

# **Criminal Justice Disability Project Final Report**

**May 2018**

## **Criminal Justice Disability Project Members**

Crown Office & Procurator Fiscal Service  
Police Scotland  
Scottish Courts and Tribunals Service  
Scottish Prison Service  
Scottish Legal Aid Board  
The Law Society of Scotland  
The Scottish Government

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## 1. Executive Summary

1.1 In 2013, the Justice Board within the Scottish Government asked its Equality Diversity Sub Group to address the contents of three reports.

- [Justice Disability Steering Group report](#) – Capability Scotland 2009
- [Hidden in Plain Sight report](#) – EHRC – 2011
- [Out in the Open Report](#) – EHRC – 2012

The Sub Group created a project team to take this work forward and for the team to also address the actions arising from the Keys to Life report (see Annex 4) from SOLD (Supporting Offenders with Learning Disabilities) and the recommendations arising from the United Nations Convention on the Rights of Persons with Disabilities ([UNCRPD](#)).

1.2 The team identified 76 recommendations which related to criminal justice. Forty-two of these related to reporting, recording and recognition. As a result new products were developed and are now being used in the criminal justice sector.

These include:

- (a) A joint communications protocol to be followed, to link up publicity campaigns across criminal justice. This facilitates a more co-ordinated approach to collaborating and raising awareness of events and initiatives.
- (b) Site audit template – which is being used for new sites and to revisit current sites and identify improvements.
- (c) A poster highlighting that the criminal justice organisations offer accessible services.
- (d) A support pack for staff to help them provide these services including the facilities on offer at each site.
- (e) Information on the facilities on offer at each site has been updated on organisational websites.
- (f) The main publications from each organisation being available in Word as well as the usual PDF version, in Easy Read format and large print.
- (g) DVDs with BSL translations.
- (h) Improved hearing loop systems have been installed in some sites and some new systems installed.

- (i) Assurances on the use of handcuffs on those accused persons whose first language is British Sign Language.
- (j) Provision of deaf awareness training for key staff in criminal justice organisations.
- (k) Clear instructions on the appropriate use of the disability hate crime aggravator based on current Scottish law.
- (l) A common complaints procedure in Easy Read format for use across all of the criminal justice organisations, except for the police who require more detailed guidance.
- (m) Assurances that disabled staff have effective support at work.
- (n) Hate crime statistical reports were reviewed and confirmed as helpful.
- (o) Guidance was prepared for using video conferencing facilities for meetings to ensure inclusion of those with a disability.

1.3 Additionally, we reviewed and improved our processes where appropriate, including:

- 3<sup>rd</sup> party reporting – in terms of their numbers, availability and in the way that they operate
- the training courses provided – to ensure that they are using the correct terminology
- the system for recording whether a crime had a disability aggravation
- the way in which police deal with repeat callers
- informing solicitors that they can receive funding for any “special arrangements” that they offer to clients with additional support needs, including longer meetings
- confirming that any decision to drop cases involving hate crime charges is taken by a legal manager.

1.4 To assist with the development of these products and improved processes, we established a Disability Advisory Group made up of members of organisations representing disabled people. This Group was so helpful in providing constructive criticism that its original lifespan was extended by at least 6 months to June 2017. A list of member organisations is contained in Annex 3.

1.5 Overall, there were 12 recommendations which we considered to be out with the scope of the project. The remaining 64 were either fully addressed or were progressed to a point where further implementation would be monitored via individual organisations.

1.6 Although there has been significant progress made, much still needs to be done and the criminal justice organisations remain committed to taking this work forward via their individual work on equality. Evaluation will be difficult but is probably best obtained via individual organisation customer service data capture arrangements.

1.7 The project team acknowledge that a major benefit from this work has been the significant improvement in partnership working across the criminal justice organisations and with disabled people, either directly or via those who represent them. It is hoped that a mechanism can be put in place to allow this partnership working to continue and possibly extend beyond disability related issues.

## 2. Introduction

2.1 This report has been prepared to capture the progress on the wide range of recommendations made to improve the access to justice in criminal cases within Scotland. It has been prepared by a group of seven criminal justice organisations:

- [Crown Office & Procurator Fiscal Service](#)
- [Police Scotland](#)
- [Scottish Courts and Tribunals Service](#)
- [Scottish Prison Service](#)
- [Scottish Legal Aid Board](#)
- [The Law Society of Scotland](#)
- [The Scottish Government](#)
  
- The [Equality and Human Rights Commission](#) assisted in the early stages on a consultative basis, as the author of two of the main reports within our terms of reference.

2.2 This group of organisations has been collaborating on this work via a project which was created in late 2013 and the terms of reference are detailed in Annex 1. Information on the role of each organisation is contained in Annex 2.

2.3 This report is the final report from the Project Team and highlights the good progress which has been made to date but it is recognised that there are many challenges still to be addressed if we are to have a society which does not place barriers on accessing justice for people with additional support needs.

2.4 We have structured our update report into seven main themes in a similar structure to the EHRC reports:

1. Reporting, recording and recognition
2. Legislation and policy
3. Ensuring adequate support and advocacy
4. Improved practice and shared learning
5. Redress and accessing justice
6. Prevention, deterrence and understanding motivation
7. Transparency, accountability and involvement.

### 3. Background

3.1 In June 2013, the Justice Board within the Scottish Government established a Criminal Justice Equality and Diversity sub group to work collaboratively across criminal justice organisations and implement a programme of activities to progress the equality and diversity agenda. In particular, this sub group was asked to focus on disability and gender.

3.2 The sub group created the Criminal Justice Disability Project Team (CJDPT) made up of members from all of the criminal justice organisations to specifically focus on the access to criminal justice for disabled people. This project focused its work on the recommendations relating to criminal justice contained within three reports -

- [Justice Disability Steering Group Report](#)
- [Hidden in Plain Sight](#)
- [Out in the Open](#)

3.3 Over the past four years, the Project team has considered how it could address the 76 recommendations from the above reports which were seen to relate to criminal justice. We also held internal project workshops to consider if the reports were still relevant due to the passage of time.

3.4 Engagement took place with a group of external organisations which represented disabled people and following their helpful feedback, a national Disability Advisory Group (DAG) was created, to provide a steer on the work which is done. A list of membership is at Annex 3.

3.5 The Project Team represents organisations which progress a criminal case from beginning to end and with such a wide range of responsibilities, it was understandably challenging to develop an approach which could be adopted by all. Therefore, progress on implementation within each organisation has been at a differing pace.

3.6 During this period, the Scottish Government highlighted the work which needed to be done to address the recommendations made by the United Nations Convention on the Rights of Persons with Disabilities (UNCRC). Initial progress against the UNCRPD report was due to be published in late 2015. Due to the progress that was being made by the CJDPT, it was agreed that this project would contribute the majority of the response in relation to access to criminal justice.

3.7 We were also asked to oversee the liaison arrangements with Support for Offenders with Learning Difficulties (SOLD) as they worked alongside the Scottish Government to address the recommendations in the report – ‘Keys to Life’. There were 5 recommendations which specifically related to criminal justice within their report. (See Annex 4 for details).

3.8 Initially, the DAG was set up to advise and support the project for one year. Due to the success of the relationship with the DAG, this was extended until at least June 2017.

3.9 This report details the progress which has made to date by the Criminal Justice Disability Project. It is recognised that the underlying change that is required is a cultural one, affected by societal attitudes and as such, monitoring of progress on each individual recommendation was not possible. Several recommendations remain to be fully addressed and therefore this final report offers proposals for how these remaining recommendations could be taken forward.

## 4. Progress

There were 42 recommendations linked to the need for improved access to the reporting of crimes, and the identification and recording of these crimes as motivated by a hatred of disabled people. We have made progress in the majority of these. The remaining recommendations will be handed over to the respective member organisations to take forward.

### 4.1 Reporting, Recording and Recognition

A starting point was the need to increase and co-ordinate publicity about how to report such crimes and assure the public that these reports would be taken seriously.

#### Recommendation 1:

**Initiate a joint public awareness/promotion campaign on hate crime (including cyber-bullying) and raise confidence of public that these crimes will be investigated and taken seriously – *Out in the Open Report*.**

In February 2014, the Scottish Government led on the first cross criminal justice publicity campaign on hate crime in general, into which we incorporated a focus on disability hate crime. This joined up approach is recognised as the preferred method for initiating such campaigns in future and we are finalising a protocol for the criminal justice organisations to utilise which will be applied via the various communication units. Further campaigns led by Police Scotland were run in 2015 and 2016 to highlight hate crime.

The Hate Crime statistics published in 2016 showed that 201 charges were reported with an aggravation of prejudice relating to disability, 14% more than in 2014-15. It is recognised that this is still a crime category which is under reported and we will continue to participate in activities which will encourage victims to have the confidence to report such crimes.

Police Scotland Hate Crime Campaign launched on Monday 17<sup>th</sup> August 2015 at the Emirates Arena London Road Glasgow.

The launch was supported by the Cabinet Secretary for Justice Michael Matheson along with three of the country's top para sport stars: Jo Butterfield, European club throw record holder; Team GB Paralympic football team captain Jonathan Paterson; and European 'boccia' champion Kieran Steer.

The campaign showcased predominately on social media platforms comprising of video footage of victims describing their experience of Hate Crime, how it made them feel/what impact it had on them, their families or their community, and what if anything they did about it. The campaign was designed to target bystanders and offenders and to educate the public that Hate Crime is everyone's responsibility. The

campaign also highlighted the importance of reporting incidents and various methods available to report Hate Crime to Police Scotland.

The campaign was supported by partner agencies and organisations including Scottish Government, Interfaith Scotland, Enable Scotland, Show Racism the Red Card and LGBT Youth.

An evaluation of the social media activity found that the campaign messages reached approximately 2.2 million people. The campaign videos were viewed 136,308 times. The content on disability and transgender identity hate crime proved the most popular.

A further campaign was led by Police Scotland and launched in March 2017.

In November 2015 to coincide with anti-bullying week, the Scottish Prison Service (SPS) rolled out Stonewall's No Bystanders anti-bullying campaign across the whole organisation to raise awareness about the impact of bullying and hate and to encourage all staff to challenge unacceptable behaviour. This was promoted on our website and social media. The 'I AM ME Scotland' programme (raising awareness of disability hate crime) has been incorporated into the anti-bullying training delivered in the National Induction Centre at HMP Shotts and separate sessions have been delivered at SPS HQ.

**Work will continue in each organisation in future, as part of their equality agenda.**

#### Recommendation 2:

**Improve acceptability of 3<sup>rd</sup> party reporting of such crimes of discrimination – Joint Project Team Workshops.**

There are now 412 third party reporting centres across Scotland.

In 2016, Police Scotland conducted a review of the 3rd Party Reporting Process. A number of recommendations were made to improve the system including that all forms of support, advice or guidance relating to a hate crime that is provided by staff at a centre is recognised as a centres fulfilling their role. Example of this are if a centre makes a referral to another service, links with local police, provides information on how to report a crime or simply listens and encourages reporting of crimes, that this is the centre supporting a person to make a report and that without their intervention, the report may not have occurred.

In 2017 a new national recording process was introduced within each centre which required them to report details of all support that they provide regarding hate crime to

their divisional police liaison on a quarterly basis. This will allow Police Scotland to more accurately assess the benefits of 3rd Party Reporting across Scotland.

**Work will continue in each organisation in future, as part of their equality agenda.**

### Recommendation 3:

**Undertake an audit of all criminal justice sites and solicitors premises to identify physical barriers to access and avoid separate entrances for disabled people where possible, include disabled parking, disabled toilets, and changing places toilets – Justice Steering Group report and the Out in the Open report**

A template was developed which will be used as standard by criminal justice organisations to review their sites and compile a record of improvements which will be considered as part of their respective estate strategy. It is recognised that these surveys might take some time to complete and some recommendations may not be feasible, against a backdrop of reductions in public spending but we remain committed to identifying opportunities to provide service improvements in this way.

COPFS and SLAB have completed surveys of all of their sites and are reviewing the findings. SCTS have completed site surveys with the exception of two newly acquired buildings. Details of site facilities will be published in an accessible format and placed on the internet for service users to access. SPS are continuing with their programme of surveys and will complete these as soon as possible.

Police Scotland worked with the Scottish Disability Equality Forum to conduct a pilot accessibility audit. The findings of this are being discussed to assist, where possible, with establishing consistent protocols for access audits across the Police Scotland estate.

The Law Society of Scotland has undertaken an audit of its current office, but has no locus or basis for undertaking an audit of solicitor's offices. However it does provide information to help members meet their obligations under the Equality Act 2010.

All organisations have committed to incorporating these audits for new builds or refurbished premises.

**Work will continue in each organisation in future, as part of their equality agenda.**

#### Recommendation 4:

**Review all internal awareness training to ensure terminology is used which service users identify with – *Out in the Open Report*.**

The Law Society of Scotland requires their staff to undertake Equality and Diversity training regularly. In 2016, the training course was undertaken by an external organisation and one of the facilitators was an Employment Tribunal Judge. The terminology was up to date at that time. The Society undertakes Equality Impact Assessments, and further training on the process is being provided to all managers.

Equality and Diversity related awareness e-learning modules are mandatory for all staff in SCTS and must be completed annually. The content of the packages is reviewed at regular intervals by the Equality and Diversity Manager as regards content, terminology etc.

SLAB's equality and diversity training is delivered by experienced providers (both face to face and online). Their equalities lead will normally review new material or will be involved in commissioning specific training to ensure all terminology and delivery of the training is accessible and inclusive.

Police Scotland has a robust embedded quality assurance process which endeavours to ensure that all new training and reviews of existing training are subject to Equality and Human Rights Impact Assessments. This bi-annual process captures changes in legislation, procedures, standing operating procedures and any other guidance ensuring our courses are fit for purposes.

SPS is currently in the process of reviewing its Equality and Diversity training to build and advance on the one day package that is currently in place for all new staff joining the SPS. They are also in the final stage of developing and introduce an E Learning package which will also be used as a refresher training and bite size training modules that will give advice on specialist areas including disability.

The other organisations have also committed to reviewing the language used when revising or introducing new courses.

**Work will continue in each organisation in future, as part of their equality agenda.**

### Recommendation 5:

**Ensure training for staff captures info on how to gather and record personal info on disability in appropriate and sensitive manner – *Out in the Open Report*.**

The Law Society of Scotland requires their staff to undertake Equality and Diversity training and Data Protection training regularly. It undertakes Equality Impact Assessments, and further training on the process is being provided to all managers.

In SCTS, though equality and diversity awareness training is mandatory, no specific training is provided in this regard. In most instances, information regarding disabilities and impairments is relayed to SCTS by other justice agencies who have engaged with the individual concerned at an earlier stage in the process. Work is underway to examine how best to elicit related information from those persons being cited for jury duty. It is currently envisaged this may involve specialised training of dedicated members of staff.

All SLAB employees undertake equality and diversity training and data protection training. As part of the 2017 [Equalities outcomes and mainstreaming report](#), SLAB plan to specifically focus on improving employee awareness and ability to meet the needs of customers who experience mental health problems.

The SPS values expect staff to have proper regard for individuals, their needs and their human rights. Staff have been provided with guidance on gathering equality information including on disabilities for people in custody. The guidance specifically notes that reasonable adjustments due to disability is sensitive information which prisoners may find difficult to disclose and draws officers' attention to the fact that some disabilities are hidden or not easily identified for example mental illness and dyslexia. For staff, SPS has an electronic HR system ('e-HR') which allows employees to manage their own diversity details, including self-declaring a disability.

This is an issue which will continue in each organisation and will particularly feature in the work being taken forward with mental health.

### Recommendation 6:

**Improve data recording systems to note whether crimes were motivated by prejudice including disability – *Out in the Open Report*.**

The project undertook a review of the current recording systems to confirm that such crimes were recorded as hate crimes against disabled people. All organisations confirm that this is the case. We also engaged with the Scottish Government Analytical Services team to confirm that the crime survey statistics were able to provide this information. We arranged for this team to give a presentation to the

DAG to identify if any further statistics were required and this offer remains open. The annual COPFS hate crime statistics are published each year and show the breakdown of such crimes and these are reviewed by each organisation in the development of future initiatives. An excerpt from COPFS Hate Crime Statistics 2017 is included at Annex 5.

In September 2016, Police Scotland, led by the Safer Communities department, created a working group comprising internal stakeholders to review the recognition and recording of disability hate crime and harassment.

SPS actively records and monitors people in custody who have a hate aggravating factor on their warrant or who have displayed hate-related language or behaviour in custody. This information is regularly reviewed and actively used to inform risk assessments to ensure the safety of disabled people in custody.

**Work will continue in each organisation in future, as part of their equality agenda.**

[Recommendation 7:](#)

**Ensure that the police call screening system is in place to identify the escalation of incidents and record number of incidents not number of calls –**  
*Out in the Open Report.*

Police Scotland currently has four different models of the 'Repeat Caller Process' implemented by Tayside, Scottish Borders, Forth Valley and Fife Divisions.

Each of these processes were designed and implemented in response to learning identified by the Fiona Pilkington and David Askew cases in England, amongst others, which highlighted deficiencies in police practices in identifying, managing and assisting people repeatedly subjected to non-criminal behaviour or acts of petty crime. Some of those issues appeared low tariff to police organisations; however were not low tariff to the victim.

Police Scotland is using the good work of the aforementioned divisions to develop a National Repeat Caller Process which will provide consistency in identifying repeat caller /victimisation across all police divisions in Scotland.

The Repeat Caller Process is an early intervention strategy to identify, assess and manage vulnerability and risk to individuals and communities across Scotland. It requires focus on what causes harm in our communities, rather than what is or is not a crime, and effectively manage the threat to those most at risk.

The concept of the process is to proactively seek sustainable solutions to repeat callers' ongoing problems which will involve a problem solving approach, coupled with strong partnership working.

In addition to Repeat Caller Response the Interim Vulnerable Persons Database, (IVPD) is the national ICT system across Police Scotland that records all concerns and risks in relation to vulnerable adults and children in relation to child concerns, including child protection; adult concerns, including adult protection; domestic abuse; youth offending; hate crime and missing persons. The database is designed for Police Scotland to securely share information electronically with relevant partners that is necessary, justified, proportionate and appropriate.

It affords the opportunity to quickly highlight those who are repeat victims and/or subjects of concern as well as patterns of abuse. There is a specific category for Adult Concerns to ensure that any person who should be recorded as vulnerable is recorded as such. Concern hub staff seek to use the IVPD to identify motivation and underlying issues in their assessment of vulnerability and risk.

This system also provides an overview across divisional boundaries allowing transient individuals or families who move frequently and may inadvertently miss the opportunity for support or intervention due to re-location to be identified. Equally, it affords the opportunity to highlight perpetrators who move across divisional boundaries.

Following the roll out of the IVPD, the Risk and Concern Project was established in September 2014 with the remit of reviewing and improving existing practice around recording, assessment and sharing of information with the relevant partners in relation to all vulnerable persons. This includes a re-designed future operating model for Concern Hubs, which delivers an efficient and effective structure and business process that, includes holistic risk assessment with informed and accountable decision making, underpinned by a bespoke training plan.

Concerned hub staff seek to use the IVPD to identify motivation and underlying issues in their assessment of vulnerability and risk. This includes an escalation protocol for all areas of vulnerability and aspects around disability and protected characteristics will be highlighted within the training to support this.

A core responsibility of Adult Protection Coordinators is to identify and where necessary highlight the need to coordinate professional's meetings or adult protection case conferences in respect of individuals who are subject to repeat victimisation or the focus of repeat perpetrators etc.

## Recommendation 8:

### **Include disabled audits at the design stage of building planning and include environmental factors for autism etc. – *Justice Steering Group Report.***

Each organisation has committed to including alterations to meet the accessibility and sensory needs of disabled people when designing new buildings.

An example of this was the new site for COPFS in Aberdeen. When adapting the site for use: the front door entrance was altered to allow for ease of access; the reception has been created to allow for wheelchair access; accessible toilets have been included; plus allowance for facilities to help those with visual and sensory impairments. In SCTS, equality considerations in the project design process are part of a continuous process rather than a distinct event. The design stage for the Inverness Justice Centre is currently underway and this phase will include consideration of court user requirements across a broad range of disabilities. The views of the SCTS Equality Advisory Group have also been sought. We were advised that the Scottish Disability Equality Forum have developed an Inclusive Design hub to assist architects and designers of buildings. They also have an Inclusive Communications Hub which provides excellent advice for organisations.

In SPS, at an early stage in the building design process, they require their designers to provide an equality and diversity report (including inclusion access and Equality Act compliance) report. The report primarily identifies how compliance with BS 8300 is being achieved and concentrates on mobility issues, whilst touching on sight and hearing.

Local Access Panels can provide excellent expert advice on request.

## Recommendation 9:

### **Develop a bespoke Criminal Justice Sector Advisory Group for Disabled People – *Project Team Workshops***

In order to ensure that we remained in touch with the needs of our service users, the team recognised the benefit of having such a group to assist them with the quality assurance of products developed by the project team and in coming up with ideas on how to tackle the more challenging recommendations. This has worked well and was recognised as an exemplar model for such projects and we have developed a productive relationship with the DAG, resulting in an extension to the existence of the group.

#### Recommendation 10:

##### **Improve publicity which advises disabled people that they can ask for reasonable adjustments to be considered – *Justice Steering Group Report.***

In conjunction with the DAG, an Accessible Services poster has been designed and each organisation has committed to placing it at their public facing reception points. This poster advises service users that they can request that reasonable adjustments are made to allow them to access the services available. A support pack has also been developed for staff to help them be more aware of the adjustments which can be made, or that are available in their specific building.

Organisations are also required to consider reasonable adjustments during recruitment and the Law Society of Scotland has promoted this via a blog published by Rob Marrs, Head of Education Policy. The Law Society of Scotland also displays the reasonable adjustments posters. The Society will consider similar types of blogs/publications to help publicise this recommendation. In relation to its own staff, the Society encourages staff to undertake regular assessments of their work station, and has a variety of options available to assist staff in assessing their needs.

The SPS have committed to displaying the poster in public access areas and to ensuring that frontline staff receive the support pack and support from local Equality & Diversity Managers.

##### **Work will continue in each organisation in future, as part of their equality agenda.**

#### Recommendation 11:

##### **Provide training for all staff on the physical accessibility of the buildings and availability of translation services, interpreters, etc. – *Justice Steering Group Report.***

We have developed an information pack to complement the Accessible Services poster and in consultation with the DAG. The pack supports front line staff to accommodate requests for reasonable adjustments and will help our staff to provide a better service. Staff across all the criminal justice sites will have access to a pack that reflects the facilities within the specific site and their organisation.

At the Law Society of Scotland, all staff received an orientation tour when their new building opened in December 2015. New staff will generally receive an orientation tour from their manager, and fire marshals will do a separate walk through of their emergency protocols.

Police Scotland has a standard operating procedure which details the processes for activating interpreters and translation work. This is available to all staff.

SPS have a framework agreement that covers interpreting, translation and transcription services. This is available to staff which includes a process to translate information into Easy Read to support people in our who have learning disabilities or difficulties

**Work will continue in each organisation in future, as part of their equality agenda.**

[Recommendation 12:](#)

**Scottish Courts and Tribunals Service or others to issue questionnaire to determine access requirements prior to attendance at court to allow for reasonable adjustments to be considered – *Justice Steering Group Report.***

No specific questionnaire is issued by SCTS at the present time. In most instances, information regarding disabilities and impairments is relayed to SCTS by other justice agencies who have engaged with the individual concerned at an earlier stage in the process. Work is underway to examine how best to elicit related information from those persons being cited for jury duty. It is currently envisaged this may involve specialised training of dedicated members of staff.

**Work to be taken forward by SCTS as part of their equality outcomes activities.**

[Recommendation 13:](#)

**The ‘Going to Court’ leaflet to include accurate details of accessibility of courts including for remote sites – *Justice Steering Group Report.***

As it is current policy to provide such leaflets and information via the internet, SCTS already provide accessibility information within their website but have committed to updating this information further, following the accessibility audits of their sites. The information on the website can also be provided in alternative formats. A support package for members of staff who attend at sites remote from the courtroom has been developed and this was rolled out to courts during April 2017 with a view to helping improve support and services to vulnerable witnesses.

**Work to be taken forward by SCTS as part of their equality outcomes activities.**

#### Recommendation 14:

**Better inform solicitors that funding can be sought for “special arrangements” needed by clients e.g. BSL interpreter or to visit a client at home – *Justice Steering Group Report.***

Solicitor firms, as service providers, have an obligation to make reasonable adjustments under the Equality Act (Section 29). Solicitors also have a duty to adhere to the Law Society of Scotland’s Standards of Conduct which includes rules against discrimination on the grounds of protected characteristics and places additional responsibility on managers and supervisors. The Law Society of Scotland has published guidance, [Ensuring fairness, creating more accessible services](#), offering practical steps on how these obligations can be achieved. The Society could also consider further publicity through our regular communications to our members.

Legal aid can help with the costs of legal advice from a solicitor or representation at court. The solicitor (or a duty solicitor if the person does not have their own solicitor) can advise if help is available with legal costs, what it will cost and how an application can be made.

From the moment legal aid is in place, it can help with payments to cover the cost of reasonable adjustments like communication support, additional travel or longer meetings for people who need it. A solicitor might need to speak to the Scottish Legal Aid Board (SLAB) to ask about the additional support needed for their client. SLAB will consider a number of factors including the right to a fair trial and whether the person (client) may, for example, be unable to understand the proceedings because of age, inadequate knowledge of English, mental illness, other mental or physical disability or otherwise.

The Scottish Legal Aid Board publishes guidance covering the information above and other fee structures on its website [www.slab.org.uk](http://www.slab.org.uk).

#### Recommendation 15:

**Develop a system of specialist accreditation for solicitors to represent disabled people – *Project Team Workshop***

The Law Society of Scotland currently has a specialist accreditation scheme which focuses on specific areas of the law, rather than representation of particular groups. The scheme currently includes a number of areas which may affect people from specific groups: discrimination law, incapacity and mental disability law, and mental health law. The Society has also developed a training webinar to assist solicitors in representing disabled clients: [Update on Disability discrimination Law](#).

This has learning outcomes of

- (1) Assisting clients with disability discrimination law issues; and
- (2) The latest developments in providing equality of access to legal advice for disabled people

The Law Society of Scotland will consider developing general training in client care, which may include working with people with disabilities/access to justice barriers.

#### Recommendation 16:

**Take action with University Law Departments' to encourage more solicitors to train in discrimination and human rights law – *Justice Steering Group Report.***

During the LLB, students cover a number of subjects in order to meet the outcomes that are required to become a solicitor in Scotland. Each university offers similar subjects but there are some differences in courses at each university. Human Rights Law is a core subject and is taught pervasively throughout the LLB in all Universities accredited by the Law Society of Scotland. This means that the study of human rights is spread throughout the LLB, including those subjects which are essential to qualify as a solicitor in Scotland. Many Scottish universities offer specialist honours courses in Discrimination and Human Rights Law.

There is no shortage of interest in human rights law from LLB students. The Law Society of Scotland is aware from various surveys that law students wish to practise human rights law. The main barrier here is not intent but rather market availability – comparatively few law firms specialise in human rights law meaning it is difficult for interested law graduates to work in this area.

#### Recommendation 17:

**Consider options for providing guidance to disabled people on how to work best with a solicitor – *Justice Steering Group Report.***

The Law Society of Scotland already has guidance to help solicitors who are providing a service for disabled people: [Ensuring fairness, creating more accessible services](#).

They also provide guidance to help solicitors who are working with vulnerable clients. The Society also has developed a training webinar referred to under Recommendation 15.

### Recommendation 18:

**The Law Society of Scotland should encourage solicitors and staff with legal qualifications to be peer supporters for people with mental ill health and adults with learning disabilities – Justice Steering Group Report.**

The Law Society of Scotland supports [LawCare](#), an organisation which supports and promotes mental well-being in the legal profession. LawCare and the society are driving Legal Wellbeing Scotland, a project working with a wide range of organisations and legal firms to support mental wellbeing in the legal sector and to develop best practice. The Society will also consider encouraging solicitors and legal staff to participate in this and other relevant schemes through our regular communications to members.

### Recommendation 19:

**All correspondence should be in plain English. Staff to be alert to this requirement and to the need to communicate in several formats for some disabilities and be alert to the communication needs of deaf people and for BSL translation requests – Justice Steering Group Report**

It is recognised that in order for communication to be provided in accessible formats, we will need to raise awareness of staff across offices and partner organisations to change processes for developing such communications to include this requirement as a default consideration. It is also recognised that many in the deaf community, especially those whose first language is BSL, do not consider themselves to be disabled but rather as part of a linguistic minority.

Sense Scotland has provided assistance and guidance on “inclusive communication” and directed the team to the [Principles of Inclusive Communication](#) self-assessment tool and each organisation has distributed top tips guidance to all offices for cascading and display in prominent places. Work is still being considered to further meet the needs of Deaf/BSL Users; Deafened; Deafblind and Hard of Hearing. The criminal justice sector is represented on the Scottish Government’s BSL National Advisory Group to support the provision of services to BSL communities as part of the national action plan. Criminal justice partners are also exploring the provision of information being made available on their websites through the use of embedded video clips.

Police Scotland has produced a number of videos of police officers and staff providing information in BSL. This includes Stop Search, Bogus Crime, Hate Crime and information relating to a missing person enquiry.

[MyGov.scot](http://MyGov.scot) website will in future provide a point of reference for guidance on best practice for communication and other tips.

#### Recommendation 20:

**Shared criminal justice database to be developed to enable information on an individual's disabilities to be available to all criminal justice organisations –**  
*Justice Steering Group Report and project team workshops.*

This recommendation is one of the more challenging due to the incompatible IT systems, the need for privacy and Data Protection constraints.

COPFS is relaunching a Disability Passport system for use by staff to capture information on their individual support needs. This is used to facilitate changes required when an individual moves from one job to another. Some of the other organisations are considering implementing a similar system.

If a member of Police Scotland staff identifies that they have a disability, their line manager will discuss any reasonable adjustments they may require. Police Scotland has produced guidance on how to record disability and reasonable adjustments on their personnel system called SCoPE (System to Co-ordinate Personnel and Establishment).

At the Law Society of Scotland, all prospective new employees complete a medical questionnaire before the start of employment. The purpose of the questionnaire is to ensure any reasonable adjustments are implemented before a new member of staff commences with the Society. During the course of employment, any disabilities are addressed in line with the Society's Sickness Absence and Health and Wellbeing Policy.

In relation to service users, we will continue to explore a method of sharing such information to minimise the inconvenience experienced by disabled people in having to report such information but a solution is not readily available at present.

Police Scotland currently provide information relating to accessibility requirements and disability (where appropriate) to COPFS using sections of the Standard Prosecution Report or by subject sheet where required.

The SPS first line Managers development programme as part of our new leadership strategy, that all promoted staff complete a core module on gathering and analysing information; and written communication skills includes guidance on how to write reports in plain English. The equality outcomes we are proposing for 2017-2020 include one specifically on Inclusive Communications, with the outcome being that "our communications are inclusive and enable everyone to participate fully in the delivery of our services and employment practices. In particular, our communications approach empowers prisoners."

**This work is not within the scope of this project as it is being taken forward as part of the Justice Digital Strategy.**

#### Recommendation 21:

**The Justice Sector should consider the role of families, peer supporters, advocates, etc. in ensuring that a disabled person understands the information given and this may involve multiple forms of communication, including symbolisation, particularly where consent or informed choices are required –**  
*Justice Steering Group Report.*

All of the organisations will factor this steer into their ongoing training for staff. For the accused, the Appropriate Adult Scheme offers additional support in confirming understanding and this system is under review by Scottish Government.

The Victim Information and Advice Service within COPFS provide additional support for vulnerable victims and witnesses and liaise closely with Victim Support if further assistance is required. Many of SLAB's written communications go to both the legal aid applicant and solicitor, who can help the person to understand the information.

The Law Society of Scotland [guidance in this area](#) explains that firms are under a duty to make “reasonable adjustments” for clients with a disability. Firms should ensure that terms of business letters are duly adjusted to take into account clients with disabilities. This would include providing information in an accessible format such as braille for a blind client. It is recommended that firms do not use an overly small font size which could be difficult for clients to read. The guidance also outlines that solicitors should also be aware of the [Standard of Conduct Rules in relation to diversity](#).

In SPS, the recruitment process incorporates the ‘guaranteed interview scheme’ (now replaced by the Disability Confident Scheme), and offers reasonable adjustments to candidates with disabilities throughout the recruitment process and employment, as necessary. The policies applied for the continuing employment of employees who become disabled and the training, career development and promotion of disabled employees are the Disability Equality Policy 2009; Equal Opportunities In Employment Policy and Dignity at Work Policy (both published in 2017). SPS has an active staff network and supported two members to attend a conference on disability in the workplace to grow their knowledge and enhance the work of the network.

For people in custody, the information about individuals’ disability and any reasonable adjustments needed is recorded on the SPS Prison Records System and is available for prison officers to review. This ensures that those officers engaging with the individual can conduct dynamic risk assessments as necessary and can provide the appropriate support and duty of care during the individual’s time custody.

**Work will continue in each organisation in future, as part of their equality agenda.**

[Recommendation 22:](#)

**Website content should not only be in PDF format. It should also be available as a plain word document (these are more suitable for screen reading software) – Justice Steering Group Report.**

It was confirmed that at the end of March 2015, each criminal justice organisation had Microsoft Office 2010 in use and this provided additional tools for developing and storing documents in a more accessible manner. Security constraints resulted in an acceptance that only the version stored on the organisational website is confirmed as valid. All organisations have committed to reviewing their main publications on their websites and to providing more of these in both PDF and Word versions where possible. It has not been possible to do this for all documents due to their complexity or legal nature but in such cases, individuals can contact the relevant organisation for this information to be provided in a more accessible format.

Where possible, Police Scotland publish documents in accessible formats. They will be trialling the dual publishing of key documents in both PDF and web page format to assist screen readers

**Work will continue in each organisation in future, as part of their equality agenda.**

[Recommendation 23:](#)

**All website formats to be quality assured with organisations which represent disabled people – Justice Steering Group Report.**

The need to ensure that our websites meet the standard for accessibility is acknowledged by the criminal justice organisations and as part of our Equality Outcomes review for 2017 we explored ways of confirming that we meet these standards e.g. [Web Accessibility Initiative](#).

SCTS website meets Level A of the Web Content Accessibility Guidance (WCAG) and actively seeks feedback on whether the site works well for the user.

The Law Society of Scotland conducted a review of its website as part of its 2016/17 Annual Plan. Any audit/suggested accessibility standard will be considered as part of the website review

Police Scotland has confirmed that they strive to adhere to the World Wide Web Consortium AA standard which is the benchmark for most public sector organisations. As they develop their website further, they will look at more modern accessibility support as technology changes.

Where possible, SPS will publish documents in accessible formats. All the statutory reports published in 2015 under the public sector equality duties were provided in both PDF and Word format, along with a link to download Adobe PDF reader.

The SPS website adheres to the w3 standards for accessibility.

**Work will continue in each organisation in future, as part of their equality agenda.**

[Recommendation 24:](#)

**DVDs should have BSL translations available – *Justice Steering Group Report.***

SLAB has translated their main public information about legal aid into BSL videos (with audio and subtitles). Police Scotland has produced a number of videos of police officers and staff providing information in BSL. This includes Stop Search, Bogus Crime, Hate Crime and information relating to a missing person enquiry.

An introductory DVD for those persons due to attend at court for jury service was being developed by SCTS. Part of this process would include exploring provision of the information in alternative formats such as BSL.

SLAB has translated their main public information about legal aid into BSL videos (with audio and subtitles). Police Scotland has produced a number of videos of police officers and staff providing information in BSL. This includes Stop Search, Bogus Crime, Hate Crime and information relating to a missing person enquiry.

The Law Society of Scotland has considered ways in which its video content can be more accessible. Though the majority of this content has not been translated into BSL, this can be arranged on request.

SPS has produced a BSL version of the custody induction programme that prisoners receive upon admission into custody. Every person in custody has to attend the induction programme within 24 hours of entering prison. The BSL DVD can also be used on TV's in cells. The SPS would arrange for the translation of other material upon request.

**Work will continue in each organisation in future, as part of their equality agenda.**

### Recommendation 25:

**Information should be available in large print, Easy Read, symbolisations, or photo format and other minority languages – Justice Steering Group Report.**

Public sector organisations have a duty under the Equality Act 2010 to ensure that people with learning disabilities and their families have access to information in a meaningful format in order to have more choice and control over their own lives and to become more active and equal citizens.

Each of the criminal justice organisations will provide its main publications on the internet and using tools such as Browsealoud. These will be available in alternative formats. Easy Read versions will be provided and this standard will be provided by default in future if possible. All organisations have the facility to translate appropriate information into alternative formats and minority languages on request.

The Law Society of Scotland complies with the public sector general duty. As part of this duty, it seeks to remove or minimise disadvantages by working to ensure its website is accessible. It uses Browsealoud software which includes translation of the website content and documents hosted there into a variety of languages as well as assisting those with impaired hearing, and sight.

**Work will continue in each organisation in future, as part of their equality agenda.**

### Recommendation 26:

**The Justice Sector organisations should be creative in getting information to black and minority ethnic disabled people by, for example having disability equality/rights awareness days at places of worships and community centres – Justice Steering Group Report.**

To comply with its duties under the Equality Act 2010, the Law Society of Scotland has an [Equality and Diversity Strategy](#), approved by its governing Board and Council and which sets out its objectives in this area.

The strategy is refreshed every three years and looks at ways of driving change across the profession. Progress is reported annually as part of the Society's Annual Report.

As part of its ongoing work in support of its Equality Outcomes, SCTS is committed to engaging with black and minority ethnic communities and currently does so through various local initiatives such as the court 'Open Day' events.

Every SPS establishment and the two private prisons are required to arrange at least two establishment events or other activities to foster good relations between people who share a protected characteristic and others who do not share it. These events or activities must involve how the establishment is tackling prejudice and promoting understanding. For example, SPS was represented by members of the Equality & Diversity team from HMP Shotts at a 'Connecting Communities' event held at Airdrie & Coatbridge Islamic Centre in 2016, and an open Mosque event in 2017. These are just two of numerous events and initiatives undertaken by SPS. Further information is published in the SPS Mainstreaming Progress Report 2017.

**Work will continue in each organisation in future, as part of their equality agenda.**

[Recommendation 27:](#)

**Provide “life of a case” information for disabled people in accessible formats – *Project Team Workshops.***

The Project Team highlighted the existence of a flowchart on the life of a case which had been developed by the Supporting Offenders with Learning Disabilities group (SOLD) and is being considered by the team. However, we are further exploring the existence of DVDs which provide such information as this would be a more acceptable format for those with learning difficulties. The Law Society of Scotland notes that it would be helpful if this could be a standardised format agreed by all criminal justice agencies, which could be displayed on the Society's website.

**This work is more appropriate to be taken forward by the Victims and Witness Strategy team led by Scottish Government officials.**

[Recommendation 28:](#)

**Review the Appropriate Adult Service and raise awareness of vulnerable witness provisions with justice sector staff – *Justice Steering Group Report.***

A review of the Appropriate Adult Scheme is being conducted by the Scottish Government. SOLD have also advised that they held an event in March 2017 at which the various roles and responsibilities were discussed. Further work on this recommendation will therefore be led by Scottish Government teams.

A report on findings of the August 2016 SOLD conference is available.

### Recommendation 29:

**Improve the awareness of vulnerable witness provisions with the aim of ensuring that all clients/customers achieve their human rights, not just addressing their vulnerabilities** – *Justice Steering Group Report*.

The Victims and Witnesses (Scotland) Act 2014 introduced measures to improve support for victims and witnesses, putting victims' interests at the heart of improvements to the justice system and ensuring that witnesses are able to fulfil their public duty effectively. Victim support has been further improved through the Victims' Rights (Scotland) Regulations 2015, which expanded the 2014 Act to ensure that the needs of victims are assessed and taken into account during criminal investigations, and to put various other rights on a statutory basis. Under the 2014 Act as amended, the Scottish Ministers prepared and published Scotland's first [Victims' Code](#) in February 2016. The Code sets out the rights of citizens in the event that they fall victim of crime and provides signposts to other help and support. The Scottish Government is taking forward the production of an Easy Read version of the Victims' Code. The regulations also oblige Police Scotland to inform victims of the code and provide a copy on request (the duty to provide copies of the code also rests with the other criminal justice agencies).

The Law Society of Scotland issues guidance to its members on interacting with vulnerable witnesses. The Criminal Rights of Audience course run by the Law Society of Scotland includes training on interacting with vulnerable witnesses and this has been recently reviewed and improved.

### Recommendation 30:

**Review acoustics in meeting rooms and court rooms and provide additional support for staff and service users with hearing difficulties** – *Justice Steering Group Report*.

Each organisation has reviewed its provision of video conferencing for in-house meetings and we have developed a guide for chairpersons to use, to ensure that meetings are held to allow attendees with hearing problems to be involved and to reduce travel challenges for those with mobility disabilities. SPS has also produced an Easy Read guide on the use of video conferencing for prisoners.

Following consultation with the DAG, this guide will be adopted by each organisation for use for internal meetings and is being considered as an aide in the development of best practice for similar meetings with service users.

Each organisation is also reviewing its current provision of hearing loop systems to ensure that they are suitable, are routinely tested and maintained. As a result of this exercise, COPFS has improved/installed hearing loop systems in 11 of their offices.

All the main courts have at least one courtroom with some form of infrared induction loop systems. This will be every court with more than 800 sitting days per annum. Upgrades to existing systems have been completed at Glasgow and Edinburgh Sheriff Courts and High Court sites in Aberdeen, Edinburgh and Glasgow.

The other courtrooms and tribunal rooms have either a fixed wired system or have access to a mobile induction loop unit. The upgrade is part of a rolling programme and part of this will be a detailed survey of equipment building by building, and courtroom by courtroom.

The Law Society of Scotland has a portable hearing loop available. The audio conferencing system in two of the conference room facilities can also be linked to a hearing aid.

Hearing loop systems are in place in all Scottish Government (SG) buildings. In larger meeting and conference rooms, these are hard-wired systems. There are portable loops available at most receptions and available for meeting organisers to borrow if someone with a hearing impairment is attending. The systems are approximately five years old and fit for purpose. The SG Occupational Health and Safety team will always carry out reasonable adjustment(s) if the situation merits it e.g. vibrating pagers linked to the fire alarm to alert people from the deaf community of an alarm. Acoustic analysis is only carried out when a room is designated as a meeting room and merits it. Analysis is done by consultant specialists.

**Work will continue in each organisation in future, as part of their equality agenda.**

[Recommendation 31:](#)

**Consider installing electronic name displaying to complement audio name calling systems e.g. in court – *Justice Steering Group Report.***

No action is planned at this stage due to funding challenges, though in many courts electronic display boards are available to indicate where and when cases are to be called.

**This recommendation will not be implemented in the near future.**

### Recommendation 32:

**Police should encourage the use of SMS texting for deaf people to use to contact the police – Justice Steering Group Report.**

Police Scotland piloted a new text system in Fife division. The system allows a person who is Deaf, deafened, hard of hearing or Deaf Blind to make direct contact with the police service centre in a non-emergency situation. The staff in the service centres were provided with Deaf awareness training and guidance on communicating via text with a person whose first language is BSL. All users of this service need to pre-register with the police to use the system.

This pilot was successful and Police Scotland is currently developing a process for rolling the system out nationally.

The BT 999 SMS service still remains in place and the Scottish Government video relay service called [contactScotland - BSL](#) received funding to continue for another three years. This service allows BSL users to communicate via video relay to all public sector agencies.

### Recommendation 33:

**Police to be trained in BSL level one and in finger spelling for hard of hearing people – Justice Steering Group Report.**

Police Scotland would be unable to implement this due to the scale of numbers within the service. As an alternative, Police Scotland are considering the implementation of a Police Link Officers for the Deaf (PLOD) scheme which is used successfully in several English Police services.

This scheme uses police staff with deaf awareness and BSL skills in engagement with BSL users who need the police. This could be for initial contact, updates, or events providing information. Qualified interpreters are still required for any legal process.

Police Scotland has identified staff who have varying levels of BSL skills. Consideration is being given to how this could be implemented in Scotland.

**This will be taken forward by Police Scotland as part of their equality outcomes work.**

#### Recommendation 34:

##### **Consider the use of handcuffs for hard of hearing who require to use sign language – Justice Steering Group Report.**

Police Scotland has developed new operational safety training resources. Within this guidance, there is focus on the importance of communication and consideration of all communication needs. One section of the guidance relates specifically to communicating and engaging with Deaf, deafened, Hard of Hearing and Deaf Blind communities.

Within the guidance, staff are encouraged to consider the implications of handcuffing a British Sign Language user and to only use handcuffs where absolutely necessary. If handcuffs are required, consideration will be given to applying the handcuffs to the front to allow some opportunity to produce British Sign Language. The handcuffs will be removed as soon as reasonably practical or when safe to do so.

SCTS have confirmed with G4S that they would remove handcuffs to allow the accused/prisoner to communicate. If there was a perceived safety risk, they would address this via the risk assessment process. This risk assessment will also include consideration of other disabilities that the prisoner has.

#### Recommendation 35:

##### **Make better use of NHS outlets for communication e.g. GP surgeries, CABs, care workers, libraries, etc. – Justice Steering Group Report and Project Team Workshops**

Following the commitment to joining up on hate crime campaigns and the improved communication that this project has brought, it is not envisaged that using these outlets for publicity will bring significant benefits as these outlets often have a huge amount of information to pass on relating to their own business.

However, the criminal justice organisations will consider using these outlets if appropriate for communication as part of the work being carried out under their individual delivery of Equality Outcomes, and to thinking of wider routes for communication. The development of the use of social media and the internet has offered alternative routes of communication.

### Recommendation 36:

#### **Ensure that the access to justice needs of disabled people from rural communities are considered – Workshops.**

SLAB has a function to monitor the availability and accessibility of legal services in Scotland, including by reference to any relevant factor relating particularly to rural or urban areas. The monitoring function is not restricted to those legal services funded by SLAB or other public funders. It therefore includes privately funded services, whether provided to individuals or bodies corporate, and legal services such as conveyancing, insolvency and other private or public client work that would not normally fall within the scope of legal aid.

In carrying out their function, they receive high level information from the Law Society of Scotland on the number of firms and solicitors throughout Scotland. Using the Scottish Government's urban-rural classification, the data indicates that rural areas are being served by firms in remote and very remote small towns. Over time, there has been no major shift in the location of firms. SLAB has not identified a general pattern of accessibility or availability problems for rural areas in its reports so far, which look at specific areas of law.

The Law Society of Scotland monitors issues around the needs of disabled people (including from rural communities) across the range of its policy committees. Several of these committees have specific responsibilities in these areas, such as the Access to Justice, Equality Law and Mental Health and Disability Law committees. This monitoring activity is in furtherance of the public sector general duty and also the statutory and regulatory objectives that the Law Society of Scotland holds under relevant legislation.

There are some challenges for disabled people from rural communities in accessing justice. Some of these changes are largely the consequence of geography; for instance, although legal services may be accessible in island communities across Scotland, there may not be a sufficient supply for both parties to a dispute in an adversarial system to secure support locally. The Law Society of Scotland is also considering the ways in which new technologies can make legal services more accessible, for instance, using online courts or Online Dispute Resolution platforms, with research around these new technologies planned for publication in 2017.

In addition, in 2016 Police Scotland worked in partnership with the Scottish Commission for Learning Disability to review the network of Third Party Reporting centres across Scotland. Areas of improvement regarding geographical and learning disability specific centres have been identified and will be considered during the implementation of the review findings. This includes the need for more centres in rural locations.

Police Scotland, COPFS and the Scottish Courts and Tribunals Service work in partnership with the charity 'I Am Me Scotland' on an initiative called 'Keep Safe'. Keep Safe works with a network of local businesses and premises to create 'Keep Safe' places for any person who feels vulnerable when out and about in the community. The initiative was initially set up to raise awareness of disability hate crime and to create safe places for people if they need to get help if they feel lost, confused, scared, in danger, or have been the victim of a crime. The Keep Safe initiative was developed in Renfrewshire but is currently in the process of being developed in all police divisions in Scotland.

#### Recommendation 37:

##### **Develop a communications strategy for this project – Workshops.**

A communication strategy was created and followed. This final report concludes this activity.

#### Recommendation 38:

##### **Create a single justice centre internet site – Workshops.**

This is a significant task and one that we have been in discussion with the Justice Digital Strategy team but this is not likely to be resolved in the near future. Although it will take some time to have a single justice centre internet site, if ever, the Digital Team have been making some inroads to improving the communication of information over the internet under the umbrella of co-ordinated information advice and assistance. Since the publication of The Digital Strategy for Justice in Scotland in August 2014, they have published a range of content on [MyGov.scot](http://MyGov.scot) providing citizens and business with information on:

- repossession (and the Home Owner's Support Fund);
- debt and bankruptcy;
- bereavement, and;
- relationship breakdown.

In addition, they have also developed guidance for people who have been a victim or witness of crime, or people who are looking for help with legal problems and have been working to develop website content around imprisonment and hoped to go live with this in 2017.

Some key stats on [MyGov.scot](http://MyGov.scot) at June 2017: There are currently over 2000 information pages – and this grows daily. User feedback is encouraging, with 80%

positive feedback to on-page surveys. 25% of content relate to justice services and the site has had nearly 2 million visits (since September 2015 launch).

**This recommendation is not within the scope of this project and will be taken forward by the Justice Digital Strategy team.**

#### Recommendation 39:

**Training courses to include training staff on the autism spectrum and on mental health awareness – *Justice Steering Group Report.***

Police Scotland created an educational video on Autism for all staff. This is embedded in an online officer safety/first aid training course which is undertaken annually. Police Scotland are in discussions with Autism groups to develop updated training materials.

In late 2016, Police Scotland developed training on Mental Health Crisis and Suicide Intervention. This training consists of two online courses and an interactive classroom session.

The two online packages are:

- the NHS Lanarkshire MINDSET product. The aim of this package is to raise general awareness of mental health problems, address stigma and provide facts and myths around mental health and suicide
- improve knowledge on the legislation under the Mental Health (Care and Treatment) (Scotland) Act 2003.

The classroom session is to enable students to recognise signs and symptoms of distress and to intervene effectively to help persons in mental health crisis or at risk of suicide. The classroom training consists of five parts (Background Information and Statistics; Risk Estimation; De-escalation Communication Techniques; Defensible Decision Making; and Support for Staff).

Collectively these training packages aim to improve the operational response to those in distress or crisis.

The Law Society of Scotland requires their staff to undertake Equality and Diversity training regularly. It undertakes Equality Impact Assessments, and further training on the process is being provided to all managers. The Society is considering the best approach for ensuring staff are trained to better assist people on the autistic spectrum and those with mental health issues.

COPFS is developing a policy on how to provide a service to people with Autism but will develop this in consultation with other criminal justice organisations to ensure that a holistic joined up approach is provided.

SLAB has been engaging with its employees on mental health at work in partnership with See Me Scotland. Mental health awareness, with regards our on workforce and our customer service, will be one of our main priorities under our next equality outcomes cycle.

Further work is ongoing on mental health awareness as part of the Scottish Government national Mental Health Policy which was published in 2017.

The equality outcomes SPS is proposing for 2017-2020 include one specifically on reducing absence due to mental ill-health and creating a culture of support within the workplace where employees can talk about mental health without stigma and are supported appropriately. As part of this work it is intending to implement Healthy Working Lives' 'Work Positive' process and to deliver Mental Health First Aid training to line managers and trade union representatives.

**Work will continue in each organisation in future, as part of their equality agenda.**

[Recommendation 40:](#)

**Reception staff to receive deaf awareness training – *Justice Steering Group Report.***

The Law Society of Scotland requires their staff to undertake Equality and Diversity training regularly. It undertakes Equality Impact Assessments, and further training on the process is being provided to all managers. The Society is considering the best approach for providing deaf awareness training to reception staff.

SCTS has developed an e-learning package for staff on deaf awareness and is currently considering a rollout plan for court and tribunal staff, in particular for those who have a primary role in engagement and communication with members of the public and court users.

SLAB will continue to ensure that their Reception staff receive ongoing equality and diversity awareness training, including deaf awareness training, as appropriate.

COPFS is planning to use an e learning package developed by See Hear Highland Education & Learning Services, NHS Highland to raise awareness in their front line staff, as part of their Customer Service Strategy.

SPS will continue to support reception staff and front of house staff and are investigating deaf awareness training as part of the review of Equality & Diversity training.

#### Recommendation 41:

**Build up and share knowledge of advocacy workers and social workers to allow staff to signpost customers to those services – Justice Steering Group Report.**

Victim Information and Advice staff in COPFS operate across Scotland and are able to signpost victims and witnesses towards those who can provide such support.

#### Recommendation 42:

**Develop a single shared training project for training staff in dealing with disabled service users – Workshops.**

We had discussions with the DAG on a proposed three tier structure of training staff, from general awareness at one end to expert advisor at the other. However, as we developed this work further, it became clear that a uniform training programme was not going to be possible due to the very different service delivery models used in the criminal justice organisations. Nevertheless, the commitment to three levels of training remain:

- improved general awareness for all staff
- more targeted training for staff in specific roles and
- more detailed awareness for those who champion this work in each organisation. Shared use of best practice tools will continue e.g. See Hear Highland Education & Learning Services, NHS Highland deaf awareness training pack.

## 4.2 Legislation and Policy

#### Recommendation 43:

**Prepare policies on how to take evidence from those with learning difficulties and mental ill health and hidden impairments and consider how we can use the guide ‘People with Learning Disabilities and the Criminal Justice System’ – Workshops.**

The criminal justice organisations are currently considering this guide again with a view to updating it and looking again at how it can be used within our organisations.

The Law Society of Scotland will consider ways to help publicise this recommendation. In addition, a number of our Committee members are participating in the Evidence and Procedure Review working groups including the Taking of Evidence of a Vulnerable Witness by a Commissioner and Pre-Recorded Evidence.

**The group recommend that this is a product which they are content to continue to work together to see how this guide can be used.**

#### Recommendation 44:

**Create a point of contact for legislative changes to be collated for consideration – *Workshops.***

Alongside Scottish Government representatives, we developed a process for the highlighting of potential changes which would require a change to legislation as we were keen that such issues were not seen as insurmountable. We have agreed a template format for reporting suggestions to the Scottish Government to consider at the most appropriate time. However, any legislative changes which may have been required have been or are being taken forward as part of other projects e.g. Evidence and Procedure Review or the Victims and Witness Strategy, for example.

#### Recommendation 45:

**Review the selection of jurors to be more inclusive of disabled people – *Justice Steering Group Report.***

A working group chaired by Lord Matthews, a High Court Judge, is currently considering how best to enable persons with disabilities and impairments to fulfil their civic duty as jurors. Consideration is being given to the potential for provision of training for dedicated members of court staff who would engage with potential jurors at an early stage. This would afford an early opportunity to explore particular needs and to clearly communicate expectations, the court procedure and potential adjustments which the court may be able to make.

**This is now seen as out with the scope of this project.**

#### Recommendation 46:

**Learn from Mental Health Tribunal practices – *Justice Steering Group Report.***

SCTS is conducting some fact finding with Tribunals staff with a view to identifying practices and processes which may be of benefit or interest to other justice agencies relating to the sensitive handling of individuals involved in specialist proceedings

**This work will continue and the group are content to continue to discuss any lessons learned within their proposed Network Group.**

**Recommendation 47:**

**Consider legislative changes which would allow an Interpreter to accompany the jury to provide communication support – *Justice Steering Group Report.***

This recommendation is also being considered as part of the work of Lord Matthew's group and as such, will not be taken forward any further by this project.

**This is now seen as out with the scope of this project.**

**Recommendation 48:**

**If disabled person is to give evidence or is the accused, jury to receive disability equality training first – *Justice Steering Group Report.***

It is not feasible to provide "training" given the current jury selection processes but these may change following the outcomes of Lord Matthew's review. As it currently stands, it would be for the presiding judge to provide the necessary direction to members of the jury.

**This is now seen as out with the scope of this project.**

**Recommendation 49:**

**Implement the provisions of the Victims and Witnesses Act – *Workshops.***

The provisions of the Victims and Witnesses Act are now in place and applied by all organisations. Further monitoring continues by justice partners to ensure that the system is providing the level of support which was intended.

**Work will continue in each organisation in future, as part of their equality agenda.**

**Recommendation 50:**

**Promote nationally the use of the Strathclyde Police and GGHB NHS use of Autism Alert Cards – *Justice Steering Group Report.***

This will be considered as part of the work which COPFS is doing on developing a policy for dealing with people who have autism.

#### Recommendation 51:

**Review Public Sector Equality Duties outcomes to ensure that they sufficiently progress the elimination of discrimination against disabled people within the CJ sector – *Justice Steering Group Report*.**

Each organisation has committed to reviewing their Equality Outcomes to direct efforts towards the elimination of discrimination of disabled people in their dealings with the criminal justice sector. These were published in April 2017.

To comply with its duties under the Equality Act 2010, the Law Society of Scotland has an [Equality and Diversity Strategy](#) approved by its governing Board and Council and which sets out its objectives in this area. The strategy is refreshed every three years and looks at ways of driving change across the profession. Progress is reported annually as part of the Society's Annual Report.

The SPS was finalising its Equality Outcomes for 2017 – 2020, all of which intend to have a positive impact on disabled people. These include work around the recruitment and progression of disabled people, increasing flexible working, taking action on mental health, delivering services in ways that meet the needs of disabled prisoners, inclusive communications, reviewing our disability policy, increasing awareness and understanding of equality monitoring, including self-declaration and developing our disability staff network.

**Work will continue in each organisation in future, as part of their equality agenda.**

### 4.3 Ensuring Adequate Support and Advocacy

#### Recommendation 52:

**Community Safety Partnerships to ensure accessible info and advocacy services are available to allow disabled people to understand and exercise their rights – *Out in the Open Report*.**

Community Safety Partnerships are the responsibility of the Local Authorities under the Local Government in Scotland Act 2003.

**This recommendation is therefore out with the scope of this particular project however, all member organisations commit to participating in their activities.**

#### Recommendation 53:

**Confirm the arrangements for Police Scotland to identify special measures requirements** – *Out in the Open Report*.

Police Scotland use the Standard Prosecution Report to inform COPFS of any requirement for special measures. The Victims and Witness Act provides the categories of person and crimes for which special measures can be requested and the processes and procedures associated with this. This is also being considered as part of the Evidence and Procedure review.

#### Recommendation 54:

**Establish a joint protocol for dealing with requirements for special measures** – *Out in the Open Report*.

The joint protocol [Working together for victims and witnesses](#) for COPFS, SCTS, Police Scotland and Victim Support Scotland deals with such requirements. This protocol is available on organisation websites

### 4.4 Improved Practice and Shared Learning

#### Recommendation 55:

**Serious Case reviews are publicly available and disseminated** – *Out in the Open Report*.

Criminal justice organisations tend not to lead on significant case reviews but will participate as appropriate.

When such reviews are held, reports are now usually available and published.

#### Recommendation 56:

**Serious Case Reviews are mandatory for all cases involving adults at risk unless proved unnecessary** – *Out in the Open Report*.

Criminal justice organisations tend not to lead on significant case reviews but will participate as appropriate.

**This recommendation is therefore out with the scope of this project.**

#### Recommendation 57:

##### **Share best practice in processes and customer service – *Workshops.***

The creation of this project has enabled all seven criminal justice organisations to meet regularly and discuss equality matters which has in turn, allowed good ideas to be shared and developed as a team. Examples include the jointly developed complaints procedure, the reasonable adjustments support pack and the Easy Read translations for documents, including the development of a common vocabulary in Easy Read format. When the project closes, there will be a recommendation that a similar liaison group continues to exist. This sharing of best practice will continue if the project's recommendation of creating a criminal justice network group for equality experts to meet, discuss and progress issues is adopted.

#### 4.5 Redress and Accessing Justice

#### Recommendation 58:

##### **Proper authority to drop cases linked to discrimination – *Out in the Open Report.***

The Crown Office and Procurator Fiscal Service have provided prosecutors with clear instructions on hate crime. There is a clear presumption in favour of taking action where harm is caused, and decisions to take no proceedings (when sufficient evidence exists of racial motivation/hate crime aggravation) will only be appropriate in exceptional cases. Such a decision must be authorised by a Principal Procurator Fiscal Depute or above and the reason for the decision must be recorded.

Where proceedings have already commenced, there is a presumption against the discontinuation of proceedings and, consequently, any decision to discontinue proceedings must be approved by a Principal Procurator Fiscal Depute or above. It is only where it becomes clear on the day of trial that there is no longer available and admissible evidence to secure a conviction of the substantive charge or the aggravation by prejudice that the trial prosecutor can make a decision to discontinue or accept a reduced plea but, in cases of doubt, they are instructed to seek advice from a Principal Procurator Fiscal Depute or above.

#### Recommendation 59:

##### **The perceived capacity of the victim should never form the basis for decisions on police investigations – *Out in the Open Report.***

Police Scotland have confirmed that capacity will not dictate a decision with regards to whether to carry out an investigation or not. If the capacity of the victim prevents them from being able to provide information, there may be a range of corroborative

evidence which could be gathered, i.e. CCTV, other witnesses, forensics etc. which could provide sufficient evidence even in the absence of a victim account.

#### Recommendation 60:

### **Increased priority is given to repeat victims or perpetrators – *Out in the Open Report.***

Police Scotland had four different models of the 'Repeat Caller Process' implemented by Tayside, Scottish Borders, Forth Valley and Fife Divisions.

Each of these processes were designed and implemented in response to learning identified by the Fiona Pilkington and David Askew cases in England, amongst others, which highlighted deficiencies in police practices in identifying, managing and assisting people repeatedly subjected to non-criminal behaviour or acts of petty crime. Some of those issues appeared low tariff to police organisations; however were not low tariff to the victim.

Police Scotland is using the good work of the aforementioned divisions to develop a National Repeat Caller Process which will provide consistency in identifying repeat caller/victimisation across all police divisions in Scotland.

The Repeat Caller Process is an early intervention strategy to identify, assess and manage vulnerability and risk to individuals and communities across Scotland; it requires focus on what causes harm in our communities, rather than what is or is not a crime, and effectively manage the threat to those most at risk.

The concept of the process is to proactively seek sustainable solutions to repeat callers' ongoing problems which will involve a problem solving approach coupled with strong partnership working.

In addition to Repeat Caller Response the Interim Vulnerable Persons Database, (IVPD) is the national ICT system across Police Scotland that records all concerns and risks in relation to vulnerable adults and children in relation to child concerns, including child protection; adult concerns, including adult protection; domestic abuse; youth offending; hate crime and missing persons. The database is designed for Police Scotland to securely share information electronically with relevant partners that is necessary, justified, proportionate and appropriate.

It affords the opportunity to quickly highlight those who are repeat victims and/or subjects of concern as well as patterns of abuse. There is a specific category for Adult Concerns to ensure that any person who should be recorded as vulnerable is recorded as such. Concern hub staff seek to use the IVPD to identify motivation and underlying issues in their assessment of vulnerability and risk.

This system also provides an overview across divisional boundaries allowing transient individuals or families who move frequently and may inadvertently miss the opportunity for support or intervention due to re-location to be identified. Equally, it affords the opportunity to highlight perpetrators who move across divisional boundaries.

Following the roll out of the IVPD, the Risk and Concern Project was established in September 2014 with the remit of reviewing and improving existing practice around recording, assessment and sharing of information with the relevant partners in relation to all vulnerable persons. This includes a re-designed future operating model for Concern Hubs, which delivers an efficient and effective structure and business process that, includes holistic risk assessment with informed and accountable decision making, underpinned by a bespoke training plan.

Concern hub staff seek to use the IVPD to identify motivation and underlying issues in their assessment of vulnerability and risk includes an escalation protocol for all areas of vulnerability and aspects around disability and protected characteristics will be highlighted within the training to support this.

A core responsibility of Adult Protection Coordinators is to identify and where necessary highlight the need to co-ordinate professional's meetings or adult protection case conferences in respect of individuals who are subject to repeat victimisation or the focus of repeat perpetrators etc.

#### Recommendation 61:

##### **Use disability aggravation when appropriate – *Out in the Open Report.***

COPFS has provided clear instructions to prosecutors on the use of the disability aggravation. Prosecutors are advised that, in the process of plea adjustment, the aggravation should not be removed by a prosecutor where there still exists available and admissible evidence of the aggravation which is sufficient to secure a conviction.

Police Scotland's Hate Crime standard operating procedure provides clear guidance to all staff on recording, reporting and investigation of all hate crime including appropriate recording of disability prejudice aggravators. This also includes reference to the Lord Advocate's guidelines which state: "an incident is aggravated by prejudice if it is perceived to be aggravated by prejudice by the victim or any other person".

### Recommendation 62:

#### **Consider limiting the occasions when victim's impairments are used as evidence or in questioning in court – *Out in the Open Report*.**

From May 2017, we implemented a High Court Practice Note to take evidence from a Commissioner from vulnerable witnesses, including those with a disability, to avoid the need for them to give evidence in court.

### Recommendation 63:

#### **Review all complaints procedures to ensure that they are disabled friendly – *Workshops*.**

Each organisation initially conducted a review of their procedures in accordance with Public Services Ombudsman guidelines and to make them user friendly but in doing so, realised that it made more sense to have the same initial front facing complaints procedure for service users. This has been drafted in Easy Read format and is available on the websites of COPFS, Scottish Courts and Tribunals Service, the Scottish Legal Aid Board and the Scottish Government.

Due to the complexities of their service, the Scottish Prison Service and Police Scotland have retained their bespoke complaints procedure. SPS re-drafted prisoner complaints guidance and would investigate an Easy Read version. Under our proposed outcome for 2017-2020 on inclusive communications, we will review the accessibility of our external complaints process. Police Scotland is working with the Police Investigations and Review Commissioner to have this translated into Easy Read format.

The Law Society of Scotland also retained their bespoke complaints procedure. Complaints may be made about a member of Society staff, policies and procedures, or about Council or committee members.

In respect of complaints against solicitors, all complaints should be made to the Scottish Legal Complaints Commission (SLCC) as they are the gateway for all complaints against solicitors in Scotland. If the complaint is about service, it is dealt with by the SLCC. If the complaint is about conduct, it will be referred to the Law Society of Scotland.

In respect of the complaints process, the Society can provide hard copy of its information leaflets and can upon request, provide them in different translations. The Society offers a text phone service. Where either party to a complaint has mental or physical health problems which can impair their ability to respond to the Society or engage with the complaint process, the Society has a policy 'Handling conduct

complaints involving solicitors suffering from issues of mental health or severe physical impairment', the principles contained in this can be applied to either party, with a view to considering whether the complaint is able to proceed or requires to be put on hold, pending recovery. At the start of the complaints process complainers are asked, whether they have any specific communication requirements and contact can be tailored accordingly.

#### 4.6 Prevention, Deterrence and Understanding Motivation

##### Recommendation 64:

**Appoint harassment co-ordinators for staff who feel that they have been bullied or harassed due to their disability – Workshops.**

Each organisation has confirmed that they have a system in place for staff to report any incidents of harassment, including those motivated by ill will or malice towards a disabled person.

##### Recommendation 65:

**Proper policies on harassment at work are in place – Workshops.**

Each organisation has confirmed that they have proper policies on harassment at work and that any reported incidents are investigated and treated seriously.

##### Recommendation 66:

**Consider undertaking research into motivations of perpetrators of disability-related harassment, including for the purposes of prevention, profiling and early intervention – Out in the Open Report.**

The report by the EHRC in July 16 offers good research. This will be considered by individual organisations when developing policies and processes, as appropriate.

##### Recommendation 67:

**Review all publicity campaigns to promote positive images of disabled people – Out in the Open Report.**

Most of the criminal organisations no longer tend to use photographic images but where this happens, they have committed to promoting positive images. SPS has begun doing so on their website.

**Work will continue in each organisation in future, as part of their equality agenda.**

Recommendation 68:

**Consider preventative initiatives e.g. diversions – Workshops.**

The creation of the Community Justice Authorities (CJA) offers an opportunity for criminal justice organisations to influence the availability and suitability of diversion schemes. COPFS and Police Scotland will participate with the CJAs to utilise such alternatives.

**Work will continue in each of the above organisations in future, as part of their equality agenda.**

Recommendation 69:

**Ensure perpetrators of harassment face consequences and that they are implemented – Out in the Open Report.**

We suggest that the collective progress we have made as a group will contribute to this outcome.

**The independence of the judicial system means that the sentencing results are beyond the scope of this project.**

Recommendation 70:

**Police forces should develop an in-depth understanding of the characteristics and motivations of perpetrators, design local preventative strategies accordingly and evidence their effectiveness – Out in the Open Report.**

Police Scotland has been at the core of much of our discussions and it is clear that they are committed to understanding the action of the perpetrators. This outcome is very much longer term and will therefore be taken forward as part of their equality outcomes agenda.

## 4.7 Transparency, Accountability and Involvement

### Recommendation 71:

**Leaders to show personal commitment to deliver change** – *Out in the Open Report*.

In 2013, the Justice Board of Scotland established an Equality and Diversity sub group chaired by a senior civil servant from the Crown Office and Procurator Fiscal Service. The membership consists of representatives from across criminal justice including Police Scotland, SCTS, SPS, SRCA, SLAB, The Law Society of Scotland, Scottish Fire and Rescue Service and the Criminal Justice Division of Scottish Government. The first objective of this sub group was to improve access to justice for people with disabilities and in support of this they established a criminal justice disability project to deliver a collective response to the Justice Disability Steering group report and the EHRC's reports on disability hate crime, 'Hidden in Plain Sight' and 'Out in the Open'.

COPFS and Police Scotland have both provided senior members of their organisation to sit on the Board of Trustees for I AM Me Scotland, a registered charity that aims to raise awareness of disability hate crime. This charity works in partnership with Police Scotland, COPFS and local businesses to develop a network of Keep Safe places for anyone feeling lost, scared or vulnerable when out in the community and has resulted in the creation of a phone app which maps out safe places for people with disabilities or who are vulnerable. The then Lord Advocate, Frank Mulholland, officially opened the first COPFS Keep Safe office at Hamilton.

Senior officials from both Police Scotland and COPFS have publicly supported and promoted the Keep Safe and I Am Me initiatives, the latter of which has included the production of a hard hitting film on disability hate crime which has been developed into a training pack for schools. This resource has been supplemented by a primary school resource with accompanying films which is shown at schools across Scotland through a Cine bus which is a mobile cinema and education unit.

The work of the I AM Me charity has been showcased at the last two bi-annual joint national conferences held by COPFS and Police Scotland at which the First Minister Nicola Sturgeon, The, then, Lord Advocate Frank Mulholland QC and the, then, Chief Constable of Police Scotland, Philip Gormley were all in attendance. The leaders of the criminal justice organisations remain personally committed to continuing to make good progress in this work.

The Law Society of Scotland has an [Equality and Diversity Strategy](#), approved by its governing Board and Council and which sets out its objectives in this area. The strategy is refreshed every three years and looks at ways of driving change across

the profession. Progress is reported annually as part of the Society's Annual Report. The leaders within the Society are committed to delivering the Strategy.

Senior leaders were at the forefront of the roll-out of Stonewall's anti-hate crime campaign, No Bystanders, across SPS in November 2016. The SPS Chief Executive, the Executive Management Team, all Governors-In-Charge, Senior Equality Champions, the Trade Union Side chair, Staff network Chairs and the equality team at headquarters all wrote testimonials about why they supported the campaign. The testimonials were published on an intranet site which is accessible to all employees alongside photographs of them holding signed pledge cards.

The SPS Chief Executive wrote the following:

"When I was asked to endorse an anti-bullying and hate crime campaign across SPS, I felt strongly that it was the right thing to do. Bullying and hate are entirely harmful behaviours and can have a hugely damaging effect on our work environment and the people involved. They have no place in any part of SPS and it is important that we all stand together against it. All those in our care, staff, partner agencies and visitors have the right to be treated with dignity and respect at all times.

"The 'No Bystanders' campaign is entirely aligned with SPS' Values and for this reason, I am proud to make a public pledge that I will never be a bystander. I encourage every manager and member of staff to do the same so that SPS is a place where diversity is valued and everyone is treated with dignity and respect."

The SPS senior disability champion – the Governor-In-Charge at HMP Low Moss – is a firm advocate of disability issues and has attended external training to improve his knowledge and understanding of the equality area he champions. He proactively supports the SPS disability network, INSPIRE, by hosting and attending network meetings and is committed to developing a mentoring/reverse mentoring relationship with the network chair. He has been extremely interested in understanding the implications of the British Sign Language Scotland Act 2015 on service delivery in particular and has welcomed the Scottish Council on Deafness and the British Deaf Association to HMP Low Moss for tours of the establishment in order to gain their advice and guidance on improvements they can make to meet the needs of deaf, deafblind, deafened, hearing impaired and BSL-using prisoners and visitors.

#### [Recommendation 72:](#)

**Work closely with disabled people and their representative organisations to identify risks where disability related harassment is higher and take appropriate action to address this – *Out in the Open Report*.**

In discussion with the DAG, it was identified that incidents around transport present a higher risk. This was confirmed by the Keep Safe initiative team. The Keep Safe project was developed in response to feedback from the local disabled community

who informed them, during focus group sessions, that they did not feel safe when using public transport, visiting the town centre and being out at night. They have used this feedback to work with disabled people to design the Keep Safe initiative and then targeted community buildings (libraries, community centres etc.), shopping centres and the local train station to become their first Keep Safe places. This network was then extended to pharmacies, shops and Glasgow Airport.

They contacted the local bus companies, and whilst it is not viable to have buses as Keep Safe places, we have asked for the Keep Safe information video to be integrated into new driver awareness training. This is an area that they would like to develop further, to perhaps include posters on buses explaining what Keep Safe is.

This initiative is fully supported by the criminal justice organisations with senior personnel from COPFS and Police Scotland joining their Board as Trustees. Further work on this recommendation is likely to be progressed via individual organisation's Equality Outcomes activities.

#### Recommendation 73;

**Proactively engage with disabled people to improve services and practice on preventing and tackling disability harassment, ensuring the provision of reasonable adjustments to aid involvement and participation – *Out in the Open Report.***

The Disability Advisory Group was created in response to this recommendation amongst other purposes. It provided valuable advice to the Project Team and continued to do so. All of the criminal justice organisations have also increased their engagement and liaison with disabled people

#### Recommendation 74:

**Authorities should collect and share data about victim(s), alleged perpetrator(s), the nature of incident(s) and repeat offending – *Out in the Open Report.***

We will continue to explore a method of sharing such information to minimise the inconvenience experienced by disabled people in having to report such information but a solution is not readily available at present.

Police Scotland currently provide information relating to accessibility requirements and disability (where appropriate) to the COPFS using sections of the Standard Prosecution Report or by Memo where required.

**This work is not within the scope of this project as it is being taken forward as part of the Justice Digital Strategy.**

[Recommendation 75:](#)

**Publish criminal hate crime stats – *Out in the Open Report*.**

Scottish Government – Scottish Social Attitudes (SSA) surveys: This is the gold standard survey series, measuring and tracking changes in people's social, political and moral attitudes in Scotland. Established in 1999, they conduct interviews with members of the public to find out what they think about key issues in Scotland covering a wide range of topics and issues. The most recent report was published in September 2016 and provides a detailed picture of the current state of public attitudes to discrimination and positive action in Scotland. As this is the fourth time SSA has included questions on attitudes to discrimination (following previous studies in 2002, 2006 and 2010), this report also provides valuable insight into how public attitudes have changed over time.

Police Scotland – Recorded Crime in Scotland:

This bulletin presents statistics on crimes and offences recorded and cleared up by the police in each financial year. Statistics on crimes and offences recorded by the police provide a measure of the volume of criminal activity with which the police are faced. Crimes recorded by the police do not reveal the incidence of all crime committed since not all crimes are reported to the police. Clear up rates measure the percentage of recorded crimes that have been cleared up.

COPFS – Hate Crime in Scotland:

This [publication](#) provides details of hate crime reported to the Procurator Fiscal in Scotland in each financial year and is published in June of every year. It provides figures on race crime, and on crime motivated by prejudice related to religion, disability, sexual orientation and transgender identity. It also includes figures for charges under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

The Project has engaged with the DAG to confirm that the statistics provided are now adequate (see Annex 5 for most recent COPFS statistics on disability hate crime). Justice Analytical Services are however happy to continue to receive feedback on any further improvements which are considered to be helpful.

## Recommendation 76:

### **Create a mystery shopper scheme for the needs of disabled people – *Workshops.***

The Law Society of Scotland has a team which handles enquiries from the public. Mystery shopper exercises are undertaken of this service. This does not specifically focus on disabled people, but does sometimes include questions around access and medical issues.

Although SCTS had no mystery shopper process in place at the time of collating this information, court users and visitors had the opportunity to provide feedback on services and facilities through the SCTS Court User Satisfaction Survey, conducted biennially. The Survey, which is conducted primarily by exit survey, provides valuable and impartial evidence on service delivery and performance. Although questions posed do not mention equality and diversity directly, respondents are afforded the opportunity to provide comment on their experiences and on whether their particular needs were met. General feedback may also be given by way of the SCTS website. Further work is underway to improve the quality of information available on the experiences of vulnerable witnesses, who have not been required to attend at the court building.

COPFS was in the process of launching its Service Improvement Strategy which will facilitate the collation of such feedback.

SLAB does not currently carry out any mystery shopper exercises. However, they regularly carry out large scale surveys and engagement with both legal aid applicants and solicitors registered with SLAB to deliver legal aid. Through these surveys, they specifically explore views on our own service delivery and experience of the legal aid system. By capturing demographic information, they are able to explore specific issues or positive experiences of people who declare they have a disability.

A mystery shopper scheme is impractical for SPS. However, they do conduct annual employee surveys and biennial prisoner and visitor surveys. These surveys ask questions around disability and access and the results are used to improve SPS policy and practice. The site access audits they have conducted, and the feedback gained from inviting deaf sector organisations into SPS establishments, provide a rich source of information on how they can improve the experience of disabled and BSL-using people visiting SPS establishments.

## 5. Future Plans

The Criminal Justice Disability Project has been operational for almost four years. During that time, we have addressed the recommendations from the source reports as part of our Terms of Reference. Some recommendations were eventually deemed to be out with the scope of our authority but have been directed toward those who would be in a better position to take action. Very few were considered to be unable to take any action. The vast majority had action taken and our hope is that the experience of our service users is improved as a result.

Although the recommendation was for the project to close in June 2017, the members of the team requested that they continue to meet as a group which shares experience, best practice and a common goal of continuing the good work that they started.

## 6. Conclusion

Although the overall aim of this project was to deliver progress against the final 76 recommendations from the three source reports, the pivotal role which this project has played at a time when the Scottish Government's priority was reinforced on addressing discrimination against those with a disability is apparent. The tangible changes which were made to the operation of the seven criminal justice organisations is commendable but in our opinion, the stronger benefit has arisen from the increased partnership working between these organisations and further, with the contact and collaboration with those who have a disability and the people who represent them.

It is acknowledged that during the early life of this project, we spent much of our time collating information on the practices in place across criminal justice and researching how we might progress. It is also accepted that the trust which now exists across this group had to be developed and is now delivering clear benefits in a financial climate which is challenging. It is our hope that this will continue to be built upon and deliver further benefits in the future.

The evaluation of this project is difficult to monitor given the lack of an effective baseline but we recommend that each of the criminal justice organisations take forward the recommendations and monitor their implementation within their individual organisations as part of their equality agenda.

## 7. Acknowledgements

The Criminal Justice Disability Project would like to acknowledge the assistance that they received during this project from a variety of sources.

In particular, from the members of the Disability Advisory Group, who provided constructive criticism on our products and gave helpful advice on the options we might explore to address some of the other recommendations.

We would also like to thank the Justice Board Sub–Group for Equality and Diversity who provided leadership as our Project Board and patience when progress was delayed due to competing work pressures.

Finally, we would like to thank the many members of staff in the criminal justice organisations who shared with us their experiences and made valuable contributions to the improvements we have either made or recommended.

## Annexes

### Annex 1: Criminal Justice Disability Project Team Terms of Reference

<b>Aims and objectives</b>	<ol style="list-style-type: none"> <li>1. To consider the recommendations contained within the reports ‘Hidden in Plain Sight’ and ‘Out in the Open’ and the Justice Steering Group report 2009 and consider how these can be implemented across criminal justice organisations.</li> <li>2. Prepare progress reports for Justice Equality and Diversity Sub Group as Project Board for this work.</li> <li>3. Prioritise actions and following consultation with representative groups, prepare and implement an action plan.</li> <li>4. Where appropriate, prepare business cases for additional funding for consideration by respective criminal justice organisations or Justice Board.</li> <li>5. Implement actions where appropriate and evaluate the effect of these.</li> <li>6. Prepare a report which captures progress for project closure.</li> </ol> <p>It is recognised that most member organisations are listed bodies under the Public Sector Equality Duties<sup>1</sup>. While this project does not have responsibility for tracking progress against the duties, it nevertheless recognises the project’s relevance to public authorities duties under the Equality Act 2010 and the Human Rights Act 1998. It also reflects Scotland’s international obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>2</sup>.</p>
<b>Membership</b>	<p>Equality representatives from the following organisations:</p> <ul style="list-style-type: none"> <li>• Crown Office and Procurator Fiscal Service</li> <li>• Scottish Government</li> <li>• Law Society of Scotland</li> <li>• Police Scotland</li> <li>• Scottish Court Service</li> <li>• Scottish Legal Aid Board</li> <li>• Scottish Prison Service</li> <li>• Equality and Human Rights Commission - Advisor</li> </ul>
<b>Chair</b>	<p>Nancy Darroch - COPFS</p>
<b>Secretariat</b>	<p>Marlene McCaw - COPFS</p>
<b>Frequency of meetings</b>	<p>Every 6 weeks</p>
<b>Location</b>	<p>Edinburgh - Crown Office/PFO Edinburgh</p>

<sup>1</sup> [www.scotland.gov.uk/Topics/People/Equality/PublicEqualityDuties](http://www.scotland.gov.uk/Topics/People/Equality/PublicEqualityDuties)

<sup>2</sup> The UK is a State Party to the convention, which commits it to the progressive realisation of a range of human rights for disabled people, including access to justice and personal liberty and security:  
[www.un.org/disabilities/convention/conventionfull.shtml](http://www.un.org/disabilities/convention/conventionfull.shtml)

## **Annex 2: Role of the criminal justice organisations**

### **Crown Office and Procurator Fiscal Service (COPFS)**

COPFS is solely responsible for the prosecution of crime in Scotland. We investigate sudden or suspicious deaths and complaints of criminal conduct by police officers on duty. We work closely with our partners in the criminal justice system to help make Scotland a safer place.

### **The Scottish Government Criminal Justice Division**

Scottish Government Criminal Justice Division provides support to Ministers in explaining and promoting how the Scottish Government improves the lives of the Scottish people through its decisions and policies on criminal justice. The Division has six priority functions:

- Reform and modernise criminal procedure, including negotiation and implementation of relevant EU obligations.
- Oversee the integrity, development and effective operation of Scotland's criminal law.
- Developing and delivering (with partners) the Justice Digital Strategy (JDS); and supporting the Justice Systems Planning Group.
- Promote the rights and interests of victims and witnesses of crime, including the victims of human trafficking.
- Improve the justice system's response in dealing with violence against women including domestic abuse
- Facilitate local authority licensing arrangements that prevent public nuisance, preserve public order, reduce crime and protect public safety and health.

### **Scottish Legal Aid Board**

The Scottish Legal Aid Board is responsible for managing legal aid in Scotland. Legal aid allows people who would otherwise not be able to afford it, to get help with their legal problems, including advice and representation on criminal cases. For more information visit [www.slab.org.uk](http://www.slab.org.uk).

### **The Scottish Prison Service**

The Scottish Prison Service (SPS) is an Agency of the Scottish Government and was established in April 1993. The SPS provides a wide range of services to care for and support those sent to prison and their families. In doing so our operating task is:

“Helping to protect the public and reduce reoffending through the delivery of safe and secure custodial services that empower offenders to take responsibility and to fulfil their potential.”

The SPS Vision for Equality, Diversity and Human Rights is: “SPS will embrace diversity and actively promote human rights in all aspects and areas of our work. SPS will promote fairness by ensuring everyone we engage with is treated with respect and dignity, and promote a culture where everyone in our care, our employees, our partner agencies and the public feel they are treated fairly, equally and according to their needs.”

## **Police Scotland**

Police Scotland was formally established on 1 April 2013 and is responsible for policing across the length and breadth of Scotland. Police Scotland’s purpose is to improve the safety and wellbeing of people, places and communities in Scotland. Our focus is on Keeping People Safe which is at the heart of everything that we do.

## **The Law Society of Scotland**

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

To comply with its duties under the Equality Act 2010, the Law Society of Scotland has an [Equality and Diversity Strategy](#), approved by its governing Board and Council and which sets out its objectives in this area. The strategy is refreshed every 3 years and looks at ways of driving change across the profession. Progress is reported annually as part of the Society's Annual Report.

## **The Scottish Courts and Tribunals Service**

The Scottish Courts and Tribunals Service (SCTS) is an independent body corporate established by the Judiciary and Courts (Scotland) Act 2008. Its function is to provide administrative support to Scottish courts and tribunals and to the judiciary of courts, including the High Court of Justiciary, Court of Session, sheriff courts and justice of the peace courts, and to the Office of the Public Guardian and Accountant of Court.

### **Annex 3: The Disability Advisory Group**

Ruth McQuaid, Chair,	COPFS
Marlene McCaw, Secretariat,	COPFS
Nancy Darroch, Project Manager,	Criminal Justice Disability Project
Tina Yu,	Sense Scotland
Seaneen Duggan/Tony Bowman,	Supporting Offenders with Learning Disabilities
Suzanne Abbate,	Deafblind Scotland
Iain Smith,	Inclusion Scotland
Janis McDonald,	Scottish Council on Deafness
Lesslie A Young,	Epilepsy Scotland
James McNab and Kenny McKay,	People First (Scotland)
Morven Brooks/Susan Grasekamp,	Scottish Disability Equality Forum
Catriona Burness,	RNIB Scotland
Ross Gilligan,	Disability Agenda Scotland
Jayne Porter,	Autism Scotland Network

Two members of the Disability Project Team attend each meeting on a rotational basis to develop this partnership working across all of the criminal justice organisations.

## Annex 4: Keys to Life report – 2013

### Recommendations relating to criminal justice:

#### Recommendation 45:

That, with immediate effect, justice organisations should ensure they develop Easy Read and other accessible information resources for all literature they produce that is available to the public.

*Response* - through the work of the project, all organisations have published Easy Read versions of their main publications but it is not possible to do this for all documents as many are complex legal documents.

#### Recommendation 46:

That a National Criminal Justice Action Group is to be established in 2013, consisting of professionals in this field and working in partnership with people with learning disabilities, to identify challenges and promote opportunities and influence change and to provide support for people with learning disabilities in the criminal justice system.

*Response* – the Disability Advisory Group serves this purpose.

#### Recommendation 47:

That by the end of 2014 all relevant organisations will review and implement recommendations of 'No-one Knows –Prisoners with Learning Difficulties and Learning Disabilities, Scotland' where they have not already.

*Response* – this is being taken forward by SPS.

#### Recommendation 48:

That all professionals involved in the criminal justice system have access to the 2011 guide 'People with Learning Disabilities and the Criminal Justice System' and consider how they can best support people with learning disabilities in that context.

*Response* – this guide has been reviewed by the Team and it is being taken forward by the criminal justice organisations.

#### Recommendation 49:

That research will be undertaken across the criminal justice system in Scotland by the Scottish Consortium for Learning Disability and NHS Greater Glasgow & Clyde to understand and analyse the nature and extent of the health needs of people with learning disabilities within the criminal justice system to support the development of appropriate responses that address the distinct health and rehabilitation needs.

*Response* – out with the scope of this project.

## Annex 5: Excerpt from COPFS Hate Crime Statistics 2017

### Disability

In 2016-17, 188 charges were reported with an aggravation of prejudice relating to disability, 6% fewer than in 2015-16. This is the first year that the number of charges reported has fallen since the legislation creating this aggravation came into force in 2010.

There is a broad consensus however that this type of crime continues to be under reported compared to other forms of hate crime. Both Police Scotland and COPFS are engaged in a variety of activities aimed at increasing the level of awareness, especially amongst organisations that support people with disabilities, about disability hate crime and encouraging those targeted to report incidents to the police or use Third Party reporting agencies.

Court proceedings were commenced in respect of 75% of charges reported in 2016-17. In total 86% of charges led to court proceedings, including those not separately prosecuted, but which may have been incorporated into other charges for the same accused.

**Table 3a: Disability aggravated crime  
Charges reported, 2010-11 to 2016-17 (numbers)**

Year	10-11	11-12	12-13	13-14	14-15	15-16	16-17
<b>Total number of charges of an offence aggravated by prejudice related to disability</b>	<b>48</b>	<b>60</b>	<b>137</b>	<b>147</b>	<b>176</b>	<b>201</b>	<b>188</b>
Decision on how charge will proceed							
Court proceedings	35	36	94	127	151	175	141
Not separately prosecuted	2	7	7	4	6	13	21
Direct measures	3	3	5	3	2	8	12
Referred to Children's Reporter	-	2	6	-	1	1	3
No action	8	12	25	13	16	4	4
Awaiting decision	-	-	-	-	-	-	7

**Table 3b: Disability aggravated crime  
Charges reported, 2010-11 to 2016-17 (percentages)**

Year	10-11	11-12	12-13	13-14	14-15	15-16	16-17
<b>Total number of charges of an offence aggravated by prejudice related to disability</b>	<b>48</b>	<b>60</b>	<b>137</b>	<b>147</b>	<b>176</b>	<b>201</b>	<b>188</b>
Decision on how charge will proceed							
Court proceedings	73%	60%	69%	86%	86%	87%	75%
Not separately prosecuted	4%	12%	5%	3%	3%	6%	11%
Direct measures	6%	5%	4%	2%	1%	4%	6%
Referred to Children's Reporter	0%	3%	4%	0%	1%	0%	2%
No action	17%	20%	18%	9%	9%	2%	2%
Awaiting decision	0%	0%	0%	0%	0%	0%	4%

No action was taken in respect of 2% of charges reported in 2016-17. In earlier years no action was taken in respect of a relatively high proportion of disability charges as compared to other categories of hate crime, but the proportion is now similar to other categories.

At the time this report was compiled, 7 charges (4%) were awaiting the outcome of further enquiries before a final decision on proceedings was taken.

It is generally accepted that hate crimes perpetrated on the basis of disability are significantly under-reported. In the 2011 census, over 1 million people [exact figure is 1,040,000] (20% of the total population) stated they had a long term activity-limiting health condition or disability yet in the most recent statistics (June 2017), only 188 disability-related hate crimes were reported to the police. In contrast, 849,000 people living in Scotland do not consider themselves to be Scottish, (16% of the total population) yet there were 3349 racist crimes reported in 2016-17.

Comparing the hate crime reporting rates for race and disability, there were 394 racial charges reported to police per 100,000 people who are not Scottish. Whereas for disability related crime, only 18 charges were reported per 100,000 people who consider themselves to have a disability.