



# **A joint inspection of the treatment of offenders with learning disabilities within the criminal justice system**

**- phase two in custody and the community**

*A Joint Inspection by HMI Probation and HMI Prisons*

**March 2015**

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## **– phase two in custody and the community**

HM Inspectorate of Probation

HM Inspectorate of Prisons

March 2015

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<b>Lead Inspector</b>	Les Smith, <i>HMI Probation</i>
<b>Deputy Lead Inspector</b>	Caroline Nicklin, <i>HMI Probation</i>
<b>Inspection Team</b>	Samantha Galisteo, <i>HMI Prisons</i> Karina Hepworth, <i>Kirklees YOT</i> Rachel Murray, <i>HMI Prisons</i> Andy Rooke, <i>HMI Prisons</i> Joe Simmonds, <i>HMI Prisons</i> Paul Tarbuck, <i>HMI Prisons</i>
<b>HMI Probation Support Services</b>	Adam Harvey, <i>Operations Officer</i> Joanna Hewitt, <i>Operations Officer</i> Stephen Hunt, <i>Operations Officer</i> Henry Skwarcynski, <i>Operations Officer</i> Oliver Kenton, <i>Assistant Research Officer</i> Alex Pentecost, <i>Communications Manager</i> Robert Turner, <i>Operations Manager</i>
<b>Assistant Chief Inspector</b>	Andy Smith, <i>HMI Probation</i>

# Foreword

This is the second of two inspection reports we have produced about offenders with learning disabilities in the criminal justice system. Our first report<sup>1</sup>, published in 2014, looked at what happened when someone is arrested and in police custody, through to when someone first appears in court and is sentenced. We pointed out the poor quality of services, the inefficient processes and confusion among staff in the police, courts service and probation about what constituted a learning disability.

In this report, we present an equally bleak picture about the experience of offenders with learning disabilities in prison and while subject to supervision in the community. We take the view that there has been a lack of focus and leadership from the centre which has meant that little discernable progress has been made in improving the lives of this vulnerable group of offenders. In particular, the requirement to make necessary adjustments to services as set out in the *Equality Act 2010* has not been given sufficient priority by either prison or probation leaders.

In the prisons we visited we were alarmed that there were extremely poor systems for identifying prisoners with learning disabilities; in one prison we were even told that they could not identify a single prisoner who had a learning disability. This lack of identification is unacceptable. Even where a learning disability was identified, it was not always sufficiently taken into account in prison processes such as behaviour management and anti-bullying measures; not surprisingly therefore, some prisoners with a learning disability told us about getting into trouble with staff or being bullied because of their learning disability. We are also concerned that little thought was given to the need to adapt regimes to meet the needs of prisoners with learning disabilities who may find understanding and following prison routines very difficult. As a result, prisoners with learning disabilities are at risk of having a much more difficult time in prison than those who do not.

The implementation of the *Care Act 2014* from April 2015 will place responsibility for assessment and social care support for those with learning disabilities in prisons and approved premises onto the local authority. We hope that will mean there will be a parity of both assessment and support across custodial and community settings.

In the community, the position was slightly better; however there was still scope for significant improvement. Screening tools to identify offenders who had a learning disability were more frequently available than in prisons, but they were used inconsistently. Much of the work by probation staff involved dealing with social and welfare needs, rather than offending related work. While there were some examples of proactive work to engage with offenders with learning disabilities, this was the exception rather than the norm.

In this report we have tried to give a voice to offenders who are often marginalised. In doing so we hope to have identified what steps need to be taken to ensure that they are dealt with fairly, have access to services, and most importantly, are helped to stop offending.

**Paul Wilson CBE**

**HM Chief Inspector of Probation**

**Nick Hardwick CBE**

**HM Chief Inspector of Prisons**

**March 2015**

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<sup>1</sup> HMI Probation (January 2014) *A joint inspection of the treatment of offenders with learning disabilities, within the criminal justice system – phase one – from arrest to sentence.*

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# Summary of findings

## Context

The Criminal Justice Chief Inspectors' Group commissioned two linked inspections about the experience of people with learning disabilities in the criminal justice system and incorporated them into the *Joint Inspection Business Plan 2013-2015*. The inspections were commissioned following a number of reports, including the Bradley Commission report<sup>2</sup>, which expressed concern over the failure of criminal justice agencies to meet the needs of people with learning disabilities who have offended. The agreed terms of reference for the two inspections were to:

*'Assess the quality and effectiveness of information exchange between criminal justice agencies in dealing with offenders with a learning disability, to ensure appropriate services and support both within and outside the criminal justice system.'*

Throughout the inspections, the term 'learning disability' was used to cover those people who have an IQ measured below 70, and those between 70 and 80, who are normally assessed as unsuitable to attend community and prison-based accredited programmes. This group of people is sometimes referred to as having an intellectual and developmental disability. We have also used the term 'learning disability' to include people with an autism spectrum disorder. We have not included people with a sole assessment of dyslexia.

In our first inspection of the experience of people with learning disabilities in the criminal justice system from the point of arrest to sentence, published in January 2014, we found that no clear definition or agreement existed across criminal justice, health and social care organisations about what constitutes learning disabilities or difficulties. Although believed to be a sizeable minority, possibly as high as 30%, we have no way of knowing the number of people with such conditions within the criminal justice system. Consequently, agencies do not always make adequate provision for catering for their specific needs, which often appear to go unnoticed. In the report, we made a number of recommendations aimed at improving the situation.

This report sets out the findings from the second of the two inspections into the treatment of those with learning disabilities serving community sentences or in prison (sentenced or on remand). The report deals with the activity of prisons and probation services and focuses on assessment, planning and delivery of interventions to offenders both in the community and prison. We also examined the treatment, care and safe resettlement of prisoners with a learning disability.

## The inspection

This was a joint inspection led by HMI Probation and supported by HMI Prisons inspectors. We looked at the treatment of those in prison custody and those serving community sentences. In the community HMI Probation inspectors looked at the work of probation trusts, with a particular focus on work to reduce reoffending and the risk of harm to others posed by the offender. We were also keen to see what interventions were being delivered to this group of offenders.

Since the inspection fieldwork was undertaken, probation trusts have been replaced by Community Rehabilitation Companies, which supervise the majority of offenders in the community and the National Probation Service, which supervises those offenders who pose a highest risk of harm to the public. Factors raised in this report at the time of publication in relation to probation trusts are applicable to Community Rehabilitation Companies and the National Probation Service, and the implementation of community-based recommendations will be their responsibility.

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2 *Review of people with mental health conditions or learning disabilities in the criminal justice system* (April 2009).

The fieldwork for this inspection was conducted between January and March 2014. We visited six probation trusts and five prison establishments:

- two category B local prisons
- one category C training prison
- two women's local prisons

The findings in this report look at provision for adults and young adults with a learning disability, for both men and women aged 18 years and over.

Prior to the inspection, we were aware of National Offender Management Service guidance from 2010/2011 on the treatment of offenders/prisoners with learning disabilities. We were interested to see what National Offender Management Service leaders and local leaders in probation trusts and prisons had done to implement that guidance.

We were reliant on probation trusts and prison managers to identify people with learning disabilities under their supervision at the time of the inspection. This proved problematic for staff in prisons who found it difficult to identify more than an extremely small number of prisoners with learning disabilities. Surprisingly, one prison was unable to identify any at all and another was only able to identify one individual remand prisoner.

In prisons, inspectors from HMI Prisons focused on the treatment of prisoners with learning disabilities to ensure that they received equitable access to services, were not discriminated against and that reasonable adjustments were made to meet their care needs where necessary. HMI Probation inspected the work of prison offender management units to rehabilitate prisoners with learning disabilities. Safe resettlement included joint pre-release work and liaison with offender managers and learning disability services in the community.

As part of our evidence for this inspection, we interviewed prisoners and probation service users as we felt that it was important to ensure that the views of people with a learning disability were included and helped us form our judgements.

## **Overall findings**

Within probation, identification of those offenders with learning disabilities remained a problem because screening tools were not used routinely at the pre-sentence report or induction stage. There was also an over-reliance on disclosure of the existence of learning disabilities by the offender/prisoner or their family. This problem was even more significant in prisons. Only one of the prisons we visited used a screening tool for all prisoners during the reception process, and information about prisoners' learning disabilities throughout their time in custody was rarely appropriately shared with relevant staff.

The negative findings of this inspection stem largely from problems of identification. As a result, the needs of people with learning disabilities were often missed. There were pockets of good practice and examples of staff developing supportive relationships and 'going the extra mile', but these were far too often the exception rather than the norm, both in prisons and the community.

In the first phase of this inspection (focusing on pre-sentence), published in January 2014, we found many practitioners committed enormous amounts of time and effort attempting to get offenders diagnosed and to get other social and health care agencies to accept responsibility for them. In this inspection, we found practitioners were equally frustrated by the lack of support from those agencies.

Offender managers and supervisors were keen to receive advice and guidance to support their work with this group of offenders. Those with direct access to community psychiatric nurses felt supported. However, most community psychiatric nurses were not trained or experienced in working with people with learning disabilities.

Most probation trusts had guidance and screening tools available to offender managers; however, these were often believed by offender managers to be inaccessible and rarely used. Some prisons had learning disability nurses but, generally, offender supervisors did not consult them regularly. One prison, unable to identify any serving prisoners with learning disabilities, employed four learning disability nurses who were aware of only one remand prisoner with a learning disability.

Although some initiatives and guidance were being developed by national (England and Wales only) and local leaders, frontline staff and some managers were either unaware of or unable to implement it. The *Equality Act 2010*<sup>3</sup> makes it clear that public authorities not only have a duty to make reasonable adjustments to meet the needs of service users with a disability (including a learning disability) but have an additional duty to actively promote equality (rather than simply avoid discrimination). We found that, in the majority of cases, probation trusts and prisons were not making reasonable adjustments and are not promoting equality for people with learning disabilities.

The potential impact of the failure to identify and engage appropriately with offenders with a learning disability in the community and in prisons places them at risk of reoffending and makes positive outcomes less likely.

## Specific findings

### National and local leadership

At the time of this inspection, an adapted thinking skills programme was being piloted to meet the needs of offenders with learning disabilities both in prison and the community. The only other accredited intervention is the Becoming New Me sex offender treatment programme available in a small number of probation locations and prisons.

The National Offender Management Service is currently developing a clearer framework for practice and a range of tools. In this context, it had commissioned a partnership led by MENCAP and Calderstones NHS Partnership Trust to develop a range of tools for offenders with communication needs, including those with a learning disability. This includes a planning tool which assists front line staff to identify and take immediate action in response to a person's present needs.

At a local level, guidance and policies in probation trusts and prisons were not detailed enough to support staff adequately. Even when guidance or screening tools were available, staff were often unaware of these or had not used them.

A number of probation trusts had begun to develop contracts and service level agreements with mental health and adult social care services. Some had also developed interventions, including in one case a specific activity requirement aimed at offenders with a learning disability. These were, however, few and far between. The implementation of the *Care Act 2014* from April 2015 will place responsibility for assessment and social care support for those with mental impairments (which include learning disabilities) in prisons and approved premises onto the local authority, with the expectation that there will be a parity of both assessment and support across custodial and community settings. Implementation will be a significant and important challenge for commissioners and service providers.

Only a small number of probation and prison staff interviewed had received training in how to work with people with learning disabilities. However, the vast majority felt that training and guidance was vital and were keen to improve their work with this group of offenders.

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3 UK Government *Equality Act 2010* (came into force October 2010).



## **Early screening and identification**

Although some probation trusts had problems identifying offenders with learning disabilities, there was an improvement compared to what we found in our first inspection. However, many offender managers did not update the disability section of the case management system, nDelius, or included incorrect information about the offender's disability. There was often confusion between what was a treatable mental health condition or a learning disability.

We found little evidence in any of the probation trusts visited of offender managers using screening tools or guidance regularly when provided. Offender managers told us that they were either not aware of the tool/guidance or that they had found it hard to access or use.

If the screening tool and alert system being developed by the National Offender Management Service is to be of value, the Offender Assessment System (OASys) has to be accurate. Unfortunately, on this inspection we found that, in most cases, OASys assessments either did not refer to the offender's learning disability, or incorrectly assessed the effect the learning disability might have on their offending behaviour or their ability to fully engage in the work planned for them.

At the prisons we visited, there were various stages at which a prisoner's learning disability could be identified, including on arrival into prison or sometimes via later involvement with health services, psychology or education. The point of reception into prison provides the best possible opportunity to identify those with a potential learning disability, as all prisoners received must undergo various screening processes to identify possible care and resettlement needs.

In most prisons there was no routine screening of all prisoners but rather a reliance on screening being conducted where a learning disability was suspected. However, staff were not adequately trained to support this approach. Even where a learning disability was identified, there was often poor recording/sharing of information between departments/staff involved in that individual's care. Consequently, it was highly unlikely that these prisoners were being treated in a way that took account of their disability and enabled them to access services that would meet their needs.

At prisons where the subject of learning disabilities was given strategic managerial oversight, identification of a learning disability on arrival into the prison was better developed and formally incorporated into the reception process; this allowed for more robust and routine identification. However, given that prisons we visited were unable to provide us with a consistent list of prisoners with a learning disability, we were not confident that screening processes were sufficient to identify successfully all those within the population as a whole.

## **The care and treatment of service users with learning disabilities**

We were impressed by the level of commitment most offender managers showed in their work with offenders with learning disabilities. However, they often felt overwhelmed by the social care and welfare needs of the offender which took up most of their supervision time rather than work to address their offending behaviour, and were therefore frustrated by a lack of response from other agencies to provide this welfare support.

One positive aspect of the work of offender supervisors in prison was their ability to work closely with offender managers in the community prior to the prisoner's release. This included prison offender supervisors and probation offender managers making joint referrals to other support agencies in the community. This pre-release work was vital in helping the prisoner resettle safely into the community. In contrast, contact with adult social care services often did not continue after entry to prison which hindered continuity of care while in prison and also support on release.

We asked prisoners about their experience of day-to-day life in the prison. Several prisoners told us about how they struggled with aspects of their surrounding environment, such as cell sharing, noise levels, keeping to a routine, or sudden changes in their routine. Almost half of the prisoners interviewed said they had felt unsafe at some point and almost half had been on Assessment Care in Custody Teamwork, the process for supporting those identified as being at risk of self-harm. A large proportion of prisoners in our sample told us they had been disciplined or sanctioned for poor behaviour whilst in prison.

Prisoners we spoke to did not feel staff understood their individual needs and how their learning disability might impact on their behaviour or ability to cope with prison life. This was often reflected in their treatment under the Incentives and Earned Privileges scheme, despite intentions to avoid discrimination. Residential staff lacked training to support their role with this group of prisoners, but this was somewhat mitigated where a care plan or information sheet on how to meet an individual's needs was in place and had been shared with them. However, this was only routine practice at one prison we visited.

A key issue prisoners raised was poor understanding of and access to prison processes, often due to problems with reading and writing. Many prisoners we interviewed told us that they struggled to make applications and complaints independently and often relied on the help of other prisoners or staff to do so. This inhibited them from making basic day-to-day requests and, in some instances, challenging unfair treatment or bringing it to the attention of the prison. This, and the poor use of advocates to support prisoners with learning disabilities during adjudication procedures, was of particular concern following recent changes in access to legal aid.

There were some good examples of support from learning disability nurses working in prisons and peer support schemes, especially those schemes specifically developed to support prisoners with learning disabilities.

### **Assessment, sentence planning and work to reduce reoffending**

We found some examples of probation offender managers and prison offender supervisors making accurate assessments of offending needs and then planning to meet those needs. However, far too many assessments included little or no information about how the offender's disability might be linked to risk of reoffending, or prevent them from fully engaging with the work needed to reduce their reoffending or risk of harm to others.

Sentence plans generally failed to refer to the offenders' learning disabilities and little or no consideration was given to how it would affect their ability to engage and comply with the requirements of their order. We found little evidence of programmes adapted effectively to meet those offenders' needs; consequently, interventions often failed to take account of the offender's needs and offender managers lacked direction, 'firefighting' rather than prioritising offender behaviour work.

Most of the issues we found in probation trusts were repeated in offender management units in prisons, in particular the failure to identify learning disabilities in offender assessments and plans. Although the quality of assessments were slightly better in prisons than in the community, only half of the assessments and plans recognised that an offender's learning disability was significant and needed to be taken into account.

Most work undertaken by offender managers and supervisors focused on the offender's social and welfare needs rather than their offending behaviour. Although this work was highly valued by offenders, it was often far too reliant on the commitment and personal skills of the individual practitioner rather than planned work with other specialist workers. Where there were good relationships and service level agreements with adult social care or voluntary agencies, offender managers felt supported and had more time to undertake offence-focused work.

Positive work was being done to introduce a general offending behaviour programme for offenders with an IQ under 80. However, although this will provide an extra intervention for this group of offenders, it will not address the needs of those with an autism spectrum disorder or those with Attention Deficit Hyperactivity

Disorder. In most cases, these offenders would struggle in any group setting. There is a clear need for adapted offending behaviour workbooks that could be delivered on a one-to-one basis. Prisoners with learning disabilities were not limited in their opportunities to engage with work, training and education despite no specifically adapted programmes or workshops being in operation - this was enabled through adaptations to delivery, peer supporters and learning support teams.

In the community, most service users had a good relationship with their offender manager and felt supported. Most were also known to other services and believed their offender manager worked with other agencies to ensure their health and social care needs were met.

Although most prisoners and probation service users understood that they needed to address their offending behaviour, few could recall what work they had done, or said that they had not yet started work due to their other needs. Many service users were confused about why they were on a community order or what work they had to do to address their offending behaviour. Some were also concerned about what support they would get once their order had ended.

Given the lack of interventions it was not surprising that there was little evidence that work undertaken in the community or prison had reduced reoffending.

## **Conclusion**

Although there have been some national and local improvements to services for this group of offenders and prisoners, these have been limited and slow to implement. There was also evidence that many prisons and probation trusts were either unaware or unwilling to implement National Offender Management Service instructions and the *Equality Act 2010*.

The main factor that probation and prison leaders, both nationally and locally, appear to miss is that they have a statutory duty to make reasonable adjustments to the services they provide to make them accessible to all offenders with disabilities, including those with a learning disability. The failure to screen, and, therefore, not know the number of prisoners and probation service users with learning disabilities does not remove their obligation under the *Equality Act 2010*.

Although tools and guidance were helpful, staff need to know how to use and where to find them, if they are to be of value when working with people with learning disabilities. They also have to be introduced alongside continuing training and awareness raising for all staff.

The failure of most prisons to routinely screen all prisoners, either at reception or at other stages during the prisoner's time in custody, meant that prisoners with learning disabilities were being missed. The experiences of the prisoners we interviewed shows how important it is that their individual needs are better understood and met to ensure they are held safely, without discrimination and have equitable access to prison procedures and interventions to reduce their risk of reoffending.

# Recommendations

## The Chief Executive Officer of the National Offender Management Service should:

- ensure that those delivering prison and probation services fully comply with the requirements of the *Equality Act 2010* and *Prison Service Instruction 32/2011* by making necessary adjustments to services delivered to those with a learning disability **(see chapter 2: National and local leadership)**
- ensure that offenders who have not been screened at the pre-sentence report stage are screened for learning disability at the start of a community sentence **(see chapter 3: Early screening and identification)**
- introduce a screening tool across the prison estate for learning disabilities, with referrals for formal assessment where necessary **(see chapter 3: Early screening and identification)**.

## Prison Governors should:

- ensure that instructions contained in *Prison Service Instruction 32/2011* are carried out in full **(see chapter 2: National and local leadership)**
- ensure that all offenders with a learning disability are identified on arrival in prison **(see chapter 3: Early screening and identification)**
- ensure prisoners identified as having a learning disability have a multi-disciplinary care or support plan in place that sets out how their individual needs will be met **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- consider the potential vulnerability, behaviour management and support required by prisoners with a learning disability to ensure full access to health, social care, education, training and employment and a full range of work opportunities in prison **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- ensure that prisoners with a learning disability are able to access all prison procedures such as the complaints and incentives and earned privileges **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- make available all relevant leaflets, forms, and other written material in Easy Read format to all prisoners during their reception/first night in custody **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- ensure that they develop effective partnership arrangements with learning disability services to ensure there is an equivalence of care between community and custody **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- ensure that prisoners' learning disabilities are required to be considered when dealing with any disciplinary or behaviour issue **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- ensure that relevant staff are aware of their responsibilities to prisoners with learning disabilities **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- make available relevant adapted interventions to prisoners with a learning disability during custodial sentences **(see chapter 5: Assessment, planning and work to reduce reoffending)**
- evaluate the impact of work with offenders with learning disabilities **(see chapter 5 Assessment, planning and work to reduce reoffending)**.

**The Director of Probation and Contracted Services, the Director of the National Offender Management Service in Wales and chief executives of Community Rehabilitation Companies should:**

- ensure they develop effective arrangements with adult social care and learning disability services to ensure that offenders with a learning disability receive services to meet their personal and social care needs **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- work closely with their Local Safeguarding Adults Boards to safeguard vulnerable service users, including those with learning disabilities **(see chapter 4: The care and treatment of individuals with learning disabilities)**
- ensure that assessments in the community take full account of the impact the service user's learning disability may have on their ability to desist from offending and to abide by their sentence **(see chapter 5: Assessment, planning and work to reduce reoffending)**
- ensure that relevant adopted interventions are available to service users with a learning disability during their community sentence **(see chapter 5: Assessment, planning and work to reduce reoffending)**
- evaluate the impact of work with offenders with learning disabilities **(see chapter 5: Assessment, planning and work to reduce reoffending).**

Please note – throughout this report all names referred to in the practice examples have been amended to protect the individual's identity.

# Structure of the inspection

# 1

# 1. Structure of the inspection

## Summary

This chapter outlines the terms of reference and methodology of the inspection focusing particularly on the difference between phases one and two of the inspection programme.

The Criminal Justice Chief Inspectors' Group commissioned two linked inspections about the treatment of people with learning disabilities in the criminal justice system, incorporating it into the *Joint Inspection Business Plan 2013-2015*.

## Terms of reference

- 1.1. The first inspection focused on offenders in the criminal justice system from arrest to sentence. The report of this inspection, published in January 2014, concentrated on issues of information exchange. We found no clear definition or agreement existed across criminal justice and health organisations about what constitutes learning disabilities. Although believed to be a sizeable minority, possibly as high as 30%, we had no way of knowing the number of people with such conditions within the criminal justice system. Consequently, adequate provision was not always made by the agencies involved to cater for their specific needs, which often appear to go unnoticed.
- 1.2. Phase two of the inspection was led by HMI Probation with support from HMI Prisons. This inspection sought to focus on the assessment, planning and delivery of interventions to offenders in the community and in prison, and the treatment and care of prisoners (sentenced or on remand) in custody. Fieldwork took place between January and March 2014.
- 1.3. The agreed terms of reference for the two inspections were to: *'Assess the quality and effectiveness of information exchange between criminal justice agencies in dealing with offenders with a learning disability, to ensure appropriate services and support both within and outside the criminal justice system'*.
- 1.4. Criteria were drawn up for phase two of the inspection, based on good practice guidance and building on instructions issued to the agencies dealing with offenders with learning disabilities sentenced to community sentences, and based on HMI Prisons Expectations<sup>4</sup> for those in prison. We wanted to know whether:
  - there was national and local leadership providing guidance, strategic arrangements and staff training
  - screening tools were used to identify those with learning disabilities
  - information was correctly recorded and shared with relevant prison and probation trust staff and, where appropriate, partner agencies working with the offender/prisoner
  - probation and prison staff had been trained to work with offenders/prisoners with learning disabilities
  - reasonable adjustments had been made to ensure those with learning disabilities had equitable access to the services available to other prisoners and probation service users – including those aimed at reducing their risk of reoffending
  - there was effective planning and delivery of care for prisoners with a learning disability
  - assessments and sentence plans aimed at reducing risk of harm and reoffending took account of the offender's learning disability.

<sup>4</sup> HM Inspectorate of Prisons (2012) *Expectations: Criteria for Assessing the Treatment of Prisoners and Conditions in Prisons*



## Scope of the inspection

- 1.5. The inspection examined the treatment of offenders/prisoners with identified learning disabilities serving community sentences or being held in prison custody. In the community HMI Probation looked at the work of probation trusts focused on reducing reoffending and managing risk of harm to others. Cases in the community covered all types of community sentences including community orders, unpaid work and custodial licences.
- 1.6. In custody, HMI Prisons focused on how prisoners (remand and sentenced) with learning disabilities were treated to ensure they were safe, received equitable access to services, and were provided with reasonable adjustments to meet their care needs where necessary. HMI Probation also inspected the work of prison offender management units (OMUs) in the rehabilitation and safe resettlement of prisoners with learning disabilities.
- 1.7. Fieldwork for the inspection took place between January and March 2014 and incorporated visits to prisons and probation trusts. Inspectors visited six probation trusts: Cambridgeshire, Cumbria, Humberside, London, Wales (North) and Wiltshire. We also visited HMP/YOI Bronzefield, HMP/YOI Littlehey, HMP/YOI New Hall, HMP/YOI Parc and HMP Wandsworth.
- 1.8. Fieldwork involved meetings with prison and probation managers and staff, including specialist health care, learning disability, mental health and educational workers. We also interviewed service users with learning disabilities in probation trusts and prisons, the staff who were responsible for them, and examined their case records.
- 1.9. The inspection considered the effectiveness of National Offender Management Service (NOMS) leadership at a national level, and probation trusts and prisons at local level in terms of developing effective services for those with learning disabilities.
- 1.10. We also examined whether the probation trusts visited had clear systems for the identification, accurate assessment and recording of offenders with learning disabilities. During prison fieldwork, HMI Prisons inspectors examined the policies and practices in place for identifying and meeting the care needs of prisoners with a learning disability, as well as their access to purposeful activity such as education or work.
- 1.11. Both inspectorates looked at how well work was planned to reduce reoffending and the risk of harm to others, and took into account the offender's learning disability. Finally, we inspected the interventions and work available for offenders with learning disabilities to address their offending needs and aid resettlement. This included how well the needs of offenders with learning disabilities were communicated to external care providers prior to release from custody or throughout their community order.

## Inspection sample

- 1.12. In this inspection we were particularly keen to promote the views of people with learning disabilities within the criminal justice system whose voices are often not heard or listened to. We felt that, in order for services to be effective, it is vital that the viewpoint of this group is understood. Interviews with offenders and prisoners with identified learning disabilities therefore formed a core part of our inspection evidence.
- 1.13. In the community we selected ten offenders with a learning disability, identified by each of the probation trusts, to interview and review their case records. We asked each probation trust to arrange interviews with those who were willing to talk with the learning disability nurse (LDN) who was a member of the inspection team. Themes were discussed, including their relationship with their offender manager, joint working between probation and other agencies, the delivery of interventions and their general understanding of what it meant to be on a community order. In total, 23 service users were interviewed.



- 1.14. In prisons we similarly planned to select a sample from a list of all prisoners who had been identified as having a learning disability. During planning, a total of 70 prisoners were requested across all five prisons to take part in an interview, incorporating a balance of adults and young adults. However, prior to our fieldwork, most prisons were unable to identify reliably those prisoners in their establishment who had a learning disability. Despite both interviewing prisoners initially identified by the prison and additional prisoners who came to our attention during the fieldwork, just 26 prisoners were successfully identified and interviewed, only one of whom was a young adult. The prison sample was not designed to be representative of all prisoners with learning disabilities, but rather to explore in depth the views and experiences of prisoners with learning disabilities. As such, it is not possible to draw any wider conclusions about the experiences of all prisoners with learning disabilities from those we spoke to.
- 1.15. All services users who took part in the interviews were given a combined information and consent form which explained the role of the independent thematic inspection and the voluntary nature of the interview. The consent form and interview schedule had been designed into Easy Read, a format with simplified language and pictorial representations designed to ease interpretation of written material, and tested by an independent team of individuals with a learning disability to ensure that they were accessible to those we were interviewing. The inspection team also received guidance on conducting interviews with those with a learning disability.
- 1.16. The cases we inspected covered most types of offences including violent and sexual offences. The demographic breakdown and offending history was:

**Community (60 cases inspected)**

- 6 were female and 54 were male
- 57 were white British
- 18 had been convicted of a violent offence
- 11 had been convicted of a sexual offence
- 23 had more than 10 previous convictions (out of 59 cases)
- 29 were sentenced to a community order, 20 to a suspended sentence and 10 were subject to a custodial licence (out of 59 cases)

**Custody (26 cases inspected)**

- 6 were female and 20 were male
- 19 were white British
- 4 were foreign nationals
- 1 was a young adult (aged between 18 years and 21 years)
- Prisoners' ages ranged from 18 years to 67 years, with a mean age of 35 years
- 14 prisoners in our sample considered themselves to have a disability other than a learning disability.

## **Definitions of learning disability: A note**

- 1.17. The World Health Organisation defines learning disabilities as 'a state of arrested or incomplete development of mind'. Someone with a learning disability also has 'significant impairment of intellectual functioning' and 'significant impairment of adaptive/social functioning'. This means that the person will have difficulties understanding, learning and remembering new things, and in generalising any learning to new situations. Because of these difficulties with learning, the person may also have difficulties with a number of social tasks, for example communication, self-support, awareness of health and safety. We note that World Health Organisation ICD-10 classification is currently under review and that there is a view that the classification of intellectual impairment should be introduced in place of learning disability, as it has in North America.
- 1.18. A final dimension to the definition of a learning disability is that these impairments are present from childhood, not acquired as a result of accident or following the onset of adult illness or accident. There is still a good deal of debate about the best way to measure 'significant' impairment, and the impact of impairments of social functioning.
- 1.19. This report uses the term 'learning disability' throughout. We have used this term to cover those people who have an IQ measured below 70, and those between 70 and 80 who are normally assessed as unsuitable to attend community and prison-based accredited programmes. This group of people is sometimes referred to as having an intellectual and developmental disability. We have also used the term 'learning disability' to include people with an autism spectrum disorder (ASD). We have not included people with a sole assessment of dyslexia.

# National and local leadership

# 2

## 2. National and local leadership

### Key findings

- There was national guidance to support staff in probation trusts and prisons working with those with a learning disability. However, only about half the staff we interviewed were aware of this guidance.
- NOMS were developing a screening tool and guidance to better meet the needs of offenders/prisoners with learning disabilities. It is, however, of concern that screening tool was still only at the development stage.
- Local guidance/policies were often not detailed enough to fully support staff working with those with learning disabilities and again, staff awareness of this guidance was variable.
- All probation trusts worked closely with their Local Safeguarding Adults Boards to safeguard vulnerable adults, which could include those with learning disabilities. Some trusts had also developed protocols with mental health and/or local authority adult learning disabilities teams.
- In most prisons visited, there was no clear management or clarity on how the needs of prisoners with learning disabilities would be identified and met.

We take the view that leaders at both a national and local level should ensure that the needs of offenders/prisoners with learning disabilities are recognised and addressed, both in the community and custody. There should be sufficient national and local guidance to support staff working with offenders/prisoners with learning disabilities.

### National leadership: Policy and practice guidance

- 2.1. In June 2010, NOMS issued guidance<sup>5</sup> on the delivery of interventions to offenders with a learning disability following a judicial review of the case of a prisoner serving a life sentence who was unable to access accredited programmes due to his learning disability<sup>6</sup>. Although this guidance is nearly four years old, almost half of the probation staff interviewed were not aware of any national or local guidance and none were aware of guidance on sentence planning.
- 2.2. The *Equality Act 2010* placed a statutory duty on public organisations to make reasonable adjustments to services to make them accessible to all users. NOMS provided guidance to the prison service through *Prison Service Instruction 32/2011 (PSI 32/2011)*, *Ensuring Equality*, as a response to the *Equality Act 2010*. The PSI recognises that those with learning disabilities may not realise they have a disability, and those who are suspected of having a disability must be assessed on 'reception' into the prison. The PSI makes no specific provision for those already in the system but it is clear that prisons are under a duty to act in relation to prisoners with a learning disability. The policy encouraged prisons to adapt the way they communicate with learning disabled prisoners so they can understand better what is being said to them. It is also clear that such prisoners should not be discriminated against in terms of the Incentives and Earned Privileges (IEP) level based on behaviour which may have adverse consequences for prisoners with a learning disability. This may include matters such as timekeeping, cleanliness, and obeying instructions.

5 NOMS (April 2011) *Ensuring Equality Prison Service Instruction PSI 23/2011*

6 *R (Gill) v SSJ [2010] EWHC 364 Admin*

*Governors must consider on an ongoing basis what prisoners and visitors with a range of disabilities might reasonably need and ensure that reasonable adjustments (see Annex G) are made for disabled prisoners and visitors. Governors must consider whether prison policies and practices, the built environment, or a lack of auxiliary aids and services could put a disabled prisoner or visitor at a substantial disadvantage and, if so, must make reasonable adjustments to avoid the disadvantage. If a request for reasonable adjustments is made by a prisoner or visitor, it must be considered and the outcome documented.*

*PSI 32/2011*

- 2.3. *PSI 32/2011* placed a mandatory obligation on all prison Governors to ensure that all staff were made aware of the instruction. However, we found very few prison managers or offender supervisors who were aware of *PSI 32/2011* or the responsibilities and duties it placed upon them.
- 2.4. In our first report, we pointed out that there was no national screening tool, and only one accredited programme adapted for the needs of people with learning disabilities, an adapted sex offender treatment programme known as Becoming New Me, which was, and still is, only available in a small number of prisons and probation trusts. This programme is available to offenders with an IQ of between 60 and 80.
- 2.5. Since the first inspection, NOMS had commissioned work to adapt a cognitive behaviour/thinking skills programme aimed at offenders with an 'intellectual disability', specifically for those with an IQ under 80. NOMS has also commissioned MENCAP and Calderstones Partnership NHS Foundation Trust to develop a communications screening tool, linked to an OASys alert system, to help identify and engage better with offenders with poor communication skills, including those with learning disabilities. This work was still in development at the time of this inspection.
- 2.6. The *Care Act 2014* restates that prisons and approved premises remain responsible for the safety of their detainees. Local authority Safeguarding Adults Boards do not have a duty to carry out enquiries or reviews where a prisoner with care and support needs may be, or have been, at risk of abuse and neglect; however, they can provide advice and assistance on safeguarding to prison Governors and other officials and can invite prison staff to be members. The Equality, Rights and Decency Group within NOMS has been tasked with developing policy for safeguarding for prisons and approved premises.

## Local strategy

### Probation

- 2.7. NOMS had not provided detailed guidance focused on offenders with learning disabilities because, under the equalities legislation, probation trusts had been required to produce their own single equality schemes. These schemes do not normally highlight the specific needs of offenders with learning disabilities in detail.
- 2.8. At a local level, all probation trusts visited had developed close links with their Local Safeguarding Adult Board (LSAB) and regularly attended meetings. We found evidence that they regularly raised issues regarding vulnerable adult offenders under the supervision of the trust at LSAB meetings. Although the majority were mentally disordered offenders, we did see examples of trusts raising concerns over offenders with learning disabilities. The majority of these were offenders managed under Multi-Agency Public Protection Arrangements (MAPPA). This was often seen as the only way of getting adult social care services to take responsibility for the offender's care needs.

- 2.9. All probation trusts had developed guidance on adult safeguarding and all but one had a section on its intranet providing guidance to offender managers working with offenders with learning disabilities. Again, however, despite this guidance being available, fewer than half of the offender managers working with offenders with learning disabilities had used it. The most common reason given for this was lack of time, followed by perceived difficulties in accessing the intranet.
- 2.10. Two trusts had e-learning packages on their intranets for offender managers wanting to know more about working with people with autism.
- 2.11. Some probation trusts, in particular Wales and London, had issued clear practice directives. Most made learning disability screening tools available, normally the Learning Disability Screening Questionnaire (LDSQ). Less than one-quarter of offender managers were aware of the tool and even fewer had used it. Reasons given for not using the tool were lack of awareness or the tool was too complicated.
- 2.12. Half of all the probation trusts we visited had developed protocols with local mental health services to locate community psychiatric nurses (CPNs) within probation offices. Although they were highly valued by offender managers, the CPNs had little or no training or experience in working with people with learning disabilities. Wales (North) had plans for joint working between CPNs and LDNs which seemed a sensible proposal.
- 2.13. The Wales Probation Trust had worked closely with the Welsh Government to develop an adult safeguarding strategy for vulnerable adults within the criminal justice system.
- 2.14. Wiltshire Probation Trust had begun to implement an Autism Project Action Plan based on a service level agreement between local health care provider, SEQOL, and the National Autistic Society. The project, funded by the Wiltshire Police and Crime Commissioners' Innovation Fund, aimed to provide clinical support for offender managers working with offenders with autism; a befriending scheme; basic awareness training for staff and the employment of an autism 'champion' within the trust.

### Good practice example: working together

The probation team in Hull invited the local adult learning disabilities team to speak at one of their team meetings. This led to a closer working relationship between the teams. The learning disabilities team offered advice and support, and offender managers gained a greater understanding of the needs of people with learning disabilities.

- 2.15. Three trusts had trained staff to be learning disability 'champions'. Unfortunately, most of these staff felt they had not built on their initial training and colleagues very rarely sought their advice.

### Prisons

- 2.16. We saw few published local strategies specifically on the care of prisoners with learning disabilities. Although learning disabilities were mentioned in the equality policies in prisons and disability liaison officers were meant to have a role in planning for the care needs of disabled prisoners, identification and planning for those with a learning disability was, in most prisons, poor.
- 2.17. In our interviews with senior prison staff, at most establishments, few were aware of any national or local policies relating to prisoners with learning disabilities. Except for one prison, there was no clear management guidance on what care and support should be put in place for prisoners with learning disabilities. Social care arrangements should cover learning disabilities, especially where prisoners had social workers in the community.

- 2.18. Prison staff appeared to expect leadership to come from health service providers. However, while health providers recognised they had a role in supporting the care of prisoners with a learning disability, they did not view meeting their day-to-day needs as primarily being a healthcare responsibility.
- 2.19. Health providers had service delivery approaches - usually in the form of pathways - at various stages of development to meet their role in supporting those with learning disabilities. Health providers within prisons commissioned by NHS authorities were generally aware of service gaps for people with a learning disability and some were working with national strategies (Wales) or commissioner-led performance initiatives (England) to address this.
- 2.20. External agencies, such as community mental health and community learning disability teams who provided visiting specialist sessions to the prisons, were involved as appropriate, with some prison clinicians also practicing in the community.
- 2.21. Offender managers in prisons told us they did not have sufficient guidance to support their interventions with prisoners who had learning disabilities; just over half said they were aware of national or local guidance, and less than half said there were adapted interventions, including those delivered one-to-one by the offender manager.

## **Conclusion**

Although there had been some developments in the treatment of and work with offenders with learning disabilities, both within probation and prisons, these had mostly been driven at local rather than national level. NOMS had begun to develop work with offenders with learning disabilities. However, it needs to ensure that the work is truly embedded in both prisons and probation with sufficient support provided to staff. Given that many offenders with learning disabilities will, in the future, be managed by Community Rehabilitation Companies, it is vital they are encouraged to build on the work already done by probation trusts and NOMS, by adopting and using the screening tool and working closely with other agencies dealing with offenders with learning disabilities.

## **Recommendations**

### **The Chief Executive Officer of the National Offender Management Service should:**

- ensure that those delivering prison and probation services fully comply with the requirements of the *Equality Act 2010* and *PSI 32/2011* by making necessary adjustments to services delivered to those with a learning disability.

### **Prison Governors should:**

- ensure that instructions contained in *PSI 32/2011* are carried out in full.

# Early screening and identification

# 3



## 3. Early screening and identification

### Key findings

- Most offender managers in the community we interviewed were aware that the offender had a learning disability at the start of their community supervision, but in a number of cases this was from self or family member disclosure. Learning disabilities were not always identified in time for this information to feed in to sentencing decisions or initial assessments.
- Even where screening tools and guidance were available to offender managers these were rarely used.
- The systems for screening prisoners for the presence of learning disabilities or poor communication skills in prisons were underdeveloped. At most prisons visited, screening was not conducted with all prisoners. Where learning disabilities were identified, this information was not routinely shared between departments.

Early identification of an offender's/prisoner's learning disability is vital in ensuring that they receive the care and support they need, and appropriate interventions are provided to reduce their reoffending whilst under probation supervision or in prison. In this chapter we look at how well the probation and prison reception processes worked to identify those with a learning disability.

### Identification: Probation

- 3.1. In most inspected cases, the offender manager became aware of an offender's learning disability when undertaking the initial assessment of factors linked to reoffending and risk of harm posed to others. In just under half of the cases this information was available in the pre-sentence report (PSR) or other specialist reports prepared for the court hearing. However, in almost one-quarter of cases, the information was only disclosed by the offender at the initial assessment meeting. In other cases, information was made available by relatives of the offender or other agencies. We had also identified this issue in phase one of our inspection. Few PSR referral forms recorded that the offender had a learning disability. We felt this was an opportunity to share information between all professionals at an early stage, which unfortunately appeared to have been missed.

### Good practice example: developing good practice

Mike worked in an approved premises and realised they were getting more and more residents with a learning disability. He downloaded material from the internet including the Department of Health guidance *Positive practice, positive outcomes* and put together an information folder which was now widely used both in the approved premises and by offender managers in area teams.

- 3.2. We were concerned that, in a significant number of cases, knowledge of the offender's learning disability was dependent on disclosure by the offender or family members. Without a method of screening for learning disabilities and communication skills difficulties at the PSR stage, there is a danger that sentencing and initial assessments will be based on insufficient or inaccurate information.

*"Some years ago we tried to set up a link with a university dyslexia unit, but the funding fell apart. We came up with a dyslexia screening test, but now it is not used. I think that's a waste of 10 years."*

**Offender manager working with an offender with autism and dyslexia**

- 3.3. Although half of the probation trusts we visited had learning disability screening tools available, offenders were not screened routinely in any of these on induction. Most trusts used learning skills or learning style questionnaires at an early stage in the order. Although these were useful, they were not suitable for screening for learning disability or communication needs. This meant that offender managers would, in some cases, be failing to address important factors and/or may waste resources by referring offenders to interventions that will not address the specific needs of this group of offenders.
- 3.4. In 53 out of 60 cases, information about the offender's learning disability was flagged on OASys, nDelius or other case management systems. Unfortunately, this information was not always accurate or updated throughout the order. However, it was an improvement on the situation we found during phase one of the inspection programme, when many trusts struggled even to identify cases.
- 3.5. Although a screening tool is a vital part of identification, it needs to be backed up by sufficient knowledge to enable staff to recognise different types of learning disabilities. Offender managers also need an awareness of how to work with offenders with learning and communication needs. Only just over one-quarter (14 out of 49) of offender managers interviewed had received any training. Most offender managers interviewed expressed concerns that they were not skilled to assess offenders' learning disabilities.

### **Identification: Prisons**

- 3.6. Ahead of our fieldwork, most prisons only identified a very small number of prisoners with learning disabilities; in fact, the number identified by most prisons was below the estimated prevalence of learning disabilities in the general population, whereas research has consistently shown the prevalence to be higher within the prisoner population. However, as discussed earlier in this report, there is no clear definition or agreement across criminal justice and health organisations about what constitutes a learning disability. For example, 20 to 30% of offenders have learning disabilities or difficulties that interfere with their ability to cope within the criminal justice system (Loucks, 2007<sup>7</sup>), and 20% of the prison population has a 'hidden disability' that will undermine their performance in both education and work settings (Rack, 2005<sup>8</sup>).
- 3.7. Despite the expected high prevalence of prisoners with learning disabilities, one prison told us they were unable to identify anybody in their establishment with a learning disability. As such, fieldwork at this site was cancelled and replaced with an alternative site. Given the reported prevalence of learning disabilities in the custodial estate and issues with identification found at other fieldwork sites, it is unlikely that there was indeed no one at this establishment with a learning disability, but more likely that the appropriate screening tools were not in place to allow for effective identification.
- 3.8. For the remaining fieldwork sites, despite their best efforts, liaison officers at each prison struggled to pull together a coherent list of prisoners with learning disabilities. This was principally because this information was not centralised, with different information held by different departments which was not routinely shared. There was only one prison we visited where a positive screening for learning disabilities by health services led to an alert being issued to other departments who might be involved in offering adjusted services.
- 3.9. Liaison officers told us that their principal source of information for identifying those with a learning disability was the healthcare department, usually mental health or, in some cases, an LDN working within the prison. However, we also found additional individuals identified through the learning and skills department or the OMU, which made it difficult for us and establishments to get a complete list of those with an identified learning disability in each prison.

<sup>7</sup> Loucks, N. (2007) *Prisoners with learning difficulties and learning disabilities – review of prevalence and associated need*. London: Prison Reform Trust.

<sup>8</sup> Rack, J. (2005) *The Incidence of Hidden Disabilities in the Prison Population*. Egham, Surrey: Dyslexia Institute.

*"We have only been able to identify one prisoner with a learning disability. I think that suggests that it is not an issue in this prison."*

**Prison Governor**

- 3.10. In at least two of the prisons we visited, we were told that reception staff were reliant on indirect information gained during reception to identify those with a learning disability, such as a prisoner's self-disclosure of their learning disability, previous involvement with adult social services or attendance at a school for special educational needs. Relevant information was sometimes recorded on the Person Escort Record or court documents that accompanied the individual on arrival into prison.
- 3.11. Even in those prisons where a reception screening tool to indicate whether a prisoner arriving into custody may have a learning disability was accessible, we found that they were not consistently available or administered during the reception process. Reception staff had often not received any training on learning disabilities to support their screening role.
- 3.12. Only one prison, HMP/YOI Parc, had a process for screening all prisoners which took place during the induction stage. The screening tool used was not a specific learning disability tool but asked social, communication, literacy, numeracy, attention and coordination questions. It also provided guidance for staff working with vulnerable prisoners with poor communication and intellectual skills.

#### **Good practice example: HMP/YOI Parc**

A screening tool was administered to all prisoners and a score was generated that gave an indication as to where a prisoner had a high level of need, and in which areas these needs were concentrated. Where a high level of need was identified, this prompted a case review between the prisoner, a prisoner mentor, residential and activities staff and a learning disability nurse, from which a supported living plan was generated, identifying how these needs were to be best dealt with. We were told:

*"Although there is a financial cost in screening all prisoners on their induction into the prison, the cost is worth it due to reductions in the use of segregation and the use of control and restraint."*

- 3.13. All prison health services offered a health assessment following the reception health screening. In most cases there was an option to undertake the LDSQ at this stage of induction. However, this was again conducted where a learning disability was suspected and there was no systematic approach by health services to detecting the prevalence of learning disabilities in prisoners. If an unidentified learning disability was suspected at a later stage in custody, in most prisons we visited we were told the process would be for staff to refer the prisoner on to the mental health team for further assessment.

#### **Good practice example: HMP/YOI Littlehey**

A number of prisoners that we interviewed told us that they had been diagnosed with a learning disability or ASD since their arrival at the prison. The clinical psychologist at this prison was proactive in obtaining a diagnosis for individuals suspected of having a learning disability or ASD. These prisoners all expressed their gratitude for having had someone at the prison who had championed getting them a diagnosis.

## **Conclusion**

Although most offender managers were aware an offender had a learning disability at the start of their community order, far too often this was due to disclosure by the offender or a member of their family. People with learning disabilities are unlikely to disclose fully their needs to someone they do not know well. Relying on self-disclosure can lead to incorrect assessments and delays. This problem could easily be overcome by screening all offenders at their PSR interview or initial induction.

There were similar problems in prisons relating to the identification of learning disabilities and an over-reliance on self-disclosure. At most prisons, reception screening was not conducted with all prisoners, but rather was done in response to specific concerns which risked learning disabilities going unidentified; this would then mean that any support or adjustments prisoners need to enable them to engage with the regime and prison processes may also go unidentified.

In addition, the potential impact of the failure to identify and appropriately engage with offenders with a learning disability in the community and in prisons was to deprive this group of service users of their ability to address their offending behaviour in a meaningful and effective way. This would have an adverse effect on their resettlement, place them at greater risk of reoffending in the future and make them more vulnerable when they return to the community.

## **Recommendations**

### **The Chief Executive Officer of the National Offender Management Service should:**

- ensure that offenders who have not been screened at the pre-sentence report stage are screened for learning disability at the start of a community
- introduce a screening tool across the prison estate for learning disabilities, with referrals for formal assessment where necessary.

### **Prison Governors should:**

- ensure that all offenders with a learning disability are identified on arrival in prison.

# **The care and treatment of individuals with learning disabilities**

# 4

## 4. The care and treatment of individuals with learning disabilities

### Key findings

- Good practice was dependent on individual practitioners rather than service level agreements or pathways setting out referral routes.
- The availability of trained mental health or learning disability nurses made access to services more likely in prison and the community.
- Prisoners with learning disabilities were often reliant on informal support from staff or other prisoners for information on prison procedures and help to access them. Formal support was not often in place. Even where a prisoner had a care plan, this was not always shared with all relevant staff.
- Some prisoners reported poor experiences of complaint procedures and there was little use of advocates to support this group if they had an adjudication.
- Almost half of the prisoners interviewed said they had felt unsafe at some point and a similar proportion was assessed as being at risk of suicide or self-harm. Most prison staff did not understand the needs of prisoners with learning disabilities or how their learning disability may impact on their behaviour.

For some people with a learning disability, coping with everyday life can be a struggle and for some, changes in their routine can cause distress. If they also have to comply with the conditions of a community order or the rules and regulations within a prison, life can be even more confusing and distressing. Therefore, how this group of offenders is treated and supported is likely have a profound effect on their ability to comply with their sentence or time in custody and, for those who are sentenced, successfully complete the work needed to help them desist from reoffending. This is particularly the case within a prison where their learning disability is likely to impact on every aspect of their life in custody and where prison staff have a duty of care to keep prisoners safe and treat them with respect.

### Care and treatment - in the community

- 4.1. In three of the six trusts we visited, offender managers were able to access CPNs based in probation offices for at least part of each week. Offender managers told us they valued the advice they got from CPNs. However, CPNs and other specialist workers expressed concern that they had received little or no training in working with people with learning disabilities.
- 4.2. Offender managers told us of their frustration in trying to get other services to accept responsibility for the offender's care needs. This showed the importance of probation trusts developing service level agreements with health and social care agencies and voluntary organisations working with people with learning disabilities.
- 4.3. We observed that in offices where CPNs were based, there was greater access to other services and offender managers felt better supported. This was also the case where offender management teams had developed good relationships with their local learning disability teams.
- 4.4. In most inspected cases, all relevant staff working with an offender were made aware of the offender's disability needs, normally by self-disclosure or from information provided by the offender's family. This was particularly important when the offender was referred to other agencies or when parts of the order were being delivered by other probation staff.
- 4.5. Although we found a number of prisons employed learning disability nurses, this was not the case in probation trusts where the emphasis has been on offenders' mental health rather than learning disability.

- 4.6. We found some good joint working with health, mental health and local authority adult services. Offender managers found these links useful, particularly when these workers were based in their office. However, we were concerned that many CPNs and other health workers had little or no experience of working with people with learning disabilities, which could lead to offender managers receiving confusing or incorrect information. We were also concerned other agencies saw advising offender managers as an alternative to providing the care services to which offenders with learning disabilities were entitled.
- 4.7. Offenders with learning disabilities often had complex needs and were known to a number of agencies; health, local authorities, mental health, alcohol or drug services and voluntary sector as well as those within the criminal justice system. There was a clear need for closer working and information sharing between all agencies to ensure offenders received the services they needed and to avoid a duplication of services.

*"What some prison and probation workers are looking for is a 'takeaway service' - that is, they wanted someone to take the problem away, rather than seeing treatment of offenders with learning disabilities as a joint responsibility."*

**A leading specialist in working with offenders with a learning disability.**

- 4.8. Guidance and screening tools to help practitioners working with offenders with learning disabilities needed to be introduced alongside good quality training for all staff. Without training, there is a danger that practitioners will not use the guidance and tools provided. There is also a need for greater management oversight to ensure guidance is being followed, and that reasonable adjustments are made to ensure all offenders receive the services they need to reduce their likelihood of reoffending and manage their risk of harm to others.
- 4.9. We were concerned that health and social care workers were often not fully aware of what offender managers needed from them. Health and social care workers also told us they did not always know when one of their clients had been arrested or even when they were subject to a community order. Mental health practitioners told us they often did not have access to health file systems to check any identified needs or involvement with other services. There is a need for closer working and information sharing between all agencies working with offenders with learning disabilities.
- 4.10. The quality of the relationship between the offender and the offender manager was generally reliant on the skills and commitment of the individual offender manager, rather than planned service level agreements or developed pathways into other services. This led to the quality of services being variable both across the trusts and within teams.

## **Care and treatment - in custody**

### **Care plans**

- 4.11. For those with a learning disability, there may be aspects of prison and day-to-day life that they struggle with. Care plans should identify an individual's needs, how these can be met and any reasonable adjustments that may be necessary. As such, care planning can be a particularly important form of support for those with a learning disability. The care plan should be drafted in consultation with residential staff, with input from health services where relevant, to address issues of care and support in day-to-day life in the prison. Not all prisons visited had a dedicated disability liaison officer at the time of the fieldwork; in some establishments the post had been removed after



the recent review of staffing posts (benchmarking) had taken place. One establishment visited did however have a LDN in post. However, even where there was a disability liaison officer or LDN in place, healthcare information and assessments were not always shared with him or her.

- 4.12. Although learning disabilities were included in the equality policies in prisons and disability, liaison officers had a specified role in planning for the care needs of disabled prisoners; the majority of examples of care planning we found in our fieldwork were owned by health services within the prison. Even where a care plan was in place, most prisoners in our sample were unaware of the existence of a care plan for them, or its content.

*"I don't know if I do [have a care plan], some people do."*

**Comment from a prisoner**

- 4.13. Care plans were rarely shared with wing staff or available centrally to all staff involved in the care of the prisoner. As such, staff in prisons were generally unaware of the content of care plans and the guidance a plan could offer about the care of an individual with a learning disability. The case study below demonstrates the positive impact sharing a care plan with residential staff can have.

### Case Study

George told us how much he appreciated his relationship with his personal officer. George struggled to be around large groups of people and, as such, his care plan indicated that he was able to have his meals and medication brought to his cell and to shower at different times to the rest of the wing. However, while George felt that there were only a limited number of staff on his wing that understood his issues, he told us that his personal officer worked hard to help him on the wing:

*"I get on great with my personal officer... he was the only one that used to let me out regularly for showers and to the yard. Every time he went away for a couple of weeks he used to leave a note on the board reminding officers to "let George out". I sit down with him once a month but always chat with him when he's in. I feel comfortable going up to him and making conversation. I can only do that with a couple of officers."*

Entries by George's personal officer in the wing file recognised the importance of the points in the care plan and the potential impact this could have if they were not being met.

- 4.14. The notable exception was at HMP/YOI Parc where we found the only example of care plans consistently involving, and being shared with, residential staff. HMP/YOI Parc had produced what they termed a 'Supported Living Plan' for those with additional needs. These documents covered a range of different physical and mental health conditions, impairments and needs (including learning disabilities) and described how these could be addressed and managed. We saw examples of thorough assessments by a LDN which described practical and straightforward ways in which the prisoner could be most effectively managed, and this information was used to produce a Supported Living Plan.
- 4.15. At two prisons, we found some informal work being done to alert staff to the particular needs of some prisoners with a learning disability, such as an information sheet to support wing staff in meeting individuals' specific needs.



*"[My former mental health support worker] did a plan for wing staff to help them cope with me better."*

*"The in-reach team wrote a document with me, it was worded all together, for the officers to know about me; it's almost a safety guide."*

*"Helping to prepare a document to give staff explaining things; a Statement of Educational Needs. I'm involved and they show me everything."*

## **Contact with staff**

- 4.16. At the prisons we visited, staff training in learning disabilities varied. In two prisons we were told that there had been some training for relevant staff by either the LDN or the community learning disabilities team. In the remaining prisons, however, training was limited to specific individuals such as the disability liaison officer or the equalities officer.
- 4.17. This lack of staff training was evident in what prisoners told us. Although the majority of prisoners we interviewed told us that they felt most staff in the prison treated them with respect, a small number told us this was not the case, with some relating this perception directly to the staff's understanding of their learning disability.

*"I don't think they understand my learning disability. It makes me angry. A couple [of officers] will come and sit down and talk to me. Others will just say 'why you crying' and walk away."*

*"Certain officers don't understand [mental health issues, autism]. They have to understand with me that I hate change. I can't stand it."*

*"Some of the staff don't understand my diagnosis. The staff reaction to me causes me to be upset and get angry with them. This causes me problems."*

- 4.18. Even prisoners who told us that they felt respected by staff, often felt that staff did not fully understand their diagnosis or associated issues.

*"I don't think they really understand what some of my problems are. Although they treat me with respect there's not the same kind of understanding."*

*"I'm happy to go to them [staff]. The things the Doctor will tell them about will be the things they may have missed, like how I like to spend time in my cell, not because I'm unhappy but because I like it there. I don't think the staff fully understand at the moment."*

*"Most of them [treat me with respect], yeah. I think they're aware of it [autism] but I'm not sure they know much about it. In some ways it makes it more difficult as they don't really know how to understand me properly."*

- 4.19. One prisoner even told us that because he was able to read and write, staff did not acknowledge that he may experience other issues around comprehension or day-to-day living.

*"It is a problem though, because I can read and write, officers assume I don't have a disorder. They base their opinions on intelligence rather than how I act."*

- 4.20. In our interviews, there were mixed responses from prisoners about how helpful they found staff to be. A number of prisoners told us that they did not feel they were able to approach staff when they needed help or felt staff would not have the time to help them.

*"The staff wouldn't have time. They always tell you they're busy."*

*"I can basically get the drift of things [written information]. Just basic stuff I'll ask someone to explain it to me but important things you don't know who you can speak to and who you can trust. I'm more vulnerable and people can take advantage of you. There are certain officers you can and can't trust."*

*"I don't really speak to people. I find it hard speaking to people."*

*"If I don't understand something I just struggle with it. I don't like to ask the officers as they'll think I'm stupid and I don't ask the other prisoners with my social anxiety."*

- 4.21. We examined the wing files for prisoners in our sample to look for evidence of staff interaction or an acknowledgement of a prisoner's learning disability. The wing files we looked at were mixed in quality; some were sparse and perfunctory, whereas others were detailed and showed a good level of staff interaction with prisoners, as well as an awareness of their personal circumstances. Despite this, there were no wing files for those in our sample where staff entries consistently demonstrated a clear and explicit acknowledgement or understanding of the prisoner's learning disability.

## **Healthcare support**

- 4.22. A small number of prisoners we interviewed spoke of contact with the LDNs at the prisons, but this contact was not always on a regular basis. Prisoners told us that where they were in contact with a LDN, the nurse would generally come and check on their welfare and find out about any issues on the wing. Some prisoners who talked about support from a LDN said that they were aware that the nurse could be contacted if they were experiencing any problems.

*"There is a learning disability nurse who we can see if we want to. I've only seen her on induction."*

*"I also see a nurse once a week. The nurse is someone to talk to and tries to inform staff about my disability."*

- 4.23. A number of prisoners in our sample discussed the involvement they had had with the mental health team or the learning disability nurses. Most found these interactions helpful.

*"They help me quite a lot. The learning disability nurse comes to see me quite a lot."*

*"It's excellent. I can't thank them enough. What [the clinical psychologist] has done for me and my family I can't explain."*

## Peer support workers

- 4.24. Schemes aimed at providing prisoners with peer-based support were running in some form at all prisons we visited. Some provided support during a prisoner's early days, others on residential units, or to help with education/learning to read. Most were general peer support schemes rather than developed specifically for prisoners with learning disabilities, although any prisoner could access these schemes.
- 4.25. In our interviews with prisoners, some named mentors or other prisoners who would provide them with regular assistance and these included 'Toe-by-Toe' mentors and listeners. There were mixed views from prisoners in our interviews as to how they felt about the peer support scheme running in the prison.

*"I have a one-to-one tutor. She's a prisoner and helps people with learning disabilities. I see her every day. She helps with maths and English. I see her at education."*

*"Buddies and listeners are good but I have issues trusting them."*

*"I did have a mentor now I have a carer. He helps fill out forms for me and comes to make sure that my room is tidy. Checks my day-to-day needs are met."*

- 4.26. At HMP/YOI Parc the peer support scheme was particularly well developed. Support mentors were assigned to prisoners with learning disabilities; they acted as advisers, advocates and intermediaries for the prisoners with learning disabilities, which helped in their interactions with staff and prisoners. They were also effective in supporting prisoners with learning disabilities in improving their skills, education and social functioning.

## Adult social care services

- 4.27. One-third of prisoners we interviewed told us that they had had contact with adult social care services before coming into prison, although the majority had told us that this contact had ceased since arriving at prison. Prisoners told us that in the community they had received help with day-to-day living, such as accommodation, benefits and accessing work and education opportunities.
- 4.28. A few prisoners told us that their contact with adult social care services had continued in prison, although not all of them were in touch with social care directly themselves. In some instances, contact was maintained through a prisoner's family and in some circumstances we were told by mental health staff that the social workers contacted them directly to check on their clients.

*"One came to visit me [in prison]; she came to check that I was ok and was healthcare treating me ok. I've had phone contact with another one of them."*

*"She [social worker] has been contacting my mum, but not me."*

*"I saw them nearly every week before I came into prison. I haven't seen them since I've been here. They came to see me last time I was here [in prison]. She contacted my dad to see how I got on in court and said she might be able to see me when I get transferred."*

*"I had had my social services number on my pin for a long time, they changed offices and they won't let me change the numbers. They said that I don't have an 18+ number but social services were in the process of sorting that."*

## Involvement of adult social care

4.29. The *Social Care Bill 2014* (which will become law as the *Care Act 2014* in 2015) places a responsibility on local authorities to carry out assessments regardless of the authorities' view of the adult's needs for support or financial resources. When making an assessment, local authorities must consult the person concerned and any other person the subject of the assessment nominates. It should be possible for offender managers, mental health and learning disability workers to be involved in the assessment of the adult's needs. The Act, along with placing the responsibility for assessment on the local authority, also requires local authorities to continue social care support for eligible persons, with the responsibility remaining with the local authority even when the adult is held in custody. At the time of writing, the impact of the *Care Act 2014* on prisons is still unclear. Work is currently under way to establish how the new Act will be operated by prisons, probation services and their local authority partners.

## Prison information and systems

4.30. We asked the prisoners we interviewed whether they required help to do things on the wing, such as day-to-day tasks. Overwhelmingly, problems most commonly reported by our sample involved issues around reading and writing, and understanding and accessing prison procedures which were heavily reliant on being able to read notices or complete forms which they often could not do without help.

## Induction

4.31. Most prisoners we spoke to told us they had been on an induction course. Those that had, generally reported that the induction had taken place in a big group. Several prisoners told us they had struggled to cope in large groups and had not always felt able to ask questions or for clarification/help when they did not understand something.

*"If I don't understand, I just tell them I don't understand. If I say it too many times and it starts getting irritating, they tell me they'll come back to me on a one-to-one basis... Most times I don't understand but sometimes, for the sake of it, I just say I do."*

*"No one came to help me [to understand] I just had to listen."*

4.32. Some prisoners we interviewed had mixed feelings about how far they had understood the information given to them during this time, or how long they had been able to retain the information after the event.

*"I was listening to what they were saying but, by the time I had left the room, it was gone."*

*"They made things too complex. They didn't really explain how to do things."*

4.33. Induction presentations in many prisons are provided by prisoners. There is commonly a large turnover of prisoners in this role, they are rarely trained in communication skills and the quality of their communication can vary. It is often just delivered as a long PowerPoint presentation.

- 4.34. In most establishments we visited, some consideration had been given to the format of written induction material; it had been written simply and, in some instances, pictorial representations had been used to ease interpretation. However, this was not consistent across all establishments and only one prison had had induction information formally designed into Easy Read, a format with simplified language and pictorial representations designed to ease interpretation of written material. Some prisoners we spoke to said they had particularly struggled to understand the written information or computerised aspects of the induction independently, and stated that they needed help at this stage. We were concerned at one prison, that documents prisoners were required to sign during their induction, such as confidentiality agreements and various compacts, were complex and difficult to understand.
- 4.35. Some prisons we visited had mentors, buddies or a prisoner information desk to assist prisoners on induction and we were told that this was one method that could positively aid communication with prisoners with additional needs, such as a learning disability.

*"I had to read some things but I couldn't read it, someone helped me."*

*"Someone, another prisoner, helped me when I was on the computer."*

### **Wing information**

- 4.36. We looked at the availability of materials in Easy Read. In each establishment visited we were able to find examples of notices and forms that had been designed into Easy Read, most commonly, items such as the facilities list, menus and canteen lists. However, these were examples rather than things done routinely, and not consistently across each prison. Prisoners told us that they had not seen much information available in Easy Read and struggled with most of the day-to-day written information.

*"The new IEP rules were a booklet about eight pages and it took me about three to four days to understand it. Some things are in Easy Read; food, canteen menus, basic notices. Eighty percent is not given to us [in Easy Read] and we're expected to understand it."*

- 4.37. In one prison, an officer had been trained in how to design written information into Easy Read and had produced several helpful documents such as a guide to court appearances, important basic information, a guide to adjudications and to mental health provision.

### **Case Study**

As well as struggling with written forms, Sian told us that she struggled to use the electronic 'pod' system. Prisoners were reliant on this system for the majority of day-to-day tasks, such as booking visits and making applications. Sian said that she would usually ask prisoners for help with basic day-to-day tasks but would sometimes ask staff members for help.

*"You go on the pod [to book visits]. The girls on the unit help me. If nobody would help me then how would I do it?"*

Wing file entries from staff noted that Sian struggled to retain the information given to her about various procedures or how she should go about requesting things; there were several examples of staff explaining things to Sian, but after time had elapsed, she would have to ask again.

Further entries noted that Sian was confused about day-to-day procedures on the wing and that this was a source of distress. However, there was no reference that this may be linked to her identified learning disability.

## Applications

- 4.38. Most prisoners we spoke to told us that they understood how to make an application but most said that they would require support in doing so.

*"My friend writes it out for me. I find it easy [making an application]. If he wasn't there I'd ask another prisoner. The apps are on the wing; once he's filled it in I give it to the officer."*

*"Application forms are useless. I don't really understand forms, I will fill them in to the best of my ability; nine out of ten times I get them wrong. I tell the English teacher and she gave me some information. If you don't fill in the form correctly, then tough luck. My English teacher tries to help, filling in the top half of the app form."*

- 4.39. Two prisoners we interviewed, however, were not clear on the process for making an application at all.

*"The other girls help. Sometimes you do them on pod and sometimes on paper. I need help using the pod and filling in the paper."*

*"I have never seen an application. I wouldn't even attempt it. I would go to a wing manager; it would be my only alternative."*

- 4.40. Some prisoners told us that they would not proceed with their application if staff could not understand what they had asked for, or if they did not feel comfortable with aspects of the process.

*"I get an application form and try to put the words in that I feel are right. Officers have pointed out spelling mistakes a couple of times which makes me feel not good. It's like they're making fun. If I can't find the words, I often don't bother."*

*"If you get a normal app, someone might come and see you or they might want you to write personal things down or say 'what do you want to see us for?' If that happens I just discard it and try to sort it another way."*

*"There are people who I think could help me but they need permission. I can try writing but the words come out differently [to what I want]."*

- 4.41. Most prisoners we interviewed explained that, to see a doctor or nurse, they would be required to put in an application and, therefore, faced the same barriers they experienced in making general applications. A small number of them told us they would go directly to wing staff or to a nurse while collecting their medication and ask for an appointment to be arranged on their behalf.

- 4.42. Similarly, they faced these barriers when trying to arrange visits which require a visiting order to be put in.

*"I don't really know how to book a visit but opposite me there's a guy who said if I got the VO [visiting order], then he'll help me fill it in."*

*"I just go to the member of staff. I would go to them and say that I want a visit and they would sort it out for me. They know what days I have my visits so they make sure it's ready to go."*



## Complaints

- 4.43. For a prisoner with a learning disability, the task of trying to make a complaint presented a number of challenges. A number of those we interviewed told us of their experiences.

*"With complaints, you usually have to fill them in yourself as they're usually about a member of staff. It is easy [to make a complaint] but with my spelling mistakes it usually comes back with 'do not understand' or 'not relevant'. I usually just tear it up as I obviously haven't got my point across. I wouldn't try again or go to anybody else."*

*"I made a complaint and it came back and asked me to explain more so I just discarded it and threw it away. In the end I went to an officer and they went over someone else's head to get it dealt with."*

*"If I made a complaint about the way I was being treated then I'd have to move off the wing. And I do actually feel comfortable on this wing [so I would not want to move]. I'm not new on this wing anymore, so the prisoners know me."*

- 4.44. We asked prisoners if they knew there were visitors from the Independent Monitoring Board (IMB) within the prison who they could take any complaints or concerns to.

*"I've heard of them but I wouldn't know how to contact them, application I think. I don't properly know what they do."*

*"I don't think I have heard of them, I've not come across them."*

- 4.45. Of those prisoners who said they had heard of the IMB, most told us that they found out about them through their time in prison or by the posters that were displayed on their wings.

- 4.46. Some prisoners who had tried to access the IMB told us they had variable success.

*"There is a form somewhere on the landing. I spoke to one of them, he took my name. No one got back to me."*

*"I've done it once before and a lady came to see me; it revolved around work. I was too high risk to work in my previous jail and it followed me here. I was filling in apps but they were telling me I was too high risk. The IMB sorted it out. I filled in forms and she talked to an officer and an SO [senior officer] on the wing sorted it out."*

- 4.47. We also asked prisoners if they knew how to access the Prisons and Probation Ombudsman (PPO) to escalate a complaint once the internal prison procedure has been exhausted. Although few prisoners in our sample knew who the PPO were, one prisoner we interviewed, however, had successfully managed to access them.

*"Someone from the chaplaincy helped me to complain. I got a response that I wasn't happy with so I filled in a Form 1, still wasn't happy. I wrote to the PPO; got a response saying they were busy and would get back to me. They upheld my complaint and said that I would receive an apology from the Governor."*

## Feelings of safety and victimisation

- 4.48. Almost half of all the prisoners we interviewed said they had felt unsafe at the establishment. Reasons varied as to why prisoners did not feel safe at the establishment and related to a number of different issues across the prisons.

*"They don't know how to look after people who have a [physical] health issue."*

*"I have been assaulted three times."*

- 4.49. However, a number of prisoners who told us they did not feel safe related this directly to their learning disability.

*"Just not understanding some of the rules and regulations [makes me feel unsafe]."*

*"Sometimes I don't feel safe at all. You can feel very vulnerable, some people will come into your personal space and your personal life and try and control you but you can stand up to them."*

*"I don't like loud noises or people around me. I can't really explain it. Sometimes I get jumpy, memories come back from other places [I have been to]... the units here are really big and it's really loud on [this wing] because it's a detox wing."*

- 4.50. Some of these prisoners told us about exploitation they had experienced at the hands of other prisoners, or issues they felt had arisen as a direct consequence of their learning disability.

*"One of the big things is that I don't understand people's intentions and meanings. It was a problem as I couldn't read people. I went to chapel, someone asked me to hold a book and he put it in my pocket. An orderly came over and asked why I had the book. Luckily another prisoner explained that it wasn't my fault."*

*"When I don't understand things sometimes I lose my temper or lock myself away. They [other prisoners] said 'why should I have a job when I can't control myself?'"*

*"Lots of girls were begging me for baccy [tobacco]. I kept giving it away. The first time I gave some away she said she wouldn't tell anyone. The next day there were 20 people outside my cell. Staff put me in the office and then moved me to H wing. I haven't had an argument since."*

- 4.51. There were very few prisoners in our interviews who told us they had experienced victimisation by staff members. For the small number of prisoners who did tell us this, they generally named an officer on their wing that they 'did not get on with' and they felt were unfair or derogatory in their manner towards them.

- 4.52. Of the prisoners we interviewed, not all of whom had experienced victimisation, there were mixed feelings about whether they would feel able to go to staff, or whether staff would be able to do anything about the victimisation.



*"Some people are bullying but they don't realise they're doing it. It frightens me. I don't really tell officers and you can't really get your point across which is embarrassing. You'll get them in trouble or yourself in trouble, then you'll be called an informant and it puts your life in danger."*

*"I did tell safer custody and they think it's all sorted but the [wing] officers don't want to sort it. There are some others in this jail that have either hit me around the head or verbally threatened me. The officers here don't deal with bullying."*

*"If I couldn't deal with it myself I know that the staff would be there."*

- 4.53. Safer custody staff had some awareness of the issues for prisoners with a learning disability and acknowledged that they could be more vulnerable, more likely to be victimised or exploited, less able to cope with anxiety or stress and their needs might not be fully understood by staff. However, we did not find that learning disability traits were explored in managing those who were at risk of self-harm or involved in violent behaviour. One safer custody manager told us that information regarding a prisoner's learning disability was not shared with them by other departments, such as education or healthcare, so they were unable to monitor the incidence of safer custody issues for those with a learning disability.

### Case Study

James told us that he had made a complaint about staff victimisation, but was confused by the process and information he was given. He told us he felt disinclined to pursue the complaint due to literacy difficulties. Earlier in the interview, James had told us he did not feel able to turn to staff or other prisoners due to his anxiety. As such, his reporting of the victimisation, to his knowledge, was never dealt with.

"I put in what I thought was an official complaint but the wing manager asked me if I wanted to make it official, which I thought I already had. I didn't really understand what he meant by it and I thought it would mean more paperwork so I declined."

### Suicide and self-harm

- 4.54. For prisoners who have been identified as being at risk of suicide or self-harm, the Assessment Care in Custody and Teamwork (ACCT) tool is used to plan the care of that individual and work towards reducing their risk. The necessity to consider an individual's learning disability during the ACCT process was documented in the PPO investigation into the self-inflicted death of a young adult<sup>9</sup>: the PPO investigator felt that the risk posed by the young adult could not have been evaluated with confidence without a clinical understanding of his learning disability. The PPO recommended that the Chief Executive of NOMS and Offender Health should develop a Care Approach Programme to prisoners with learning disabilities so that their complex needs could be recorded and understood. The Equality and Human Rights Commission is also conducting an investigation into deaths of people with mental health problems (including learning disabilities) in custody.
- 4.55. When reviewing wing files for prisoners in our sample, we found that just under half had been on, or were currently on, an ACCT document.
- 4.56. In our interviews, one prisoner spoke to us about the lack of care planning she experienced when not on an ACCT and stated that the support she received while on an ACCT was preferable.

9 Prison and Probation Ombudsman (2013) *Investigation into the circumstances surrounding the death of a man at HMYOI Aylesbury in March 2011*. <http://www.ppo.gov.uk/docs/208-11-Death-of-a-male-prisoner.pdf>

## Case Study

Following an ACCT assessment interview in HMP/YOI Parc, it was suspected that Zak may have an unidentified learning disability and, therefore, it was agreed that he would be referred to the LDN for assessment.

Staff proactively ensured this assessment took place and the ACCT document contained copies of emails to the LDN following this up. It was also noted in the ACCT form that the LDN should be invited to future ACCT reviews and also that she had begun working with Zak on the wing.

When the ACCT was closed, Zak continued to receive support with day-to-day life in prison under a learning disability care plan. This also ensured good continuity of the support he had received under the ACCT process.

- 4.57. ACCT documents that we examined did not consistently refer to a prisoner's learning disability and the impact this may have on their ability to cope in a prison environment; this was true of both the initial assessment of the individual and the resultant care plans. However, there was evidence that in some instances consideration had been given to a prisoner's learning disability.

*"With Mental Health In-Reach Team I'm supposed to see them once a week, for [mental health] to attend my ACCT reviews, but I see [the psychologist] and they think they've covered it. They also didn't come to my ACCT review three to four times because they were busy."*

## Behaviour management: Incentives and Earned Privileges

- 4.58. The IEP scheme awards or removes privileges on the basis of a prisoner's behaviour. The scheme was revised in November 2013, meaning prisoners must now demonstrate commitment to their own rehabilitation and helping others to earn privileges rather than simply avoiding bad behaviour. Prisoners should not be discriminated against under the IEP scheme due to their learning disability. Most prisons we visited were able to show us an IEP policy that specifically discussed the application of the IEP scheme to those with a learning disability; in some prisons this was further mentioned in their equality policy.

### Impact of learning disability

*"It is important that a prisoner's learning disability, and any behaviour which is a consequence of that learning disability, should not affect a prisoner's incentive and earned privileges level. A prisoner's learning disability may impact on interpersonal relationships and the understanding of instructions, and this should be taken into account when making decisions relating to that prisoner's incentive and earned privileges level."*

- 4.59. At one establishment, we were told that they were reluctant to use 'basic' level for prisoners with a learning disability, although one prisoner at this particular prison did report being on basic in our interviews. At another, guidance was provided stating that staff are required to support such prisoners in achieving the required levels of behaviour to achieve progression and 'where it is clear that [an] individual finds it difficult to reach or sustain the required standards, they should not necessarily receive punitive measures through the IEP scheme'.

### Good practice example: Vulnerability

In HMP/YOI New Hall, on a unit for more vulnerable women, punitive measures were different from those used in the main prison and not so formally applied because they would lose their directness. We found more use of informal, short term sanctions such as loss of television for a couple of hours or exclusion for a short time from an activity, where the sanctions could be tied more tangibly to the behaviour that had prompted them.

- 4.60. However, in practice, the experience of the prisoners we interviewed was less positive. Although eight prisoners we interviewed told us that they were enhanced, most of these were on the standard level and some prisoners we spoke to felt that there would be barriers to them achieving enhanced, associated with their learning disability.

*"To get enhanced here you need to go above and beyond. I can't do this; I haven't got the time to be a listener or buddy, especially with my Asperger's. I can't do it; I don't want to use my Asperger's as an excuse though."*

*"I don't do enough to be enhanced. I just pick up the rubbish on the yard but you have to do more [to be enhanced]. I can't attend the groups [you need to attend to be enhanced, like offending behaviour programmes] or anything as I can't be around lots of people."*

- 4.61. There were also some examples of prisoners reporting a punitive response from staff in response to behaviour.

*"They put me on basic as they put a man in my cell who was dirty, I asked him to move cell, they put me on basic for banging on the door - I'm banging on the door for a reason."*

*"I was refusing to share a cell - I got seven days in segregation."*

- 4.62. In our analysis of wing files for those in our sample, we found that entries pertaining to negative behaviour were more common than those for positive behaviour. Generally, prisoners in our sample were most commonly issued IEP warnings for failing to follow instructions, speaking to staff in an 'inappropriate' manner or being disruptive or aggressive. In some cases, there were repeated warnings for the same behaviours, such as talking at cell doors, wearing a prohibited item of clothing, or going behind the hot plate to talk to fellow prisoners. We did not find any examples of staff explicitly attempting to describe behaviour in terms of an individual's learning disability, or taking into account that this may have a bearing on their conduct on the wing.

- 4.63. Prisoners we spoke to gave examples of some of the difficulties they faced in prison that may impact on their behaviour.

*"The new routine threw me off. It started messing me about. They said the regime was changing but not much notice. Would have been good to have someone sit with me. I asked questions but they didn't know what was going on."*

*"They have to understand with me that I hate change. I can't stand it."*

*"I just feel anxious all the time. It's just the noise and I can't get away from the noise."*

*"I find it hard coping in prison. I find it hard being in a double cell - I suffer from depression and prefer to be on my own. I get annoyed with people easily."*

## Adjudications

- 4.64. Where adjudications are necessary following negative behaviour in an establishment, consideration should be given as to whether the prisoner is fit to go through with the proceedings. Consideration should be also given as to whether the prisoner is able to understand the procedure and whether an advocate is required to aid this understanding or act on behalf of the prisoner.
- 4.65. In one prison we visited, we found a positive example of efforts to make this procedure more easily understood and guidance to the process had been produced in Easy Read. Staff at some prisons told us that disciplinary procedures resulting from adjudication were applied flexibly to take account of prisoners' learning disabilities. An example was provided by prison staff of a prisoner who had been involved in an incident which would normally have been referred to the independent adjudicator. It was recognised that the prisoner would not have understood the prolonged process leading to a loss of remission. In view of this, an immediate punishment of loss of valued privilege was applied. However, in the majority of examples we looked at, we did not find any reference to an individual's learning disability.

## Case Study

There were indications that Lucy did not fully understand the adjudication proceedings. Lucy asked what was meant by certain words when her offence was being explained to her. When explaining and apologising for her actions, it was recorded that she explained that she had Asperger's Syndrome and that sometimes she became easily frustrated; however, this was not recorded in the mitigation section of the adjudication and Lucy was awarded four days cellular confinement without an indication that her diagnosis of Asperger's [Syndrome] had been considered.

- 4.66. Almost half of our sample had received an adjudication. In the majority of the adjudication paperwork we reviewed, we found little evidence to demonstrate that due consideration had been given to the possible requirement of an advocate to ensure the prisoner was able to understand the proceedings and effectively communicate their account of events; this potentially left the doors open to unfair outcomes or undue sanctions for the prisoner.
- 4.67. Likewise, prisoners who had received an adjudication while in prison generally told us they had not been offered access to an advocate and, in some instances, had struggled to understand the process.

*"No one told me anything about the adjudication - just had to fend for myself."*

*"I kind of understood what was going on [during the adjudication]. No advocate, it was just me."*

## Physical restraint and segregation

- 4.68. About one-fifth of prisoners interviewed told us they had been restrained during their time in prison. For those who had, prisoners told us that they had not always been seen by a medical professional after the restraint had taken place.

*"About 18 months ago when I lost my temper. I didn't have any contact with healthcare afterwards. [Did someone come to check that you were ok afterwards?] No, I was just locked in my cell."*

4.69. Most prisoners we interviewed told us they had not spent any time in the segregation unit and at two prisons, prisoners told us that staff had actively sought to locate them elsewhere, in places other than the segregation unit.

*"They said that I would be in segregation for three weeks [after an adjudication]. Instead they took me back to my wing for a week's C/C (cellular confinement) [after an hour in segregation]. Not sure why though."*

## Conclusion

In some probation trusts, offender managers had developed close working relationships with local adult social care and learning disability services, who offered advice and support in their work with services users with a learning disability. However, the quality of the service provided to offenders in the community with a learning disability depended far too often on the skill and commitment of an individual offender manager, rather than on the availability of a good quality service.

Support for prisoners with identified learning disabilities in prison was variable and was characterised by a lack of joined-up work between both prison departments and agencies in the community. One-third of prisoners we interviewed had received support from their local adult social care services before coming into prison; in the majority of cases, contact had ceased once in custody, whereas there should be close liaison between the prison and those who have worked with the prisoner in the community to ensure a continuity of service and care.

Almost half of the prisoners in our sample said they had felt unsafe and a similar proportion had been on ACCT. Some prisoners described a sense of isolation as a consequence of feeling unable to manage the processes inherent to prison life, as well as the informal yet necessary reliance they had to place in both staff and prisoners to assist them. Some prisoners' poor experiences in making complaints and lack of advocacy during adjudication procedures was of particular concern following the changes to legal aid introduced by the *Legal Aid, Sentencing and Sentencing of Offenders Act 2012*. A large proportion of prisoners in our sample told us they had been subject to use of force or disciplinary procedures whilst in prison. The poor identification of prisoners with a learning disability meant that the use of such procedures was not subject to any degree of scrutiny. Improved monitoring would ensure that an individual's learning disabilities were taken into account as a potential factor influencing behaviour, ensuring sanctions were not issued inappropriately.

Staff did not have sufficient training to understand the needs of prisoners with learning disabilities or how to support them. Residential staff support was better where care plans (where they existed) had been shared with them or where they had been given information to support them to meet an individual's needs. There was developing use of Easy Read material.

## Recommendations

**The Director of Probation and Contracted Services, the Director of the National Offender Management Service in Wales and chief executives of Community Rehabilitation Companies should:**

- ensure they develop effective arrangements with adult social care and learning disability services to ensure that offenders with a learning disability receive services to meet their personal and social care needs
- work closely with their Local Safeguarding Adults Boards to safeguard vulnerable service users, including those with learning disabilities.

**Prison Governors should:**

- ensure prisoners identified as having a learning disability have a multi-disciplinary care or support plan in place that sets out how their individual needs will be met
- consider the potential vulnerability, behaviour management and support required by prisoners with a learning disability to ensure full access to health, social care, education, training and employment and a full range of work opportunities in prison
- ensure that prisoners with a learning disability are able to access all prison procedures such as the complaints, incentives and earned privileges
- make available all relevant leaflets, forms, and other written material in Easy Read format to all prisoners during their reception/first night in custody
- ensure that they develop effective partnership arrangements with learning disability services to ensure there is an equivalence of care between community and custody
- ensure that prisoners' learning disabilities are required to be considered when dealing with any disciplinary or behaviour issue
- ensure that relevant staff are aware of their responsibilities to prisoners with learning disabilities.

**Assessment,  
planning and  
work to reduce  
reoffending**

**5**



## 5. Assessment, planning and work to reduce reoffending

### Key findings

- Assessments of risk of serious harm were generally correct.
- Assessments failed to take account of the impact of the offender's learning disability on their ability to stop offending or to fully engage with their sentence.
- Sentence plans both in the community and custody failed to take account of offenders' disabilities.
- Despite significant changes in the offender's circumstances, assessments and plans were not always sufficiently reviewed to take account of those changes.
- Offenders with learning disabilities often had a range of pressing social care or welfare needs and offender managers often spent their supervision time dealing with these, which left little time to address offending behaviour.
- Interventions to address offending behaviour were delivered in only a small minority of cases.
- Prisons failed to make reasonable adjustments to ensure that prisoners with a learning disability were able to access suitable offending behaviour programmes.
- The majority of prison managers used the lack of adapted programmes as the reason for the non-delivery of offending behaviour programmes to prisoner with a learning disability.
- Reoffending rates in our community inspection sample were disappointing.

Following on from the induction of an offender with a learning disability at the start of their sentence, we expected to see offender managers or offender supervisors considering how the offender's disability is likely to impact both on their ability to desist from offending and to fully engage with work to reduce their reoffending and risk of harm to others. Prisoners and individuals subject to supervision in the community need to be able to benefit from interventions designed to reduce their risk of them offending in the future. This requires the interventions to be available and, where necessary, for them to be customised to make them relevant.

### Assessment and planning – in the community

- 5.1. Although most offender managers were aware of an offender's learning disability, we found that in 24 out of 60 cases (40%) assessments contained no reference to it.
- 5.2. In almost half of the cases inspected there was no assessment of the impact of the offender's learning disability on their offending behaviour, risk of harm or their ability to fully engage in work to address their offending. The failure to assess these important factors can lead to a lack of direction throughout the period of supervision. Offender managers told us they found it difficult to assess the likely impact of a learning disability on offending behaviour and tended to focus on welfare rather than offending needs.

*"The service user has so many problems, unpaid fines, benefits stopped, electricity cut off. Every time I see him there is another crisis which needs my help. I just haven't had time to do any offence-focused work with him yet."*

**Offender manager working with a service user with a learning disability**

- 5.3. In our first inspection report we expressed concern that, at the PSR stage, offender managers in the community gave too much weight to the offender's needs at the expense of possible risk of harm to others. In phase two, we found most Risk of Serious Harm (RoSH) assessments were at the correct level in 48 out of 60 cases. Of the 12 cases we judged to be incorrectly assessed, 10 were too high and 2 too low.

*"There isn't any service provision unless the offender is a MAPPA case. I had a case of a young offender. He was subject to MAPPA input, he had Asperger's [Syndrome] and that extra dimension of risk of harm to others released funding, which isn't fair."*

**Offender manager working with an offender with an autism spectrum disorder**

- 5.4. There were significant changes in the offenders' circumstances during the order in 51 of the 60 cases inspected, such as reoffending and deterioration in mental health. However, assessments were reviewed in only 21 cases. This was not because the offender manager did not recognise the changes; in most cases they simply did not appreciate the importance of assessing how changes impacted on the offender's likelihood of reoffending or risk of harm to others.
- 5.5. In almost two-thirds of cases, assessments of the offender's learning disability and needs were accurately and clearly communicated to all relevant agencies, both within and outside the criminal justice process. The majority of referrals to outside agencies were to local authority adult social care or learning disability teams. We saw examples of offender managers going to great lengths to convince other agencies to take responsibility for an offender's social and welfare needs.
- 5.6. It was disappointing to see that initial sentence plans in less than half of the inspected cases took account of the potential impact of the offender's learning disability on their ability to fully engage with planned work. Understanding an offender's needs should be taken into account when planning the most effective ways to work with them to reduce their likelihood of reoffending and manage their risk of harm to others.
- 5.7. Despite significant changes in most cases, sentence plans were reviewed following those changes in less than one-third of cases. Changes in circumstances included failure to comply with the order including reoffending, behavioural issues or information that gave concern about the offender's mental state.

**Delivery of interventions – in the community**

- 5.8. For an offender with a learning disability, it is vital that interventions to reduce their reoffending or risk of harm are appropriate to their learning needs. Only in 33 of the 60 cases we inspected was there evidence that interventions took account of those needs. Fully adapted interventions were used in only 18 cases - either the adapted sex offender programme, Becoming New Me<sup>10</sup> or programmes delivered on a one-to-one basis. We saw examples of offender managers adapting worksheets to meet the individual needs of an offender with a learning disability.
- 5.9. Avon & Somerset Probation Trust had developed a specific activity requirement aimed at offenders with a learning disability. Other trusts have also adapted worksheets or provided guidance to offender managers on how best to deliver interventions to offenders with learning disabilities and other poor communication skills.
- 5.10. Offender managers told us they often felt they spent all their time dealing with offenders' welfare needs and did not have time to address their offending behaviour. They were frustrated that other agencies would not accept referrals and they were left to deal with issues they were not trained or resourced to provide.

<sup>10</sup> Becoming New Me is an adapted Sex Offender Treatment Programme (SOTP) for offenders with an IQ between 60 and 80 who would normally be seen as unsuitable for the standard SOTP.

*"Having a community psychiatric nurse based in the office makes a real difference in accessing services for offenders with mental health problems. It would be good if we had similar access to a learning disability worker."*

**Quote from an offender manager.**

- 5.11. Staff in probation trusts told us that all Education, Training and Employment (ETE) services were normally available to all offenders. However, offenders with learning disabilities had been referred to the trust's ETE provider in only half of the cases inspected. Many people with learning disabilities have a poor experience of the education system and are discriminated against when applying for jobs. We believe that this is a missed opportunity to improve ETE outcomes.
- 5.12. The opportunity to provide this group of offenders with a personalised service could have improved their life opportunities and raised their self-esteem. Almost two-thirds of those referred to the ETE service had benefited from the intervention, through improvements in their basic skills or employment opportunities.
- 5.13. In most cases, where required, appropriate referrals were made to local authority adult social care and learning disabilities teams to ensure ongoing support and care for the offender. This was particularly important towards the end of the order as part of an exit plan. However, we found that offender managers were often disappointed by the level of support offered by local services. Even in those cases where the service user was assessed as having an IQ under 70, independent living skills support was not deemed necessary.
- 5.14. We found that offender managers working with offenders with a learning disability demonstrated real commitment to their work. Although we had concerns over the level of offence-focused work delivered, there was evidence, in most cases, that the level of contact with the offender had reinforced the impact of interventions delivered and facilitated community integration.

**Good practice example: partnership**

In Hull an offender manager worked with a women's project and the local learning disabilities team to ensure that a woman offender with a learning disability received the support she needed. She was provided with a mentor who ensured she attended appointments. The women's project helped her negotiate with her housing provider to extend her tenancy. This provided support for her care needs.

- 5.15. Offender managers said they would like more adapted programmes suitable for those with learning disabilities, as well as worksheets and more knowledge about adapting their work. We were told that, in one trust, learning disability services provided help to offender managers. However, this was the exception. Offender managers wanted more knowledge about recognising and understanding the effects of learning disabilities. They felt they had to build up knowledge by trial and error, which often took up a lot of time and was not an effective way to support an offender in addressing their offending behaviour.

**Good practice example: interventions to meet specific needs**

Brian had committed a sexual offence. He had a very low IQ and found it difficult to understand even simple concepts. Following discussions with the sex offender treatment programme tutors, Brian's offender manager used hand-drawn images – stop, think, go, image of trouble (face behind bars), thinking of being in other people's shoes (image of shoe and sad faces) and what constitutes a good life. This was an excellent example of the worker adapting their work to meet Brian's needs.

- 5.16. Most service users we interviewed said they had a good relationship with their offender manager and felt supported. Most felt treated fairly and that their needs were generally understood and met. We saw examples of offender managers encouraging offenders to attend appointments and comply with the requirements of their order. When the offender did not comply, most offender managers took proper account of their learning disability when deciding what action to take.

### Case Study

Gavin struggles to tell the time and needs help to remember his appointments at the probation office. Usually his offender manager will contact him the day before and again on the day of his appointment to ensure he attends. Gavin completes his offending behaviour work on a one-to-one basis which is mostly taken up by his welfare needs which are usually at the forefront of his mind. He said he finds it difficult to do work on his offence when other things are proving difficult for him so this work has not yet started.

### Case Study

Beth has a long history of alcohol related offending and failure to comply with previous court orders. She told us she now has a positive relationship with her offender manager who is strict and provides clear boundaries. She has an adapted, simple to understand timetable which has helped her stick to her programme by reminding her about appointments and about her curfew times. Programmes of work around her offence are delivered at the women's centre where Beth receives support with decision-making, reducing alcohol use and making positive relationships.

### Case Study

Sarah was interviewed by police after damaging the door to her flat. Her mother acted as appropriate adult which she was not happy with. She was sentenced to a 12 month community order which has just started and she is paying compensation for the damage to the door. She feels worried about coming to the probation office for appointments. She has met her offender manager for the first time and they agreed it would be better to have one-to-one sessions at the women's centre.

Sarah wants to highlight that people with learning disabilities have different needs and should be treated as individuals and their wishes taken account of. This does not mean they should be talked down to, but simply talked to in a way they understand.

- 5.17. However, some offenders with learning disabilities also reported difficulties with understanding written material they were provided with or verbal information where complex language was used.

### Case Study

Kieran feels he gets a great deal of support from probation. However, at times he does not understand the work on his order and how it is relevant to his offence. People use lots of words, both spoken and written, and he would like to see more things with pictures and fewer words. There are notices in the office he does not understand and he would like them to be written differently.

### Case Study

At Mike's initial probation office appointment, he had to complete forms which were not easy to read or adapt. Mike said he has had a few changes of offender manager which has been difficult because they have not initially understood his needs or been aware of his condition and he has had to repeat his story each time.

### Case Study

Adam recalls a time another offender manager sent a letter to him; they had highlighted key words in the text with a coloured pen thinking this would be helpful. Adam described it as highlighting words you did not understand rather than changing the words to something easier to read.

- 5.18. One-to-one work was often used as an alternative to group work which those with learning disabilities could find intimidating or overwhelming. However, this was not always an option.

### Case Study

Jerry has a diagnosis of high functioning autism. He told us that at court his solicitor asked for an alternative to the group work programme offered but the probation officer said that a one-to-one programme was not available. Jerry had to attend the group work programme with eight other people which caused him intense anxiety to such an extent that he was physically ill. Managing his physical symptoms along with intense feelings of stress made trying to participate in the group virtually impossible.

- 5.19. Service users with learning disabilities appreciated the support they received from their offender manager, especially when they had built up a good relationship with one offender manager throughout the order. Most service users interviewed were known to other services and believed their offender manager worked with other agencies to ensure their social care needs were met. However, some were concerned about what support they would get once their order had ended.

### Case Study

Stuart told us that, as a teenager, he had help from specialist learning disability workers. This support ended when he was 18 years old, which he found difficult because he had come to know the nurse and social worker well, trusted them and felt comfortable talking to them. Now he has support from his offender manager and he worries about who will support him when his order ends.

### Case Study

Belinda is worried about coming to the end of her order and losing support of the women's centre. She says of those who have supported her, that without them she would be lost and might not have stuck to the terms of her order. She is worried about relapsing. Belinda feels she has moved on with her life, her alcohol use has reduced and the police now stop to talk to her rather than to arrest her.

### Case Study

Drew has autism and finds it difficult organising his daily living. He is supported by his autism mentor who helps him on public transport and get to his appointments because of his anxiety. He feels that probation staff talk to him at his level. They do not use big words and break things down into small steps for him.

### Case Study

Jon was diagnosed with a learning disability and Attention Deficit Hyperactivity Disorder. He attended a school for people with learning disabilities but he still struggled to learn, and left school without any qualifications. He receives support from the community learning disability team who provided evidence about his needs for the PSR. His offender manager looked at ways in which Jon's order could be delivered, as group work was considered inappropriate. A referral was made to a voluntary organisation and Jon is now completing 100 hours of unpaid work with support from a mentor arranged by the charity.

### Case Study

Vernon, who has autism, receives support from the community learning disability team. They liaise with the offender manager so offending behaviour work, which is completed on a one-to-one basis, can be delivered in a way which is understandable. Vernon says his offender manager does what she can to support him and meet his needs, alongside advice from the learning disability service.

- 5.20. Disappointingly, in 23 out of 60 cases (38%) offenders with a learning disability had reoffended during their community order or licence. Given the lack of offence-focused work during the sentence and adult social care support in the community, we did not think it surprising that many of these offenders were likely to make similar mistakes that led to their original conviction.

### Assessment, planning and interventions in custody

- 5.21. As in the community, in the majority of cases inspected the offender supervisor was aware that a prisoner had a learning disability when undertaking the initial OASys assessment of reoffending and risk of harm factors. In just over half of all cases, information was available in the PSR or other specialist report prepared for the court hearing. However, in one-quarter of relevant cases, the information was available only because it had been disclosed by the offender at the initial assessment meeting. In other cases, information was made available by relatives of the offender or other agencies.
- 5.22. In all but two cases, information about the offender's learning disability was only flagged on OASys, or other case management systems. This information was not always updated throughout the order. Other relevant staff within the prison were generally not made aware of information about prisoners' learning disabilities. In all but one case the assessed level of risk of serious harm was correct. In the remaining case, we considered that the assessed level of risk was too high. The majority of prisoners in our inspection sample were assessed as being a high risk of serious harm.
- 5.23. Although most offender supervisors were aware of an offender's learning disability we found that almost half of the assessments contained no record of it. In a similar proportion of cases, there was no review of the assessment following a change in the prisoner's circumstances.



- 5.24. Sentence plans took account of the prisoner's learning disability, or included an intervention that took full account of the prisoner's specific needs in less than half of the cases we inspected.

### Good practice example: Joint working to meet the prisoners needs

Michael, 43 years old, was serving his first sentence (for a sexual offence). On arrival at the prison, staff were informed that he had a very low IQ and a specialist learning disability report had been prepared for the court. A care package was put together to ensure that Michael was kept safe and his needs, including addressing his offending behaviour, were met. Michael's offender supervisor was the key to the plan's success and maintained close contact with all relevant prison staff and two prisoner mentors.

- 5.25. Of those prisoners we interviewed who were sentenced, not all were aware of any sentence plan that might be in place for them. Some prisoners thought they did not have a sentence plan, whereas others thought that they might have one but could not tell us what the targets on that plan were.

*"Not really. I don't understand them [goals] as they keep changing them. I don't know what's on there at the moment. Even OMU don't know what they are."*

- 5.26. Some prisoners were able to tell us about their sentence plans and the targets they had to meet, but many felt they had not been involved in the process.
- 5.27. Some prisoners expressed concern and confusion about what implications their learning disability was having on working towards achieving their sentence planning goals and progressing through the prison system.

*"My sentence plan says I have got to do maths. I wasn't really involved in making the plan. I just know I have to do maths."*

- 5.28. We wanted to find out how much information was recorded by offenders supervisors about prisoners. We found some entries from offender supervisors in prisoners' wing files, although these varied in quality. Most were brief, functional entries but there were some examples of offender supervisors who had a good understanding of the individual on their case load, including knowledge about their circumstances and, in some cases, offender supervisors would act on behalf of the prisoner in getting things sorted out for them in the prison.

*"They say I have a lack of empathy for my victims - I have Asperger's!"*

*"They diagnosed me with learning disabilities and said because of it I shouldn't have done ETS [Enhanced Thinking Skills]. They keep saying I have to do a drug course but I've been clean for 20 years. Nothing new [sentence plan goals] since I've been diagnosed [with autism and a learning disability]. I've been told that everything I've already done is out the window [due to my diagnosis]."*

*"I told them [OMU and probation] about my learning disability but they said they weren't willing to take it into consideration. I'm not going to be able to meet them [my targets]. I've been in three years and I still haven't done anything."*



## Education, training and employment

- 5.29. In the prisons we visited, we found that there were activities in work, training and education opportunities that were accessible to prisoners with a learning disability, even where these had not been adapted specifically. In our interviews with prisoners, most told us that they were involved in some form of work, training or education. There were five prisoners who told us this was not the case, one of whom had just arrived at the prison and one who was awaiting a transfer. The three remaining prisoners told us that they were keen to be involved in an activity but had been unable to access them.
- 5.30. Although the proportion of referrals to ETE services for prisoners with learning disabilities was similar to that for the prison population as a whole, this is a group of prisoners who would benefit greatly from basic education interventions. In just 11 of the 19 relevant cases inspected the prisoner had been helped to access ETE services within the prison. In all of these cases there was good evidence that the prisoner had benefited from the support of peer mentors. A number of prisons ran the Toe-by-Toe scheme, whereby prisoners are assisted by another prisoner to improve their reading; prisoners we interviewed who had been involved in this scheme spoke positively about the help they had been given by their mentors.
- 5.31. We found several examples of pragmatic adjustments in place, designed to help prisoners who might struggle. For example, some prisons identified prisoners who may need assistance and worked with them in small groups, or provided them with customised work. A common adjustment was for breaks to be incorporated into education sessions for prisoners with difficulties in their attention span. Another approach to this issue in one prison was to allocate sessions flexibly, so prisoners were able to move between activities. One prison had shortened sessions for some prisoners, ensuring there was no adverse impact on the pay they received.
- 5.32. Prisoners frequently named a member of education staff who worked closely with them to provide assistance in classes. In some instances, prisoners told us that education staff would provide them with additional help with forms, letters and applications where literacy levels were low, or visit them on the wing. Many education departments had learning support teams which provided help in classes for prisoners with a wide range of difficulties, not just learning disability.
- 5.33. Learning support workers existed in all prisons we visited during our fieldwork and most had a combination of full-time, part-time and voluntary workers. In most cases, support provided was not specific to learning disabilities, but applied generically to a number of different learning support needs.
- 5.34. In HMP/YOI Parc, we found that prisoner support workers were assigned to specific prisoners with a learning disability and accompanied them on their activities. There was a dedicated Peer Support Partner teacher who supervised the use of prisoner support workers in education and activities. The supporters helped them with tasks, mediated with teachers and instructors and communicated with other prisoners where required.
- 5.35. In two other prisons we visited, we also found formal training for prisoners to enable them to support other prisoners with learning disabilities in education and classroom support, although these support workers were not assigned to specific prisoners.
- 5.36. In one prison, there was a dedicated therapeutic learning facility providing art and craft activities, communication skills learning and basic skills. Low skill work was available and there were progression opportunities as skills developed. Another prison provided dedicated courses in subjects such as independent living, money management and living in the community. In one prison, prisoners were able to participate in a workshop even if they did not have the necessary skill level to complete the qualification. Some prisons had gym courses that were tailored to the individual so they were able to take into account any specific needs.

## Offending behaviour programmes

- 5.37. In two cases in the sample, the prisons had adapted parts of thinking skills programmes to meet the specific needs of the individual prisoners. Although this was an example of good practice, it is not an alternative to NOMS ensuring there is a suitable range of programmes to meet the needs of all prisoners with learning disabilities or communication problems. As in the community, the only adapted programme currently available was group work for sex offenders; *Becoming New Me*. This was not available in any of the prisons we visited. As a result, a prisoner who required this would have to transfer to another prison, potentially a long way from their family.

### Good practice example: Making offending behaviour groups accessible to all

In HMP/YOI Parc the Offending Behaviour Group tutors met fortnightly to ensure that the programme was delivered in a way that met the needs of all those attending, including those with a learning disability. This included using Easy Read worksheets and pictures in place of words on flip charts.

- 5.38. In only two cases inspected did we find evidence that adapted programmes or one-to-one work had been delivered to address the prisoner's offending behaviour. At the time of the fieldwork we did not speak to any prisoners who were currently involved in an offending behaviour programme, although some prisoners did tell us that they were waiting to start a course.

*"[I] Saw my offender supervisor - they have concerns with me being in group therapy. They are seeing if I can do it one-to-one. I have done suitability for SOTP but I don't think I could cope in a group."*

- 5.39. In none of the prisons we visited did we find evidence that they gathered data on the number of prisoners with a learning disability who would benefit from an adapted programme. They were, therefore, unaware of both the scale of the need or the possible outcome that could be achieved by developing such programmes.
- 5.40. At the time of sentence, prisoners are told of the amount of time they are likely to spend in prison; for long-term prisoners either on a life sentence or an indeterminate sentence for public protection (IPP), release is dependent on the prisoner having addressed their offending behaviour. Just over half of the prisoners in our custody case sample were serving determinate sentences; however, just under half were serving IPP sentences.
- 5.41. Prisoners serving indeterminate sentences are required to show they have addressed their offending behaviour before they are eligible to be released early on parole. Therefore, access to a full range of offending behaviour programmes is vital. We found that prisoners with a learning disability were often deemed unsuitable for any group programmes but there were very few adapted programmes and virtually no programmes delivered in one-to-one sessions.
- 5.42. We met a number of prisoners serving indeterminate sentences who were over their original tariff. These prisoners told us that they had met the targets on their sentence plans but were unable to progress.

*"Done it all. They just gave me it and said that I have to do it. Gave it to me before my tariff. I did Thinking Skills Programme in 2010, my tariff was up in 2009."*

*"My tariff is two and a half years and I have been here seven."*

*"The courses that I mentioned earlier but I've met them all and I've no more to do. I'm nine years into a two and a half year prison sentence."*

## Case study

One man we interviewed, Kyle, was 15 years over his original tariff. He had been in the same prison for 13 years but had recently received a diagnosis for autism and learning disabilities. Since this diagnosis, it had been agreed that a 'change of placement' was most appropriate for Kyle and at the time of interview there was a pending transfer to a place in hospital.

*"I'm still in the same boat; I haven't progressed and I haven't moved on. I'm 15 years over tariff and I'm stuck in between."*

## Conclusion

Even when offender managers were aware that an offender had a learning disability, they often did not consider it sufficiently important to include in an assessment or sentence plan. Failing to assess and address offenders' needs makes it more likely that those needs will not be met. This is particularly true in terms of how the offenders are likely to affect their ability to engage fully in their order. That failure makes good compliance and positive outcomes in relation to reoffending and managing risk of harm unlikely.

Sentence plans in prisons also failed to take account of the prisoners' learning disability. In general, this was because this information was not available to the offender supervisor or others working with the prisoner. As a result, the sentence plan failed to take account of how the prisoners' disability would impact on their ability to engage in work to reduce their reoffending on their release.

Offender managers in the community were often overwhelmed by the offenders' social care needs and far too often spent their time addressing those needs rather than offending behaviour. This is understandable, as many of the presenting needs appeared urgent and there was often no one else available to help the offender. However, work to reduce reoffending needed to be a balance of support for offender and offence-focused work.

None of the prisons or probation trusts we visited maintained data on the number of offenders with a learning disability who would have benefited from attending an adapted offending behaviour programme. It was, therefore, highly improbable for them identify the scale of the unmet need or the impact this was likely to have on reoffending. It was also clear that little evaluation of the impact of interventions had taken place, either in the community or custody.

We found only limited evidence of interventions meeting the specific needs of prisoners with learning disabilities and this problem was compounded by the failure at the initial stage of sentence where there was a failure to screen and identify learning disabilities. This is likely to lead to an ineffective use of resources by placing too many prisoners on offending behaviour programmes or other interventions from which they are unlikely to benefit.

Although the failure to assess and plan contributes to a failure to deliver effective interventions, the lack of offending behaviour programmes suitable for all prisoners was an even greater problem. As the *NOMS PSI 32/2011* makes clear, there is a duty on all prisons to make reasonable adjustments to the way they communicate with prisoners with a learning disability. This should include the delivery of offending behaviour programmes. All too often we found that prison staff and managers used the lack of available adapted programmes as a reason for doing little or nothing for this group of prisoners. However, with regard to engagement with work, training and education, there were some positive approaches to enable prisoners with learning disabilities to fully participate – this included peer mentor and support schemes, tailored delivery of sessions and learning support teams.

We found little evidence of exit strategies for offenders at the end of their community or prison sentence; this then led to the failure to prepare prisoners sufficiently for their safe return to the community. This has the risk of placing these offenders back into the same circumstances that contributed to their original offending.

## **Recommendations**

### **Prison Governors should:**

- make available relevant adapted interventions to prisoners with a learning disability during custodial sentences
- evaluate the impact of work with offenders with learning disabilities.

### **The Director of Probation and Contracted Services, the Director of the National Offender Management Service in Wales and chief executives of Community Rehabilitation Companies should:**

- ensure that assessments in the community take full account of the impact the service user's learning disability may have on their ability to desist from offending and abiding by their sentence
- ensure that relevant adopted interventions are available to service users with a learning disability during their community sentence
- evaluate the impact of work with offenders with learning disabilities.

# Appendices

## Appendix 1: Glossary

ACCT	Assessment, Care in Custody and Teamwork, case management for prisoners at risk of suicide or self-harm.
Adapted intervention	An offence focused work specifically designed to meet the needs of an offender with a learning disability.
Approved Premise	Approved premises provide hostel accommodation and support for offenders, including released prisoners and those on community penalties, particularly those posing a high risk of harm to others. Approved premises can be run either by the National Probation Service or voluntary agencies.
ASD	Autism spectrum disorder.
CPN	Community Psychiatric Nurse: provides assessments and support of adults with mental health or learning disabilities who have offended or are at risk of offending.
Community Rehabilitation Company	21 such companies were set up in June 2014, to manage most offenders who present a low or medium risk of serious harm.
ETE	Education, training and employment: work to improve an individual's learning, and to increase their employment prospects.
HM	Her Majesty's.
HMP	Her Majesty's Prison.
HMI Prisons	HM Inspectorate of Prisons.
HMI Probation	HM Inspectorate of Probation.
IEP	Incentives and Earned Privileges: a system of prison management that promotes conforming behaviour through rational choice. Prisoners earn benefits in exchange for responsible behaviour.
IMB	Independent Monitoring Board: IMB members are independent, their role is to monitor the day-to-day life in their local prison or immigration removal centre and ensure that proper standards of care and decency are maintained.
IQ	An intelligence quotient, is a score derived from one of several standardized tests designed to assess human intelligence.
Interventions; constructive and restrictive interventions	<p>Work with an individual that is designed to change their offending behaviour and/or to support public protection.</p> <p>A constructive intervention is where the primary purpose is to reduce reoffending.</p> <p>A restrictive intervention is where the primary purpose is to keep to a minimum the individual's risk of harm to others.</p> <p>Example: with a sex offender, a constructive intervention might be to put them through an accredited sex offender programme; a restrictive intervention (to minimise their risk of harm) might be to monitor regularly and meticulously their accommodation, their employment and the places they frequent, imposing and enforcing clear restrictions as appropriate to each case. NB. Both types of intervention are important.</p>

IPP	Indeterminate sentence for public protection: introduced via the <i>Criminal Justice Act 2003</i> , providing courts with the power to sentence repeat violent or sexual offenders to custody until such time as their risk of harm to others reduces.
LDN	Learning Disability Nurse: a qualified nurse who specialises in working with people who have a learning disability.
LDSQ	Learning Disability Screening Questionnaire: a simple questionnaire administered to individuals to give an indication of possible learning difficulties.
LSAB	Local Safeguarding Adult Board: set up in each local authority to coordinate and ensure the effectiveness of the multi-agency work to safeguard and promote the welfare of vulnerable adults in that locality.
MAPPA	Multi-Agency Public Protection Arrangements: where probation, police, prison and other agencies work together locally to manage offenders who pose a higher risk of harm to others.
NOMS	National Offender Management Service: The single agency responsible for both Prisons and the delivery of Probation services in the community.
National Probation Service	<p>A single national service which came into being in June 2014. Its role is to deliver services to courts and the parole board; and to manage specific groups of offenders:</p> <ul style="list-style-type: none"> <li>• Those presenting a high or very high risk of serious harm</li> <li>• Those managed under MAPPA arrangements</li> <li>• Those with an RSR score over 6.89%</li> <li>• Those eligible for deportation</li> <li>• Those subject to deferred sentence</li> </ul> <p>Those where there is a 'public interest' in the case.</p>
OMU	Offender Management Unit, a department in a prison responsible for planning a prisoners sentence and liaising with offenders managers in the community in preparation for the prisoners release.
Prison categories	<p>Prisons are categorised by the type of prisoner they accommodate as follows:</p> <p>Category A - prisoners on highest category of security risk whose escape would be highly dangerous.</p> <p>Category B - prisoners for whom the highest conditions of security are not necessary but for whom escape must be made very difficult.</p> <p>Category C - prisoners who cannot be trusted in open conditions who do not have the will or resources to make a determined escape attempt.</p> <p>Category D - prisoners who can be reasonably trusted to serve their sentence in open conditions.</p>



PPO	Prisons and Probation Ombudsman: investigates complaints from prisoners, those on probation and those held in immigration removal centres. It also investigates all deaths that occur among prisoners, immigration detainees and Approved Premises.
PSR	Pre-sentence report: for a court.
Risk of harm to others	This is the term generally used by HMI Probation to describe work to protect the public, primarily using restrictive interventions, to keep to a minimum the individual's opportunity to behave in a way that is a risk of harm to others.
RSR	An actuarial calculation of the likelihood of the offender being convicted of a serious sexual or violent offence; this calculation was introduced in June 2014 as a required process in the implementation of Transforming Rehabilitation.
RoSH	Risk of Serious Harm: a term used in OASys. All cases are classified as presenting a low/medium/high/very high risk of serious harm to others. HMI Probation uses this term when referring to the classification system, but uses the broader term risk of harm when referring to the analysis which has to take place in order to determine the classification level. This helps to clarify the distinction between the probability of an event occurring and the impact/severity of the event. The term Risk of Serious Harm only incorporates 'serious' impact, whereas using 'risk of harm' enables the necessary attention to be given to those.
Safeguarding	The ability to demonstrate that all reasonable action has been taken to keep to a minimum the risk of a vulnerable adult coming to harm.
SLP	Supported Living Plan: a plan drawn up by social care providers to help people with learning disabilities live in the community.
YOI	Young Offender Institution.

## **Appendix 2: Role of the inspectorates and code of practice**

### **HMI Probation**

Information on the Role of HMI Probation and Code of Practice can be found on our website:

[www.justiceinspectorates.gov.uk/hmiprobation](http://www.justiceinspectorates.gov.uk/hmiprobation)

The Inspectorate is a public body. Anyone wishing to comment on an inspection, a report or any other matter falling within its remit should write to:

*HM Chief Inspector of Probation  
1st Floor, Manchester Civil Justice Centre  
1 Bridge Street West  
Manchester, M3 3FX*

### **HMI Prisons**

Information on the Role of HMI Prisons and Code of Practice can be found on their website:

[www.justiceinspectorates.gov.uk/hmiprison](http://www.justiceinspectorates.gov.uk/hmiprison)

The Inspectorate is a public body. Anyone wishing to comment on an inspection, a report or any other matter falling within its remit should write to:

*HM Chief Inspector of Prisons  
Victory House, 6th Floor, 30-34 Kingsway  
London, WC2B 6EX*

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