as a pattern of behaviour.
- There is a lack of consideration by agencies of disability as a possible motivating factor in bullying, antisocial behaviour and crime. As a result, the response to harassment is given low priority and appropriate hate incident policy and legislative frameworks are not applied.
- Left unmanaged, low level behaviour has the potential to escalate into more extreme behaviour. Opportunities to bring harassment to an end are being missed.
- There is often a focus on the victim, questioning their behaviour and ‘vulnerability’³, rather than dealing with the perpetrators.

- Agencies do not tend to work effectively together to bring ongoing disability-related harassment to an end.
- There has been little investment in understanding the causes of harassment and preventing it happening in the first place.
- There are barriers to reporting and recording harassment across all sectors.
- There are barriers to accessing justice, redress and support so most perpetrators face few consequences for their actions and many victims receive inadequate support.
- There is a lack of shared learning from the most severe cases, so the same mistakes are repeated again and again.

In total 33 specific lessons from across the ten cases were set out in the report under seven broad areas of work – practice; training and guidance; changing attitudes; investigation; partnership working; recognising risk; and outcomes.

7.5 Recommendations from the inquiry

The inquiry has produced seven core recommendations setting out desired outcomes; each with underpinning recommendations (see Appendix 1 where an indication of the latter is given below each of the seven points). The recommendations focus on three key areas:

- **recognition** of the scale of disability-related harassment;
- **prevention** through a proactive approach and preventative measures; and
- **redress** so that incidents are dealt with swiftly and fairly, with victims being supported and having access to justice.

Detailed targeted recommendations for specific agencies and sectors who deal with disability-related harassment have been developed, although the EHRC strongly emphasises the importance of effective partnership working with local authorities playing a lead role. Recommendations for schools, local government, social services, housing providers, healthcare providers, local agencies and partnerships, the police, the courts and public transport operators are outlined in the report. A paper will be taken to Adult Safeguarding Board, Children’s Safeguarding Board and Safer Rotherham Partnership to consider reviewing our identified areas for improvement in the light of the findings and recommendations of the inquiry.

The EHRC intends to consult with a range of stakeholders over the next six months on its proposals, and how these may be integrated within planned initiatives in order to be cost effective, before publishing a “manifesto for change” next spring for the coming five years.

8. Finance

None arising directly from this report.

9. Risks and Uncertainties

Failure to consider the needs and priorities of disabled people in policy making and service provision or failure to comply with the Public Sector Equality Duty means Rotherham MBC will not be in compliance with the Equality Act 2010.

10. Policy and Performance Agenda Implications

The issues arising from the inquiry have implications for the work under the Sustainable Community Strategy priority: “Providing additional support to the most vulnerable in our community”.

The findings are in accordance with the following Corporate Plan priorities:

- Making sure no community is left behind
- Providing quality education: ensuring people have opportunities to improve skills, learn and get a job
- Ensuring care and protection are available for those people who need it most
- Helping to create safe and healthy communities

11. Background Papers and Consultation

Papers

“Hidden in plain sight” EHRC September 2011

www.equalityhumanrights.com/uploaded_files/disability/eohrc_hidden_in_plain_sight_3.pdf

12. Author

Janet Spurling, Community Engagement Officer, Commissioning, Policy and Performance
email: janet.spurling@rotherham.gov.uk Tel: 01709 254421

¹ Shaowei He’s case is one of the ten cases reported in detail in both the EHRC’s report and on their website covering what happened; the response; prosecution; and the review process.

² The social model of disability considers barriers, negative attitudes and exclusion by society (whether deliberate or not) to be the main reasons why people are ‘disabled’ rather than because they have an impairment.

³ The EHRC is favouring the use of the term “adult at risk” or “adult at risk of harm” rather than “vulnerable adult” on the basis that being a disabled person does not in itself mean a person is vulnerable, but rather people may be at risk in certain situations or at certain times in their lives, which is more in keeping with the social model of disability. Ultimately the Commission would prefer to move away from the concept of vulnerability to a rights-based focus.

Appendix 1

Core recommendations from the inquiry

1. There is real ownership of the issue in organisations critical to dealing with harassment. Leaders show strong personal commitment and determination to deliver change.
 - evidenced by public accountability; performance data; and inclusion in core objectives of the organisation.
2. Definitive data is available which spells out the scale, severity and nature of disability harassment and enables better monitoring of the performance of those responsible for dealing with it.
 - recommendations include data systems which record if the victim was a disabled person and if an incident was motivated by the victim's disability; better data sharing between partner agencies; and easier identification of ongoing or repeated harassment.
3. The criminal justice system is more accessible and responsive to victims and disabled people and provides effective support to them.
 - by removing barriers to reporting disability-related harassment through engagement with disabled people and their representatives. A further recommendation is that the police should always establish if a victim is a disabled person and if so whether this is a factor in why the incident took place.
4. We have a better understanding of the motivations and circumstances of perpetrators and are able to more effectively design interventions.
 - through specific research to build perpetrator profiles; and to identify the causes of harassment and attitudes towards disabled people.
5. The wider community has a more positive attitude towards disabled people and better understands the nature of the problem.
 - through reviewing the effectiveness of current awareness raising activities; using the public sector equality duty⁴ as a framework to promote positive images of disabled people; and encouraging reporting.
6. All frontline staff who may be required to recognise and respond to issues of disability-related harassment have received effective guidance and training.
 - safeguarding training, possibly also linked into staff appraisal, and promoting understanding of disability equality are recommended.
7. Promising approaches to preventing and responding to harassment and support systems for those who require them have been evaluated and disseminated.
 - rigorous three-year evaluation is recommended with shared learning across agencies on the most effective measures.

⁴ The new Public Sector Equality Duty came into force in April this year, replacing the former disability, gender and race equality duties with a new broader duty covering nine protected characteristics, including disability. In summary, the Equality Duty requires the Council to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation
- advance equality of opportunity between different groups
- foster good relations between different groups by tackling prejudice and promoting understanding