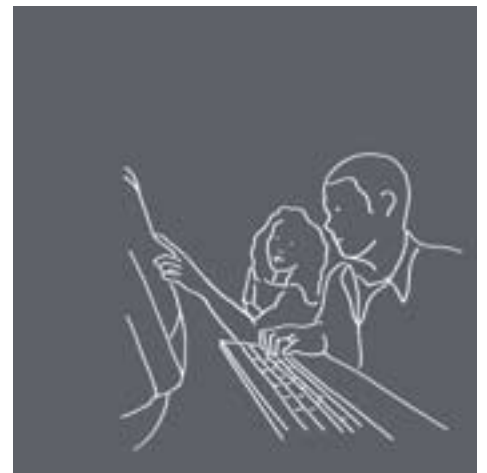


# The Bradley Report

Lord Bradley's review of people with  
mental health problems or learning  
disabilities in the criminal justice system



**Executive Summary**

**April 2009**

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# 1

## Introduction



1. Evidence suggests that there are now more people with mental health problems in prison than ever before. While public protection remains the priority, there is a growing consensus that prison may not always be the right environment for those with severe mental illness. Custody can exacerbate mental ill health, heighten vulnerability and increase the risk of self-harm and suicide.
2. The policy of 'diversion' for people with mental health problems or learning disabilities has been supported by Government since as far back as 1990. But the lack of a nationally guided approach has meant that implementation has been inconsistent.
3. Over the intervening years, policy developments across both the health and criminal justice sectors have created a much more receptive background for implementing this diversion approach. For example, offenders are now recognised as part of a socially excluded population.
4. Although there are many similar issues that affect both people with mental health problems and those with learning disabilities, there are distinct differences. These mean that learning disabilities must be seen separately. There is a lack of consensus in defining the boundaries between learning disability, borderline learning disability and learning difficulty. This is due, in part, to the lack of agreement on the most effective methods of identification and assessment.

# 2

## Early intervention, arrest and prosecution



### Early intervention: children and young people

5. There are key differences in the manifestation and identification of mental health problems in children and young people. The Youth Justice System itself is different to the adult criminal justice system in many respects, and this has implications for how diversion for children and young people should best be approached. Effective interventions for this population have the potential not only to impact on immediate offending and re-offending rates, but also to influence children and young people away from an adulthood of offending.
6. Intervening as early as possible in the criminal justice process provides the best opportunity for improving how people with mental health problems or learning disabilities are managed. There have been a number of key policy documents published over the past few years which recognise the particular importance of early intervention for children and young people.
7. A particular focus of this more co-ordinated approach is for services to be developed around the whole family. After the family, the education service from early years provision up to higher education is crucial for the identification of emotional or mental health problems, learning disabilities or speech, language and communication issues.
8. There is a range of new initiatives being rolled out across the country, following positive results from pilot projects. These will provide an excellent opportunity to address these issues at a very early stage and it would clearly benefit this population if there were to be a stronger focus on mental health issues. More generally, for both children and adults, GPs are often the first point of contact for someone suffering from mental health problems or learning disabilities. However, a number of studies have found that GPs do not consistently recognise the signs of mental health problems
9. The training of all primary care staff, in particular GPs, in mental health and learning disability awareness will be essential if the opportunity is not lost at this early point of contact for the referring of children or adults into appropriate specialist services.

### Recommendation

- All staff in schools and primary healthcare, including GPs, should have mental health and learning disability awareness training in order to identify individuals (children and young people in particular) needing help and refer them to specialist services.

10. Youth Offending Teams (YOTs) play a key role in assessing young people, providing preventative programmes for those identified as being at risk of offending, providing supervision and court-based services. While the value of the close collaboration between YOTs and children's services is recognised, YOTs have a distinct and separate role to play in the management of the young offender population.

### **Recommendation**

- The membership of all Youth Offending Teams must include a suitably qualified mental health worker who is responsible for making appropriate referrals to services.

### **Recommendation**

- The Government should undertake a review to examine the potential for early intervention and diversion for children and young people with mental health problems or learning disabilities who have offended or are at risk of offending, with the aim of bringing forward appropriate recommendations which are consistent with this wider review.

## **Neighbourhood policing**

11. In most cases, the police are the first point of contact with the criminal justice system and there is an early opportunity through police intervention and liaison to engage services and potentially avoid future problems. The police stage is currently the least developed in the offender pathway in terms of engagement with health and social services, as intervention generally occurs further along the pathway at the court and sentence stages.
12. Neighbourhood policing presents a significant opportunity for the police to work proactively in local communities with local agencies to help to identify people with mental health problems, in particular, those at risk of offending or re-offending. Safer Neighbourhood Teams would seem to be the ideal forum for looking at these issues, and the early identification of people at risk of offending.

### **Recommendations**

- Local Safer Neighbourhood Teams should play a key role in identifying and supporting people in the community with mental health problems or learning disabilities who may be involved in low-level offending or anti-social behaviour by establishing local contacts and partnerships and developing referral pathways.
- Community support officers and police officers should link with local mental health services to develop joint training packages for mental health awareness and learning disability issues.

13. Participants in the review have said that neighbourhood policing teams are being encouraged to use Anti-Social Behaviour Orders and Penalty Notices for Disorder. If they are not complied with these can have a perverse effect, accelerating vulnerable people into the criminal justice system, rather than promoting referral to appropriate services.

### **Recommendation**

- **Information on an individual's mental health or learning disability needs should be obtained prior to an Anti-Social Behaviour Order or Penalty Notice for Disorder being issued, or for the pre-sentence report if these penalties are breached.**

14. Although people who come into contact with the police under Sections 135 and 136 of the Mental Health Act 2007 may not fall into the category of 'offenders', this represents an important aspect of the police/health interface. One of the key issues here is the appropriateness and importance of the 'place of safety' for individuals who it is deemed necessary to make subject to the Act. Despite the recognition of the unsuitability of police custody as a place of safety studies have shown that this continues to be used on a fairly wide basis.
15. The use of Section 136 is a prime example of why the police and health services need to work so closely together. Even once a person has been removed to a place of safety, the speed of assessments is further determined by the resources and willingness of local health and social services to attend within suitable timeframes.

### **Recommendations**

- **All agencies involved in the use of Section 135 of the Mental Health Act 2007 must agree a joint protocol on the use of this section.**
- **All partner organisations involved in the use of Section 136 of the Mental Health Act should work together to develop an agreed protocol on its use.**
- **Discussions should immediately commence to identify suitable local mental health facilities as the place of safety, ensuring that the police station is no longer used for this purpose.**

## **Arrest and prosecution**

16. The most common route to police custody is through arrest on suspicion of committing a crime. There are widespread concerns among stakeholders about the current assessment of detainees. In addition, screening services in police stations need to be more consistent, and include better availability of information about a detainee's previous contact with services. If a mental health need is identified, the challenge for the police is to decide whether or not a criminal justice outcome should be pursued, and if diversion to health and social services is more appropriate.

17. The evidence clearly points towards a need to further explore the potential for placing responsibility for better identification and assessment of mental health problems or learning disabilities at the start of the offender pathway.

### **Appropriate Adults**

18. Studies into the use of Appropriate Adults have concluded that provision of the Appropriate Adult is very inconsistent. Firstly, the needs of a defendant have to be identified, which are often missed. Even when a need for an Appropriate Adult is identified there is currently a shortage of individuals who can perform the role effectively.
19. The current revision of the Police and Criminal Evidence Act 1984 (PACE) guidelines provides an opportunity to add some clarity to this role and the recent No One Knows programme of work sets out some very clear recommendations as to how this might be achieved for people with learning disabilities.

### **Recommendations**

- **A review of the role of Appropriate Adults in police stations should be undertaken and aim to improve the consistency, availability and expertise of this role.**
- **Appropriate Adults should receive training to ensure the most effective support for individuals with mental health problems or learning disabilities.**

### **Health services in custody**

20. Health services in police custody are not currently commissioned by the NHS, but by each individual police force. This leads to inconsistency in the care provided and breaks the continuity of someone's care by taking them outside the NHS. This can also cause difficulty in getting information from NHS sources. Furthermore, the quality of care in custody is therefore not subject to the same governance and performance measures as NHS services.

### **Recommendation**

- **The NHS and the police should explore the feasibility of transferring commissioning and budgetary responsibility for healthcare services in police custody suites to the NHS at the earliest opportunity.**

21. The exact number of people with mental health needs coming into contact with the police is not known, as there is no national requirement for the police, or any other criminal justice agency, to keep statistics. The poor quality of information is obviously an issue when it comes to estimating the scale of the problem and the planning of services. There are a small but significant number of people arrested and taken into police custody who have learning disabilities. There are no definitive numbers due to the inadequacies of identification, difficulties in diagnosis and also the lack of local systematic data collection.

## Prosecution

22. The Crown Prosecution Service (CPS) also plays a major role in diverting offenders with mental health problems or learning disabilities from prosecution. Access to information, therefore, is vital for the CPS to be able to undertake its role effectively. The CPS has no direct contact with detainees at the police station and relies solely on information that they receive from the police with respect to any charging advice.
23. Alternatives to prosecution for adult offenders include a simple caution or conditional caution. However, these will not be appropriate if there is any doubt about the reliability of admissions made, or if the defendant's level of understanding prevents them from understanding the significance of the caution and from giving informed consent to it. Prosecutors are advised not to assume that all mentally disordered offenders are ineligible for cautioning or conditional cautioning, but there is no definition of or restriction on the particular form of mental condition or disorder that may make an admission unreliable.

### Recommendation

- **The Crown Prosecution Service should review the use of conditional cautions for individuals with mental health problems or learning disabilities and issue guidance to advise relevant agencies.**

24. The potential interventions undertaken by a liaison and diversion service at the police station could provide significant benefits by:
- identifying and assessing mental health or learning disability needs swiftly and effectively after arrest;
  - ensuring that the police can make a fully informed risk assessment of the offender;
  - identifying the need for the attendance of an Appropriate Adult;
  - ensuring that those arrestees with serious mental health problems can be referred to mental health facilities before reaching court, which may have necessitated a period spent in custody on remand;
  - providing information for the police and CPS on charging and prosecution;
  - providing information and advice for solicitors at the police station;
  - ensuring that people with mental health problems who would not necessarily progress to court stage are signposted to mental health services rather than just dropping out of the system; and
  - providing information for court services about individuals' mental health or learning disabilities. This will help to inform decisions about the need for psychiatric reports at an earlier stage, about where an offender should be remanded and about sentencing.

### **Recommendation**

- All police custody suites should have access to liaison and diversion services. These services would include improved screening and identification of individuals with mental health problems or learning disabilities, providing information to police and prosecutors to facilitate the earliest possible diversion of offenders with mental disorders from the criminal justice system, and signposting to local health and social care services as appropriate.

### **Recommendations**

- Liaison and diversion services should also provide information and advice services to all relevant staff including solicitors and appropriate adults.
- Mental health awareness and learning disabilities should be a key component in the police training programme.

# 3

## The court process



25. Those appearing at court can have a complex range of needs. When a defendant appears in court for the first time, following a decision to charge, the information available about them is dependent on the strength of the information gathered at the police station and how it is transferred. Currently, the quality and amount of information will depend on whether liaison and diversion schemes provide services at the police station, ensuring appropriate assessment and links with services at the court.
26. Information on the needs of people arriving at court is essential to determine their immediate requirements: to establish whether they are fit to plead, if they should be transferred to hospital, whether they will need support during the court proceedings and also to inform remand decisions and sentencing options.

### Immediate needs at court

27. There are special measures available to vulnerable victims and witnesses under the Youth Justice and Criminal Evidence Act 1999; these are intended to reduce the stresses associated with the court environment so that the individual can give their best evidence. This is particularly important with regards to communication. However, these measures are not currently extended to cover vulnerable defendants, although it appears equally important in terms of exercising justice that similar support is given.

### Recommendation

- Immediate consideration should be given to extending to vulnerable defendants the provisions currently available to vulnerable witnesses.

### Remand decisions

28. Remand remains a method of dealing with unpredictable individuals who are likely to re-offend, and although the crimes involved may be low-level, they are often high in number and impact on local communities. Figures show that there continues to be a heavy reliance by the courts on remand to custody; this is a particular issue where an individual has a mental health problem, as they will very often be remanded to custody pending assessment.

29. Custody does not always have to be used for remand; offenders can also be remanded on bail to approved premises. There has been strong feedback from stakeholders that there should be increased use of bail for this population, ensuring that they are only remanded in custody when absolutely necessary. However, there does not currently appear to be appropriate mental health service provision to support individuals who might be housed in approved premises, placing an unnecessary strain on probation officers, who may be untrained in mental health awareness.
30. Out of the total of 101 approved premises across England and Wales there are only three that specifically deal with mentally disordered offenders and provide enhanced mental health services. No formal evaluation of these three premises has yet taken place to measure the effectiveness of services.

### **Recommendations**

- **An audit should be undertaken of the mental health needs of individuals in approved premises, and the capacity of local services to deal with the identified level of need.**
- **Primary care trusts should identify and address the health needs of residents in approved premises when planning local services as part of their commissioning plans.**
- **A full evaluation of the three approved premises with enhanced mental health provision should be undertaken. The evaluation should look at the effectiveness of the current service provision, and whether it offers value for money.**
- **The national approved premises training package addressing suicide and self-harm should be reviewed and updated to include mental health awareness training.**

### **Reports to the court**

31. Before reaching a decision about how best to deal with a defendant, a magistrate or judge may ask the National Probation Service to prepare a pre-sentence report. This can include a recommendation for sentence. In many cases, an individual will arrive at court without any information regarding their mental health problems or learning disabilities. If there are no liaison and diversion services available, it can fall to probation staff working in courts, untrained in mental health or learning disability, to recognise the potential signs of a mental health problem or learning disability.
32. The presence of liaison and diversion services across the offender pathway would mean that probation staff could be better supported in their role both at court and in approved premises. Firstly, they would be able to assess individuals before they got to court and sufficient information would then be available to inform decisions about further psychiatric reports. Secondly, access to liaison and diversion services at court would provide a source of advice and information to probation officers.

### **Recommendation**

- All probation staff (including those based within courts and approved premises) should receive mental health and learning disability awareness training.

33. The production of a psychiatric court report entails, in effect, an assessment of the individual to decide their level of illness and the appropriate interventions to be undertaken, their fitness to plead and their fitness to take responsibility for their actions. Until these reports are produced and considered by the court in order for it to decide the most appropriate sentence, offenders are, in most cases, placed on remand and held in prison.

34. Providing timely and relevant psychiatric reports for courts is crucial in terms of outcomes for both the defendant and the public. Even where mental health needs have been identified, and an individual is referred for a psychiatric report, there are many problems with the timeliness, quality and appropriateness of the reports received by the courts. Evidence suggests that there are significant savings in time and money to be made by adopting a service level agreement approach to commissioning such reports.

### **Recommendations**

- Courts, health services, the Probation Service and the Crown Prosecution Service should work together to agree a local service level agreement for the provision of psychiatric reports and advice to the courts.
- All criminal courts should carry out a six-month baseline study recording psychiatrists' and psychologists' reports commissioned by the court and the cost of those reports, in order to inform the development of the service level agreement.

### **Training and information**

35. As with all other professionals in the criminal justice system who come into contact with offenders with mental health problems or learning disabilities, training for magistrates and judges on mental health and learning disability issues is crucial. In addition to the training, it is also vitally important for them to have access to information on the offender, and available local services, in order to inform their decisions in court.

### **Recommendations**

- The judiciary should undertake mental health and learning disability awareness training.
- Liaison and diversion services should form close links with the judiciary to ensure that they have adequate information about the mental health and learning disabilities of defendants, and concerning local health and learning disability services.

### **Specialist courts**

36. The Government has been piloting specialist courts in an attempt to address specific problems. These include drug courts, mental health courts, domestic violence courts and community courts. Given the high prevalence of dual diagnosis (mental health problems combined with drug and/or alcohol problems) in offenders, careful consideration must be given as to how both issues can successfully be dealt with in drug and mental health courts. The holistic approach of domestic violence and community courts seems to better address the typically multiple needs of offenders.

### **Recommendations**

- The Ministry of Justice should examine how individuals with a dual diagnosis are served in drug courts.
- All courts, including current specialist courts, should have access to liaison and diversion services, in order that specialist courts are seen as an addition to a comprehensive liaison and diversion service.
- Her Majesty's Courts Service and the Department of Health should investigate how defendants with a dual diagnosis of mental ill health and drugs/alcohol are currently served by all courts, including specialist courts.
- A study should also be undertaken to evaluate how community justice centres impact specifically on people with mental health problems or learning disabilities.

# 4 Prison, community sentences and resettlement



## Community sentences

37. Alternatives to custody are available to judges and magistrates when sentencing individuals found guilty of a crime. Prison does not always have to be the default position for many offences; where used appropriately, community sentences can provide safe and positive opportunities for offenders with mental health problems or learning disabilities to progress with their lives, as well as receiving a proportionate sanction from the court.
38. One of the 12 requirements that an offender can be ordered to complete as part of a community sentence is the mental health treatment requirement (MHTR). However, in 2006, only **725** of the **203,323** requirements commenced under Community Orders were MHTRs.
39. Where appropriate, there are significant benefits when individuals receive a community rather than custodial sentence. These include an improvement in clinical outcomes (due to timely and appropriate treatment being made available and access to mainstream mental health services), and greater well-being and support (due to the individual being kept within their own community environment).

## Recommendations

- The Department of Health and Her Majesty's Courts Service should commission further research on the use of mental health treatment requirements.
- A service level agreement between Her Majesty's Courts Service, the Probation Service and the NHS should be developed to ensure the necessary mental health requirements for Community Orders are available.
- The Department of Health and Her Majesty's Courts Service should issue clear guidance for sentencers and probation staff regarding the use of mental health treatment requirements.

### **Recommendation**

- **The Department of Health, the NHS and other relevant government departments must work with voluntary organisations to ensure the adequate provision of alcohol and mental health treatment services across the country.**

### **Custodial sentences**

40. For some individuals, a custodial sentence will be necessary. Where this is the case, they should have access to appropriate treatment, rehabilitation and resettlement services. Prisoners have significantly higher rates of mental health problems than the general public. The range of conditions and illnesses that fall into the 'mental health problems' category is broad, representing a similar range of mental health problems to that suffered by people living in the community. It therefore requires a similar range of services to treat them effectively, although evidence suggests that prisons are currently struggling to do this.
41. It is widely accepted that the impact of prison on mental health is far from positive. Given this, early and accurate assessment is vital. By the time someone comes into reception at prison, they should already have been assessed for mental health problems or learning disabilities at least once, by the police and possibly the courts.
42. Recently, there have been several reports which are critical of the impact that sentences of Indeterminate detention for Public Protection (IPP) have on prisoners, particularly on their mental health, and on those with existing mental health problems or learning disabilities.

### **Recommendation**

- **A study should be commissioned to consider the relationship between imprisonment for public protection sentences and mental health or learning disability issues.**

## Reception

43. As at any stage of the criminal justice system, it is vital that the prison has all relevant information about an offender's health needs when they come into prison reception. Although the general consensus is that the current health screen is an improvement on previous ones, there is concern that it is not being properly implemented and it is still not able to identify individuals with learning disabilities. In addition, prison reception should not be the first point at which a health need is identified. It should be the next point in the criminal justice system at which information can be added to an individual's file, and information from community, police or court assessments should already be available. The presence of liaison and diversion services at these points would assist in this flow of information.

### Recommendations

- An evaluation of the current prison health screen should be undertaken in order to improve the identification of mental health problems at reception into prison.
- Urgent consideration should be given to the inclusion of the identification of learning disabilities as part of this screen.

## Primary care mental health services

44. A recent study suggests that the majority of those in prison with diagnosed mental health problems could be adequately and safely treated within primary care. This correlates with the results from the general community where it is estimated that 80% of mental health issues are treated without recourse to secondary services.

45. To properly address the mental health needs of the prison population, current services need to move away from a reliance on the provision of mental health inpatient care, towards the development of robust models of primary mental health services. This should be supported by other activities such as education and training.

### Recommendations

- Robust models of primary mental health services should be developed, ensuring an appropriately skilled workforce to assess and treat those with mild to moderate conditions.
- Primary mental health care must include a range of non-health activities to support well-being in prison.

## Mental health in-reach

46. Recent evaluations of the mental health in-reach service recognise that the teams are no longer able to focus on the people they were set up to serve, the severely mentally ill, but have through necessity also taken on those who are not receiving appropriate treatment from other services.

### Recommendations

- The Department of Health should examine the current role of mental health in-reach teams and explore how they can be refocused on providing services for those with severe mental illness. This should include the development of liaison and diversion services to undertake some of the current non-clinical activities.
- NHS commissioners should seek to improve the provision of mental health primary care services in prison.
- The involvement of non-health agencies, including statutory and third sector providers, should be urgently considered in order to improve the support for prisoners with mental health problems or learning disabilities.

## Transfers to hospital

47. Historically, transferring prisoners to hospital for treatment of an acute mental illness has been problematic, and prisoners have had to endure lengthy waits. There has been progress over recent years and a reduction in transfer delays has occurred, but it is still the case that a number of patients have to wait for long periods of time.

48. This issue has been addressed in this year's central mental health contract. Although not mandated in the contract, there is a suggestion that transfer waiting times should be reduced to a minimum, with an expectation that this be included in local contracts. This is an encouraging start: however, if real progress is to be made in this area the issue must become a higher priority and be made one of the mainstream requirements.

49. In addition, some concerns have been raised about the issue of the security of some NHS-commissioned secure services for prisoners transferred under the Mental Health Act. A number of absconders and a few rare escapes have highlighted the importance of ensuring that receiving secure services have an appropriate level of physical, procedural and relational security so that the public can feel fully confident in the diversion of acutely mentally ill patients from prison custody.

### **Recommendations**

- The Department of Health should develop a new minimum target for the NHS of 14 days to transfer a prisoner with acute, severe mental illness to an appropriate healthcare setting.
- This new target should be included as a mandated item in the Central Mental Health contract and included in the next edition of the Operating Framework.
- The Department of Health should expedite planned work on assessing the quality of security at low- and medium-secure mental health facilities in order to retain public confidence in the diversion of prisoners with mental health problems to these facilities.

### **Services for people with dual diagnosis**

50. Drug and alcohol issues are a major problem among the prison population and dual diagnosis is common. Mental health services and substance misuse services in prisons do not currently work well together; national policy is developed separately for mental health and for substance misuse, and this is reflected on the ground, where dual diagnosis is used as a reason for exclusion from services rather than supporting access.

### **Recommendation**

- Improved services for prisoners who have a dual diagnosis of mental health and drug/alcohol problems should be urgently developed.

51. In addition, a large proportion of the in-reach caseload is taken up with people with personality disorder. There is currently no formal provision of services for people with personality disorder in prison, despite the fact that such services are available in the community. In addition, there is no coherent and agreed inter-departmental approach to the management of personality disorder within the criminal justice/health sector.

### **Recommendations**

- An evaluation of treatment options for prisoners with personality disorder should be conducted, including current therapeutic communities in the prison estate.
- An evaluation of the dangerous and severe personality disorder programme should be conducted to ensure that it is able to address the level of need.
- In conjunction with other government departments, the Department of Health, the National Offender Management Service and the NHS should develop an inter-departmental strategy for the management of all levels of personality disorder within both the health service and criminal justice system, covering the management of individuals with personality disorder into and through custody, and also their management in the community.

### **Care Programme Approach**

52. Within mental health in the wider community, the Care Programme Approach has been developed as the fundamental process for ensuring co-ordination and continuity of care for people with mental health problems. As with other elements of mainstream mental health treatment, this should also be integral to the treatment for the offender population, regardless of their location in the criminal justice system.

### **Recommendations**

- Offender managers should be aware of their role in the Care Programme Approach process and the new Department of Health guidance *Refocusing the Care Programme Approach* should be fully implemented in prisons as a matter of urgency.
- Prison mental health teams must link with liaison and diversion services to ensure that planning for continuity of care is in place prior to a prisoner's release, under the Care Programme Approach.
- Improved continuity of care for prisoners subject to the Care Programme Approach should become a mandatory item in the standard NHS contract for mental health.

### Mental health awareness training

53. Mental health services in prisons are still reliant on non-mental health trained staff, i.e. prison officers, to refer clients to them. Prison officers have the most contact with prisoners on a day-to-day basis, and as such often act as their primary carers. An evaluation of the implementation of mental health awareness training for prison officers concluded that roll-out has been disappointing.

#### Recommendations

- Awareness training on mental health and learning disabilities must be made available for all prison officers.
- Where appropriate, training should be undertaken jointly with other services to encourage shared understanding and partnership working. Development of training should take place in conjunction with local liaison and diversion services.
- The training programme must be developed in conjunction with service users.

### Resettlement

54. The majority of people released from prison are not subject to supervision from the Probation Service; only those sentenced to a year or more or who are under the age of 21 receive supervision. It is therefore impossible to accurately estimate the prevalence of mental health problems in those leaving prison and so be able to assess the level of service that might be needed.

55. Where people have been accessing treatment in prison, it is important to ensure that the engagement continues once they leave the prison gate. However, those with sentences of less than 12 months in custody do not receive offender management and so no supervision from probation on release. Some services are provided to this group via voluntary or third sector organisations, but they are inconsistently commissioned and remain isolated examples of good practice that do not meet the needs of all offenders.

#### Recommendation

- The National Offender Management Service, in partnership with the Department of Health and the NHS, should develop a national strategy for rehabilitation services for those leaving prison with mental health problems or learning disabilities who are not subject to supervision from the Probation Service.

56. Primary healthcare is often a gateway to other services, so failure to register or engage with a GP can have wide-ranging consequences. The advent of new GP-led health centres as advocated by Lord Darzi in *Our NHS, our future: NHS Next Stage Review – Interim Report (2007)* will allow better access to treatment, potentially without registration. In his final report, Lord Darzi announced that every primary care trust (PCT) will commission comprehensive well-being and prevention services, in partnership with local authorities, with the services offered personalised to meet the specific needs of their local populations.
57. As liaison and diversion services often hold valuable information concerning an offender's mental health problems or learning disabilities, they are well placed to identify those that will require resettlement support at a very early stage. In particular, it is important for these services to build up strong working relationships with the community mental health teams to ensure that they are alerted to offenders as they are released from prison.

### **Recommendations**

- **It will be a key role of developed liaison and diversion services to liaise with prison mental health in-reach teams to ensure that planning for continuity of care for prisoners on release is in place. Once a prisoner has been released, the liaison and diversion services will continue to act as a point of information and support for probation and third sector staff and other organisations involved in resettlement.**
- **Further work should be undertaken to ensure better implementation of the Care Programme Approach for people with mental health problems in prisons, to ensure continuity of treatment through the prison gate.**

58. If mental and physical health problems are inadequately treated while in prison, it can become more difficult for them to make the best use of other opportunities such as education and training, which can help to reduce re-offending.
59. The needs of released prisoners are complex, and many of these elements are interlinked. For example, if mental health problems are not resolved, an individual may have problems gaining and keeping employment, or problems in maintaining accommodation which in turn may impact on their chances of employment. There is a need to ensure that people coming out of prison have access to a range of services to tackle these issues. Liaison and diversion services will play an important role in facilitating access to these services.

60. Effective work with offenders with dual diagnosis and complex needs depends on better assessment and information sharing between various agencies involved with an individual's care, so as to get a complete picture of their needs. Drug treatment plays only one part in supporting rehabilitation and re-integration. Stakeholders have informed the review that the link between the Drug Interventions Programme and mental health services is just not being made.

### **Recommendation**

- **Joint care planning between mental health services and drug and alcohol services should take place for prisoners on release.**

### **Mentoring**

61. There has been a significant amount of recent interest in the influence of mentors in increasing the success of individuals who are at risk of re-offending. This support is already effectively in operation and available for individuals leaving a number of prisons. Charitable organisations are engaging with offenders prior to release and connecting them with services on the outside. In many cases this means preparing the client for discharge and physically meeting them at the prison gates. They will then take the client to the relevant organisations to continue their care, or to engage with services.
62. There are many other local and regional initiatives that are making a significant difference to offenders as they leave custody and return to the community. Feedback from stakeholders, from individuals who have been through the system, and from those who have become mentors themselves, makes it clear that the mentoring model has value and can make a significant impact on an individual's life.

### **Recommendation**

- **A comprehensive mentoring programme for people leaving custody with mental health problems or learning disabilities and returning to the community should be established.**

# 5

## Delivering change through partnership



63. One of the main problems with previous policy development has been the piecemeal approach that it has taken; government departments, agencies and organisations working independently of one another, developing policies and practice in isolation, addressing one problem or one part of the system at a time. There is no one organisation that can be held responsible for making changes for this population; it is the joint responsibility of all the government departments, agencies and organisations discussed in this report to drive through improvements by working closely in partnership with one another.
64. If we are not to repeat the mistakes of the past few years, as exemplified by the rather uncoordinated approach to the implementation of liaison and diversion services, it will be vital to ensure that there is a clear, visible, national focus on this agenda that transcends all the traditional governmental and organisational boundaries.

### Recommendations

- National accountability for this agenda will be via a new Programme Board, which will bring together all the relevant government departments, covering health, social care and criminal justice. The National Programme Board will develop a clear, national approach to mental health/learning disability for offenders.
- A National Advisory Group should be set up to support Ministers and the Programme Board. The role of the Advisory Group will include:
  - provision of independent, evidence-based advice to Ministers and the Programme Board on the developing agenda;
  - acting as an independent challenge to the development and progress of the work programme; and
  - highlighting examples of good practice and commissioning in-depth studies in areas of particular interest.
- An independent Chair should be appointed for the Advisory Group.
- The Advisory Group will incorporate service user/carer experience into its work.
- The National Programme Board and Advisory Group will be supported by a small, cross-government implementation team that will draw together all the key agencies needed to deliver this agenda.

65. Ultimately delivery of this agenda will be via partners at a regional and local level, building on existing structures and relationships. There are inherent difficulties in aligning regional structures, and each 'region' will have within it any number of diverse localities, requiring different approaches. However, the existing structures of Regional Offender Health Teams already provide an excellent focal point for co-ordinating all the relevant agencies, and are co-terminous with strategic health authority regions and prison service areas. There is no intention to replicate a structure that is already there, so it is recommended that the current Regional Offender Health Teams act as the basis for delivering this agenda at a regional strategic level.
66. The effectiveness of the new arrangements proposed will require the support of leaders in all the organisations involved in this agenda. In an environment of increasingly tight resources and competing priorities, leadership will be crucial for moving this agenda forward. This includes leadership at all levels, national, regional and local. Part of the role of the Advisory Group, and in particular the Chair, will be to act as a National Champion for this agenda and to inspire and develop leadership at all levels.

### **Liaison and diversion services**

67. Liaison and diversion services were originally intended to cover the courts, and where they exist, they are generally placed at that stage of the criminal justice system. Where they have been developed to include services at police custody, liaison and diversion can improve the identification and assessment of mental health problems and learning disabilities at an earlier stage. This assists in obtaining information that can be shared along the criminal justice pathway.
68. However, it is clear that an absence of a centralised strategy has meant that schemes have developed differently and inconsistently. Problems range from differences in the size and workload of schemes, to diverse aims and objectives. A lack of follow-up data on cases makes it difficult to ascertain what the impact of these services has been on mental health outcomes, or on reducing re-offending rates.
69. Many of the functions of the teams have been proven to be very effective in ensuring that court processes can be made more efficient and timely, in particular by linking the court with local health and social care services and ensuring that court staff and the judiciary are trained and informed in relation to mental health needs. This in turn enables the judiciary to make fully informed decisions about appropriate further assessments, and appropriate disposals. In addition, the teams have the function of acting as an interface between the health and criminal justice systems and can improve the efficacy of processes in both.
70. Recent studies provide information about the characteristics of such schemes that make their operation effective. Elements and functions have been identified that are necessary in a scheme to provide an optimum service to offenders, to the criminal justice system, to the health service and to many other agencies and individuals.

### **Recommendation**

- The National Programme Board will oversee the development of a national model of Criminal Justice Mental Health Teams with agreed common elements, and its roll-out across the country. The core elements of this work will be the development of the following:
  - Core minimum standards for each team
  - National network
  - Reporting structure
  - National minimum dataset
  - Performance monitoring
  - Local development plans
  - Key personnel.

## **Recommendations**

- The development of Criminal Justice Mental Health Teams will be informed by the recent Mental Health Effective Practice Audit Checklist recommendations in addition to further evaluation work. It is anticipated that some of the core elements will include:
  - Liaison with local community services
  - Screening and assessment
  - Coverage of police custody and courts, with links to prison mental health in-reach services and resettlement to ensure continuity of care
  - Management of information concerning an individual's needs throughout the criminal justice system and back into the community
  - Direct involvement and input to Multi Agency Public Protection Arrangements (MAPPA)
  - Standardised assessment processes
  - Joint training for criminal justice and health and social care staff
  - Active service user involvement
  - Access to learning disability expertise.
- Schemes should also consider how they can best serve the interests of particular groups within the offender population, for example:
  - People with learning disabilities
  - Women
  - Children and young people
  - People from black and minority ethnic groups.

The requirement for Criminal Justice Mental Health Teams is currently included in the standard NHS contract for mental health and learning disabilities on a non-mandated basis. This should be included in the contract as a mandated item and reflected in the next edition of the NHS Operating Framework.

71. Although the detail of how liaison and diversion services function will obviously need to be determined at a local level, there are some specific areas that require a focus for development. These include:

- Focusing liaison and diversion services at the police station
- Managing continuity of care across the offender pathway
- Information sharing
- Data collection.

### **Recommendations**

- Criminal Justice Mental Health Teams will be responsible for ensuring continuity in an individual's mental health care when they are in contact with the criminal justice system.
- This Review supports the Review of Criminality Information report recommendation that mental health professionals be engaged in the development of the planned replacement for the Offender Assessment System (OASys).
- A responsibility of the Criminal Justice Mental Health Teams will be to ensure that appropriate information is shared between all the agencies that are responsible for caring for an offender with mental health problems or learning disabilities.
- The Criminal Justice Mental Health Teams should have direct involvement and input into local Multi Agency Public Protection Arrangements (MAPPA).
- A new study should be commissioned which repeats the 1997 Office for National Statistics survey of the psychiatric morbidity of prisoners to provide new baseline data. In addition, the Government should explore the feasibility of adding to the study the psychiatric morbidity of offenders at other stages of the criminal justice system.
- A similar study should be undertaken to establish the prevalence of people with learning disabilities in the criminal justice system.
- A minimum dataset should be developed, for collection by Criminal Justice Mental Health Teams, to provide improved information to assess need, plan and performance manage services, and inform commissioning decisions.

### Use of resources

72. In order to realistically assess what resources might be necessary to support the development of Criminal Justice Mental Health Teams, it is clear that further detailed work will need to be undertaken. The current collection of data is poor in this area in terms of outcomes, and it is difficult to provide evidence on whether such schemes provide value for money.
73. However, we do know that schemes have developed despite the lack of national investment. This client group does not represent new numbers of people, and it is possible to make better use of the resources that are already available for them from the various agencies involved in their care.
74. The recommendations presented in this report will undoubtedly have an impact on the way resources are managed across the offender pathway. They are not made without full awareness of the current and likely future financial constraints placed upon Government, commissioners and service providers. However, analysis raises the possibility of monetary savings being realised for the criminal justice system. While further work does need to be done to draw out actual cost savings, initial analysis is positive.
75. For diversion to be introduced effectively, there needs to be sufficient capacity in mainstream services, as well as confidence in those services for those making decisions about offenders. Current data does not allow calculation of any shortfall between demand and supply. So it will only be through improved and continuing collection of appropriate data, through Criminal Justice Mental Health Teams, that the full picture can emerge of what level of development will be necessary for mainstream mental health and learning disability services. Such changes will of course be incremental and it will be necessary to first get teams in place and then to start evaluating the level of demand for services.
76. The independent and voluntary sector has shown that it can make an important contribution to increasing capacity, patient choice and service innovation. Third sector partners (from national and local charities to community and local voluntary groups) have a crucial role in helping to shape services that people value, as well as delivering them directly.
77. Having set up Criminal Justice Mental Health Teams, it will be a priority to ensure that they are running efficiently and to start to evaluate the costs incurred and benefits realised by the service. The input of improved data will in turn influence incremental change in resource allocations across health services and the criminal justice system.

### Improving commissioning

78. Many services that support offenders, for example drug treatment and mental healthcare, are more effectively delivered if partners work together to plan, commission and provide such services. Together, partner organisations must consider the potential for aligning commissioning and pooling of resources to ensure that effective services are available. Those PCTs that have prisons in their area will already be more familiar with the target population; however, anecdotal evidence suggests that some PCTs are still struggling to understand commissioning services for them. In terms of improving commissioning at a local level, under World Class Commissioning, it may be appropriate for there to be a nominated PCT within a local area that could build up the relevant expertise.

### **Recommendations**

- Primary care trusts (PCTs) and partners should jointly plan services for offenders to ensure effective commissioning and delivery of services.
- Consideration should be given to a lead PCT commissioning offender mental health and learning disability services on behalf of a cluster of local PCTs in each area.
- The Department of Health should include explicit reference to the needs of offenders with mental health problems or learning disabilities in future NHS Operating Framework documents.
- The NHS must engage offenders with mental health problems or learning disabilities with current patient and public involvement mechanisms.
- Inspectors and regulators involved in the criminal justice system in partnership with the new Care Quality Commission should determine how they will ensure quality assurance for services provided to offenders with mental health problems or learning disabilities, with a particular focus on joint inspections.

79. If stakeholders are expected to improve the way in which information is shared, they must be supported in this by provision of the necessary IT infrastructure. Currently, health information regarding mentally disordered offenders can be accessed locally within the NHS and within prisons, on electronic and/or paper-based records systems. However, these systems have been developed locally and are not generally nationally compatible, which makes it very difficult for other organisations to obtain the information they require. This has a particular impact on the rehabilitation of offenders with mental health problems or learning disabilities, as they are routinely difficult to engage with services on release and follow-up is often missed.

### **Recommendation**

- Connecting for Health, primary care trusts and strategic health authorities should work together to roll out integrated information systems to health services provided in all criminal justice settings.

# 6 Conclusions



80. The current prison population represents a huge diversity of individuals with a range of very complex needs, including a high number who are suffering from mental health problems or learning disabilities. The first step to the effective management of offenders is the existence of good early identification and assessment of problems, which can inform how and where they are most appropriately treated.
81. Over time, the establishment of Criminal Justice Mental Health Teams will have a significant impact on this chain of events. By ensuring early identification and assessment, along with improved information sharing, there will be better informed charging, prosecution and sentencing decisions. In the longer term, the impact may be that more offenders can be treated in the community, ensuring that those individuals who must be in prison can receive targeted, effective care while they are there.
82. This report sets out a direction of travel, and it recognises that the implementation of the recommendations will have different timescales. However, the crucial first step is to establish the governance arrangements at a national, regional and local level to set this work in progress. The National Programme Board will be key to ensuring that this work is consistently implemented across the country. Further, it will be important to set up the Advisory Group to ensure not only that these recommendations are carried forward, but also that further consideration of the many complex issues can start immediately. The regional partnerships will ensure that all the key organisations work strategically to deliver this agenda, and local partnerships will develop appropriate services to meet the diverse needs of the target population.
83. Measuring progress will be vitally important in maintaining the momentum of this work. Some of the recommendations will take longer than others to implement, but many can be implemented quickly. The expectation is that in the first six months following publication of the report there will be:
- a clear national strategic direction;
  - the new governance arrangements at a national, regional and local level; and
  - a fully costed national delivery plan for all the recommendations, and progress on their implementation under way.
84. Finally, there will also be regular reports to Parliament, both by the National Programme Board and the Advisory Group, to ensure that wider stakeholders and the public are informed of the changes that have been introduced, and of the assessment that has been made of their effectiveness.

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295387 1p 2.5k April 09 (CWP)  
Produced by COI for the Department of Health

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