

Positive Practice Positive Outcomes

A Handbook for Professionals in the Criminal Justice System
working with Offenders with Learning Disabilities

2011 EDITION



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Ministry of
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www.dh.gov.uk

www.valuingpeoplenow.dh.gov.uk

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Forewords



Since 'Positive Practice, Positive Outcomes' was first published in 2007 the needs and issues faced by offenders with learning disabilities have become

much more widely recognised by those working in both criminal justice and health and social care. This updated handbook covers many of the new developments that have emerged in the last few years, both locally and nationally.

A recent report into people with mental health problems or learning disabilities in the criminal justice system (The Bradley Report, 2009) highlighted pockets of good practice as well as clear areas that would benefit from changes and improvements. The report recommended a unified approach from all relevant agencies to ensure the early identification of offenders with learning disabilities and to help to enable appropriate diversion and sentencing.

Whilst I realise that the first duty of the criminal justice system is to protect the public and our communities from crime, it is important to remember that staff are legally obliged to consider the needs of vulnerable groups that come before them and ensure fair and equal treatment for all.

To ensure the appropriate treatment for offenders with learning disabilities those working on the front line require information, guidance and the appropriate communication tools. This handbook provides a practical introduction to this area as well as sign-posting to resources and organisations that can provide specialist support and advice.

A handwritten signature in black ink, appearing to read 'Richard Bradshaw'.

Richard Bradshaw

*Director of Offender Health
Department of Health*



I am really happy that Positive Practice, Positive Outcomes has been updated. I am really interested in making sure people with a learning

disability who find themselves in contact with the Criminal Justice System get good support to help them understand their rights.

I recently visited HMP Isle of Wight and realised how hard it is for people with learning disabilities to understand the system and get on courses that can help with an individual's future.

'Valuing People Now' and the Lord Bradley review both recognise that people with a learning disability do enter the Criminal Justice System but do not have the same opportunities as others because their needs are not known and reasonable adjustments have not been made. Much work is being done to make this better but more needs to happen.

My job is to be part of the team that makes Valuing People Now happen, and to make sure that the lives of all people with learning disabilities change for the better. This includes making sure that people with learning disabilities get good support from the Criminal Justice System.

A handwritten signature in black ink, appearing to read 'Scott Watkin'.

Scott Watkin

*Co-National Director of Valuing People
Department of Health*

Introduction

People with mild or moderate learning disabilities are as likely as the general population to find themselves in contact with the criminal justice system as suspects or offenders. This is also true for people with other conditions such as dyslexia, ADHD and autism.

Some people with learning disabilities may already be in touch with their local health and social care support services. They may freely inform criminal justice staff of their disability and their support needs. Other people may not be aware that they have a disability or may choose not to mention it. It is not uncommon for people with learning disabilities or learning difficulties to try to hide their condition, to fit in or avoid drawing attention to themselves.

It is important that people with learning disabilities within the criminal justice system are identified as early as possible to ensure they receive the appropriate support. This also applies to those people with learning difficulties that mean they are vulnerable and unable to fully understand, or participate, without additional help. It is the responsibility of health and social care services to provide a formal assessment of once they have been contacted.

Such services can provide guidance on the correct approach to take.

The recent green paper on sentencing and rehabilitation sets out plans to break the destructive cycle of crime and prison through various changes to the system. This handbook supports the aims of the green paper, particularly with regards to the focus on rehabilitation, closer links with the community and also meeting the needs of vulnerable offenders, such as those with a learning disability.

"Positive Practice, Positive Outcomes' (2007 edition) has been an invaluable document regarding increasing my awareness of the needs of clients with learning disabilities and the assistance available within the community. As a result of reading this handbook I was able to re-evaluate a case I have been working on and have the person's sentence made more appropriate. I also contacted the local learning disability services and organised a meeting of the staff supporting this person to develop a new care plan that was best suited to his needs."

Care Coordinator
London Probation Service



About this Handbook

This handbook is intended as an introduction to working with offenders with learning disabilities. This group includes police suspects and defendants in court. It covers the essential information to help staff identify and understand this group of people. It also covers relevant legislation that outlines the duties and obligations of criminal justice staff, and also health and social care staff, with regards to offenders with learning disabilities.

Much of the advice and legislation covered is also relevant when working with offenders with conditions that are largely defined by communication problems and that may affect a person's ability to cope in the criminal justice system. These include autism, Asperger Syndrome, ADHD (attention deficit hyper-activity disorder), and specific learning difficulties (such as dyslexia). Descriptions of these conditions are provided.

This handbook aims to help criminal justice staff to:

- Recognise when a person might have a learning disability
- Improve their communication with, and support of, people with learning disabilities and learning difficulties
- Establish and maintain links with the local learning disability services and other support services
- Be aware of the legislation in place to protect and support people with learning disabilities.

This is **not** a **diagnostic manual**. Criminal justice staff are **not** expected to formally assess or diagnose offenders they are working with. Information is provided regarding who to contact if you think an offender may have a learning disability or learning difficulty.

An on-line copy of the handbook can be found at:

www.dh.gov.uk/en/Healthcare/Offenderhealth/DH_4032016

www.valuingpeoplenow.dh.gov.uk/content/offenders



1 What is a Learning Disability and a Learning Difficulty?

A learning disability is defined as:

- A significantly reduced ability to understand complex information or learn new skills (impaired intelligence)
- A reduced ability to cope independently (impaired social functioning)
- A condition which started before adulthood (18 years of age), and has a lasting effect.

Department of Health, 'Valuing People' White Paper (2001)

A person with 'impaired intelligence' may be slower to understand information or to pick up new skills. They may struggle with certain tasks (see the list below for examples).

A person with 'impaired social functioning', may require extra support to live independently and to cope with everyday activities. The level of help required will depend on the person's needs.

Someone with a learning disability is likely to have additional communication needs that can make coping with some situations difficult and stressful.

Everyone with a learning disability is an **individual** who will have different areas that they struggle with. Some of the everyday tasks that people with a learning disability may find difficult include:

- Filling in forms
- Explaining things
- Following instructions or directions
- Managing a home, cooking etc
- Concentrating for long periods of time
- Managing their money and bills
- Telling the time and time awareness
- Keeping appointments

- Remembering information
- Using public transport
- Reading, writing and comprehension
- Understanding social norms.

Some people with learning disabilities can do many of the above tasks. Stressful situations may, however, make these tasks more difficult for them. For more information on what to do and who to contact if you think someone may have a learning disability go to page 25.

Facts and figures

- It is estimated that 1.2 million people in the general population of England have a mild or moderate learning disability (Valuing People, 2001).
- Severe cases of learning disability are more easily identified. Mild or moderate learning disabilities are often more difficult to identify immediately or even over time if the person makes an effort to hide areas they are struggling with.
- An 'IQ' below 70 (plus the behaviours listed in the definition above) is often used to indicate that a person has a learning disability. An IQ score alone is not a sufficient indicator. Social factors must always be considered.

- The vast majority of people with a learning disability look physically the same as the general population, although some people do have clear physical characteristics, for example, people with Down's Syndrome (which is classed as a learning disability).
- A learning disability is a lifelong condition, not an illness or a disease. It cannot be 'cured' like with some mental health problems.
- People with a learning disability are much more vulnerable to bullying and exploitation. They are also often very suggestible and easily influenced by others.
- There is a higher number of people with mild to moderate learning disabilities in deprived and urban areas.
- People with learning disabilities should be treated as **people first** (i.e. before their disability), respecting the fact that they are all individuals.

What is a 'borderline' learning disability?

People with borderline learning disabilities have IQ scores that are significantly below average but not low enough to be considered a learning disability.

The main areas they are likely to struggle with include reading, writing, comprehension and, in some cases, speech and language. This can have a significant impact when carrying out everyday tasks.

In some sense, this 'borderline' group are more disadvantaged than those recognised as having a learning disability, as they are not eligible for statutory social care support. However, educational support has an important role in meeting the needs of this group. This group will also benefit from the practical communication recommendations given in this handbook.

If you are unsure about how able a person is to cope it is important to get them an initial assessment for learning disabilities (see page 25).

What are the differences between mental illness and learning disabilities?

Mental health problems affect about one in four people in the UK. This figure is higher in the offender population. As with physical health, a person's mental health can vary according to what is happening in their life and can change over time.

There are different types of mental health conditions. Some examples include depression, anxiety and schizophrenia.



A mental health problem can develop at any age and the symptoms are usually treated with therapy and medication.

A learning disability is a life-long condition, not an illness. There is no 'cure' or periods of non-disability. People with learning disabilities find it harder to learn. However, given the right type of support they can learn how to fulfil their potential and cope with everyday life.

Mental health problems are more common in people with learning disabilities than in the general population. This combination of conditions can often lead to one condition hiding the other, leaving the person's needs not fully recognised.

Criminal justice staff are **not** required to diagnose such conditions. If you think that a person may have a mental health problem, it is important you contact the mental health professionals serving your organisation, as soon as possible.

"I was called into the local Young Offender Institute to assess a young man. He had attended a special needs school when he was younger, but had not been followed up by community services. He was convicted of criminal damage and received a community sentence, with an evening curfew of 7pm. When he later failed to stick to his curfew he was arrested and detained in the YOI.

He was distressed and confused. My assessment indicated that this young man had a moderate learning disability. During this assessment he was asked if he was able to tell the time. He replied no, he could not. He had never had a watch and had never been able to tell the time, but no-one had asked him this when the curfew was set."

Clinical Psychologist
Birmingham and Solihull Mental Health Trust

What is a learning difficulty?

A *specific learning difficulty* is defined by specific problems processing certain types of information. It does not affect the overall intelligence ('IQ') of a person. It is common for a person to have more than one specific learning difficulty and/or other conditions.

Dyslexia

This condition affects around 4% of the population severely (British Dyslexia Association). Dyslexia affects the way information is processed. It can cause difficulties taking in and remembering information and also knowing the order of things.

Dyslexia is not only about literacy, although weaknesses in reading and writing are often the most recognised sign. People with dyslexia may also suffer from 'visual stress' when reading and find that white backgrounds appear dazzling, print becomes distorted or letters seem to move on the page.

Everyone with dyslexia has different areas that they struggle with. Everyday tasks they may find difficult include:

- Reading, writing and spelling
- Following directions
- Getting dates, numbers and events in the right order
- Remembering appointments
- Time management and organisation
- Processing large amounts of information.

Dyspraxia

This condition affects 2% of the population severely (Dyspraxia Foundation). Males are four times more likely to have dyspraxia. It involves the impairment of movement but it can also

involve problems with language, perception, thought and organisation.

People with dyspraxia may appear slow and hesitant, poorly co-ordinated with poor posture and balance. They can appear anxious, easily distracted and often have difficulty judging how to behave in company. Finding their way to an unfamiliar place can be a challenge.

Dyscalculia

It is estimated that between 3% – 6% of the population have dyscalculia (British Dyslexia Association). The condition causes an inability to understand simple number concepts and to learn basic number skills. It can mean difficulties when learning number based facts and procedures, including understanding finances. People with dyscalculia will have experienced difficulties with numbers from an early age.

People with the specific learning difficulties, such as dyslexia, dyspraxia and dyscalculia, do not qualify for health and social care support for their condition. However, there are statutory

education and independent organisations who can provide support, or sign-posting to local support and specialists, should the person's condition be severe enough that it affects (or is thought to possibly be affecting) their ability to cope with the demands of the criminal justice system (*for more information on these conditions see resources on page 55*).

Attention Deficit (Hyperactivity) Disorder (ADHD)

Attention Deficit Hyperactivity Disorder (ADHD) and Attention Deficit Disorder (ADD) are classed as a specific learning difficulty. ADHD affects between 3-9% of school-aged children and young people (NHS). Although it is more common in childhood the condition can continue into adulthood.

Signs of ADHD include not paying attention to things for very long, being restless and impulsive, being disorganised, blurting out inappropriate comments or interrupting a lot. Some people may seem aggressive without realising. People with ADHD are very easily distracted and tend to have poor listening skills.

The condition can often prevent children from learning and socialising very well. This can lead to them being excluded from school and anti-social behaviour. Their impulsive behaviour can lead to risk taking, with little concern for safety or the consequences of their actions.

As people with ADHD have difficulties with tasks and remembering information, they can become frustrated and distressed very easily. Often they are not very good at dealing with their stress and frustration.

If no 'hyperactivity' is present, the term **Attention Deficit Disorder (ADD)** is used. People with this condition have particular problems remaining focused, so may appear 'dreamy' and lack concentration.

People with ADHD receive health and other forms of support to manage their condition. Medication is often taken. It is unlikely that a person with moderate to severe ADHD could



manage the demands of the criminal justice system without support.

Action:

- Obtain a copy of 'Good Practice Guide for Justice Professionals: Guidelines for supporting clients and users of the justice system who have Dyslexia and other Specific Learning Difficulties' by the British Dyslexia Association and 'danda.' See resources on page 55.

Autism and Asperger Syndrome

Autism and Asperger Syndrome are closely related. They are said to be on the same 'spectrum' of disorder and are therefore sometimes referred to as 'autistic spectrum conditions' (ASC). There are over half a million people in the UK with autism. This amount to around 1 in every 100 people having the condition, (National Autistic Society).

People with ASC have difficulty with three main areas of social skills:

Social Communication: This is shown by them often avoiding, and struggling with, social interaction. They usually avoid eye-contact and may 'act strangely' in a social situation. People with ASC are less able to read social 'cues' and rules, for example, the idea of 'personal space.' They often struggle to understand other people.

Social Interaction: People with ASC often struggle to hold conversations, taking words and phrases very literally (for example, "I could eat a horse" would seem very strange to them). They can often use formal or over-precise language. They usually have poor listening and concentration skills and struggle to understand the meaning behind other people's tone of voice, or facial expressions. These problems can mean the person comes across as blunt to the point of rude.

Social Imagination: Typically people with ASC do not use their imagination when

playing or thinking. They struggle to imagine the consequences of their actions beforehand. They can also often have very specific obsessions.

Other unusual behaviours a person with ASC may show includes covering their ears or eyes. They may stare, look down or look away constantly. Some people walk on their tip-toes in an unusual manner. They may react to stress with extreme anxiety. To help them cope, they may flap their hands, pace around, scream and possibly lose control.

People with Asperger Syndrome generally have an average-to-high IQ score, but still struggle with social, communication and imaginative difficulties, to varying degrees.

People with Autism may have an average-to-low IQ score (and therefore also have a learning disability) and generally receive more support than people with Asperger Syndrome from various care systems and family.

Many people with ASC are less able to filter out background sensory information, so they take in extra noise or light intensity, for example.. This can be a real distraction and can even cause distress for the person. Police sirens, for example, could be very distressing.

People who have ASC report that it is hard to make sense of the world around them. For this reason, set routines and rules are often important to them and whilst things are going as expected, with no surprises, people with ASC are much calmer and happier.

Problems may occur when a person's is disrupted at short notice or they are put in an unfamiliar situation. This is made worse if no explanation is given as to what is happening and what they should expect.

An ASC is not a learning disability, although many people with autism also have a learning disability. The person should be supported by the most appropriate agencies. These might be mental health services, learning disability services or physical disability services (or a combination of these) depending on the person's specific needs.

Actions:

- Obtain a copy of 'Autism: A guide for Criminal Justice Professionals (NAS and ACPO, 2008). See resources on page 55.
- Explore the other tools and information for criminal justice staff on the National Autistic Society website, such as the on-line autism awareness course for criminal justice staff and the 'Autism at a glance' leaflet.

"As a police officer I want to help my colleagues in the criminal justice agencies to understand [my son] Joshua's needs and to be able to deal with those on the autism spectrum in a sensitive, professional and caring way. Not only is this effective, it's good business sense, looking to meet the needs of our clients and customers."

An extract from 'Autism: A guide for Criminal Justice Professionals' (NAS, 2008)

Names, Terminology and Labels

The term 'learning disabilities' replaced 'mental handicap' in the UK in the early 1990's. Some other terms used in Britain and internationally include 'intellectual disabilities' 'developmental disabilities,' 'mental retardation' (USA), 'mental impairment' and 'mentally vulnerable'. Some of these terms, for example 'mental retardation,' are considered offensive by people with learning disabilities.

The difference between a learning disability and a learning difficulty is described in the previous section. These labels are used to classify conditions so that health, social, education and other professionals understand how to support and manage a person with that particular label.

It is not uncommon for someone who has a learning disability to say that they have a learning difficulty. Some people find the term 'learning disability' too negative.

If someone reports that they have a learning difficulty it is important to find out the nature of their learning difficulty. For example, do they mean they have a specific condition such as dyslexia, or perhaps they mean they have a learning disability, that they refer to as a difficulty for social reasons.

Questioning the person about the support they have previously received, particularly at school, should help to uncover the actual condition. Depending on the environment you work in, it is likely that a particular specialist would have to be made aware of such a condition.



2 Learning Disability and the Criminal Justice System

Staff working in the criminal justice system must treat all people equally and make sure that their health and social care needs are met. This includes ensuring that people with learning disabilities are identified and supported. It is therefore important to establish good links with local learning disability services who can offer advice, assessments, treatment and support.

The criminal justice system may be an appropriate option for some people with learning disabilities. It can serve as a deterrent, helping the person to understand the consequences of their actions and prevent criminal behaviour becoming more extreme in the future. This route relies upon the various stages of the criminal justice system being able to meet the support needs of the person in question, to ensure that they receive fair and equal treatment and have the same opportunities as other offenders.

It is important that a person with learning disabilities understands the crime they are charged with. They must also understand any conditions of their sentence, so they know what is expected of them and are not put at an unfair disadvantage.

Offenders with learning disabilities may have committed a range of offences for various reasons. Unfortunately not all types of offending behaviour programs are available in adapted versions for offenders with learning disabilities or other communication problems.

For some people with learning disabilities the criminal justice system is not an appropriate option. If a person's condition means that they cannot cope with the demands of the criminal justice system then they should be assessed and diverted to a more appropriate setting that can address both their care needs and their offending behaviour.

People with severe learning disabilities are more likely to be known to social services and receive regular support in the community or a residential setting. Typically this group are less likely to offend. It is those people with mild or mild-to-moderate learning disabilities who are more likely to find themselves in the criminal justice system.

A person in the criminal justice system with a learning disability, or another condition that affects their ability to understand and communicate, is considerably more vulnerable to exploitation and bullying. They are often more suggestible and easily influenced by others and also more likely to be a victim of crime themselves.

Without the necessary communication support a person with learning disabilities in the criminal justice system is put at a real disadvantage. This can cause unfair or distressing consequences for the person. For example, not being able to read or write letters or complete visiting orders whilst in prison. It could even mean a person signing contracts and forms which they do not understand.

If a person is unable to understand their bail or sentence conditions or to complete their offending behaviour program, because of their condition, they will end up spending longer in the criminal justice system. This situation has been called an infringement of a person's human rights by the Joint Committee on Human Rights (2007-08).

Case Study

I was managing a repeat offender with alcohol related violence problems. After working with my local Community Learning Disability Team to get him assessed as having a learning disability, a varied package of support was put in place. This combined the specialist interventions from the health and social care professionals and the offending behaviour measures used by the probation service, and was adapted to match this person's level of understanding.

One of the simple but effective tools we developed was to create a poster of pictures to address the 'cycle of change' in tackling his offending behaviour. He drew pictures of things that made him feel safe and calm, for example, walking the dog, listening to music, etc. and whenever he felt stressed or felt the need to drink he would look at the pictures and felt safe and able to cope.

MAPPA Probation Officer
Thames Valley Probation

The number of people in the criminal justice system

The figures concerning how many people with a learning disability are in the various stages of the criminal justice system are quite varied. This is largely because of the different definitions of conditions used and the difficulty in assessing the whole criminal population to find the percentage with learning disabilities or other conditions such as specific learning difficulties, autism and ADHD.

Studies suggest that between 20 to 30% of offenders have a learning *difficulty* (Loucks, 2007). Those with a learning disability are also included in this figure. A recent study found that 7% of adult prisoners have a learning disability demonstrated by an IQ score of less than 70. A further 25% were found to have an IQ score of less than 80 (Mottram, 2007). For those in prison under 18, one study found 23% to have an IQ score under 70, and 36% had scores between 70-79 (Harrington and Bailey, 2005).

The average IQ score of the general population, in the UK, is 100. This means that a large number of people in prison would greatly benefit from the kind of reasonable adjustments and communication changes recommended in this handbook, regardless of whether they have a recognised learning disability.

The same communication recommendations would also benefit offenders with conditions that do not affect their IQ score, but still cause considerable communication difficulties such as dyslexia. Dyslexia is three to four times more common amongst prisoners than in the general population (Rack, 2005).

"The most important thing for criminal justice staff is to be able to communicate with the offender. This can be done effectively by recognising each offender as unique and also through using various communication skills and methods available."



For example, this could mean using pictures or flipcharts for someone who struggles with spoken or written language. Once effective communication has been achieved it is then possible to find out what the individuals needs are, assess risk and to then access the correct support services."

Learning and Development Manager
(former probation officer and psychologist)
Midlands Consortium Probation Service

How can you tell if someone might have a Learning Disability?

You may want to ask some of the following questions (remembering the sensitive nature of this area):

- **Can you tell me where you live?/Can you tell me who you live with?**
This might show if the person is still living with their parents or in supported accommodation with staff helping them.
- **Do you have anyone to support you like a social worker, doctor or nurse?**
- **Is there anyone who helps you with things like paying your bills, cleaning or cooking?**
- **Where did you go to school/Did you have extra help at school?**
Try to find out if the person went to a specialist school. The person may not see their own school as a 'special' school. They may have gone to a mainstream school but had extra help in class.
- **What do you usually do in the day?**
Try to find out if they attend a day service or supported employment, for example.
- **Have you ever been in hospital?/How long for and when?/Do you know the hospital's name?**
This may help to find out if they have used local learning disability or psychiatric services. It may also provide clues about their physical and mental health.

- **Do you sometimes find it hard to understand what other people are saying?**
Some people will not have used learning disability services before, so questions about how they understand and cope may reveal a condition that needs further assessment.
- **Can you tell me how old you are?/Can you tell me when your birthday is?**
- **Can you read? Can you write?**
Ask the person to read some simple text aloud, or write down a simple sentence.
- **Can you tell me what time it is?**

If the answers given lead you to think the person may have a learning disability, or a similar condition that affects their ability to communicate and cope with the criminal justice system, it is recommended that you contact the appropriate health or social care professionals. See page 25 for a description of the support options available to you.

Positive Practice

The Department of Health, with National Offender Management Service (NOMS), has piloted a screening tool designed to identify when a person is likely to have a learning disability (called the Learning Disability Screening Questionnaire (LDSQ), by Dr's. McKenzie and Paxton). The LDSQ is now being used successfully in a growing number of prisons, plus some courts, police and probation settings.

The Department of Health is currently providing training on how to use the tool and is purchasing the license for the use of each LDSQ. Any member of staff in the Criminal Justice System can be trained to use the LDSQ if they feel an offender might have a learning disability. The prisons that are using the tool have typically developed local care pathways for those found likely to have a learning disability. These usually include the involvement of healthcare, education, and the Disability Liaison Officer. Many prisons have additional support, for example, the use of Easy Read information, self-help groups and links with local third sector and community services.

A learning disability, or similar condition, may be hidden by other influences on behaviour. These could be in the form of a mental illness, drugs, alcohol, withdrawal symptoms or extreme anxiety brought on by the situation. It is not the role of criminal justice staff to diagnose these possible conditions or influences. If staff have concerns about a person they should contact the appropriate specialist.

“Although it is not always totally obvious when a person has a learning disability, in most cases those staff working with a person will notice some unusual behaviour or lack of understanding. If staff are in any doubt about whether a person has a learning disability they should flag it up with the correct specialists straight away.”

Raising your concerns as early on as possible saves the person going unsupported, and in some cases unnecessarily, through the criminal justice system before anyone notices, perhaps until they reach prison.”

Learning Disability Nurse

*Forensic Community Treatment in Learning Disabilities
Bedford and Newton Partnership Trust*

Actions:

- Obtain a list of the specialist schools and specialist units for mainstream schools for children with additional educational needs in your local area.
- Ask your local health services for relevant details of the services in your area, for example, a list of specialist assessment and treatment units.
- Ask your Local Authority (Social Services/ Community Learning Disability Team) for details on local day-services and employment schemes for people with learning disabilities.



3 The Health and Social Care needs of people with Learning Disabilities

In general, people with learning disabilities experience more difficulties accessing healthcare and have poorer health than the rest of the population. They are also more likely to die at a younger age because of health problems. Many people with learning disabilities require help in recognising, explaining and meeting their own health needs and in accessing healthcare services.

People with a learning disability are also at increased risk of having an undiagnosed illness because it can be incorrectly thought that their symptoms are due to, or are part of, their 'disability.'

If a person with learning disabilities reports symptoms, displays signs of illness or if there are changes in their behaviour, a medical assessment is required. The person may need support to arrange and attend an appointment and possibly when explaining their symptoms.

It is important to know that people with learning disabilities are at increased risk of experiencing:

- Epilepsy
- Sight or hearing problems
- Difficulties with eating and gastrointestinal problems
- Hypertension and respiratory disease
- Obesity (and therefore coronary heart disease)
- Poor dental hygiene
- Diabetes
- Thyroid problems
- Attention Deficit Hyperactivity Disorder (ADHD)

- Anxiety, phobias and panic disorders
- Depression
- Schizophrenia.

People with learning disabilities are also more vulnerable to exploitation, bullying and abuse of all kinds (physical, emotional, psychological, sexual, financial, etc). Feeling vulnerable can mean that they respond strangely to other people. They may be more aggressive, for example, or more withdrawn and quiet.

For some people, the criminal justice system can be the first time they come into contact with health and social care services or the first time they receive help for specific mental or physical problems. Professional help at this stage is therefore an opportunity to address health care needs, which could in turn reflect positively on other behaviour, such as reducing the person's re-offending rate.

People with learning disabilities who offend usually have complex social care needs. It is important that criminal justice staff work together with the relevant agencies, such as health and social care, housing, education and employment, to help this group tackle their offending behaviour.

Case Study

I became aware of a suspect with known learning disabilities who also suffered from depression. The police were aware of his conditions and asked him if he would prefer to be in a cell alone or with other people (because of his depression). He chose to be with other detainees in a single cell, but because of his manner and his level of understanding he was badly bullied by the others.

He had not realised this may happen as he was not familiar with the criminal justice system. This case highlights how important it is to make sure any options or questions posed to a person with learning disabilities are fully explained and that the person is supported to fully understand the consequences of any decisions that they make.

Mental Health Nurse

Offender Health and Social Care Team
Yorkshire and Humber Improvement Partnership

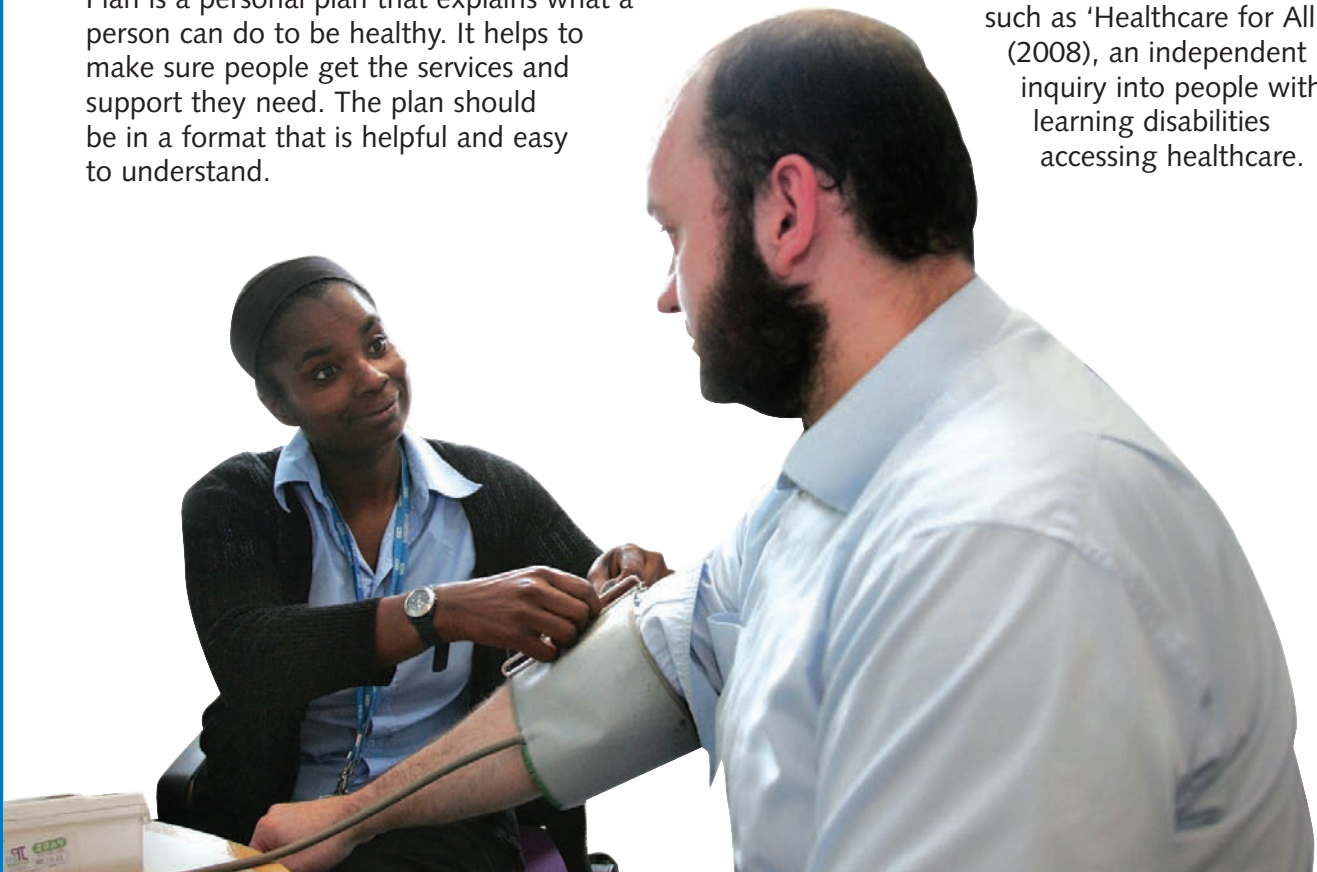
Health Action Planning (HAP)

People with learning disabilities should have a Health Action Plan (HAP). A Health Action Plan is a personal plan that explains what a person can do to be healthy. It helps to make sure people get the services and support they need. The plan should be in a format that is helpful and easy to understand.

Whoever is supporting the person with learning disabilities to do health action planning is called a 'health facilitator'. This role can be undertaken by a health or social care professional, such as a community learning disability nurse, or it can be someone like a trusted relative. It is important that primary healthcare services, particularly the person's GP, are fully involved in the plan. For more information on Health Action Planning see *resources on page 55*.

Valuing People Now (2009) (*see page 18*), suggests that as part of the offender management process (led by 'NOMS') there should be a health screening program that identifies an offender's learning disability and any physical and/or mental health issues. It is recommended that this should form the start of the individual's Health Action Plan and enable access to the appropriate education and rehabilitative programs.

Other relevant reports, initiatives and legislation concerning meeting the health and social care needs of people with learning disabilities, and other vulnerable adults, are listed in the resource section (*see page 55*). This includes reports such as 'Healthcare for All' (2008), an independent inquiry into people with learning disabilities accessing healthcare.



Positive Practice

A small number of prisons currently employ learning disability nurses to identify and meet the needs of those prisoners with a learning disability, and to aid other prison staff in managing prisoners with learning disabilities or similar behaviour. HMYOI Hindley employed two learning disability nurses after a prevalence study of local prisons found there was a significant number of prisoners with a learning disability.

All prisoners are now screened for learning disabilities as part of their initial health care screening. The close links the nurses have with the local and national learning disability networks and services enables easier access to services as well as up-to-date information sharing and the sharing of useful tools and materials.

The learning disability nurses work closely with all types of prison staff to advise on how to manage certain prisoners or more appropriate ways to interpret and respond to their behaviour. They also help prisoners with learning disabilities adapt to prison life and ensure that their health and social care needs are met through Health Action Planning.

Actions:

- Contact your local general health services or Learning Disability Partnership Board (LDPB) to find out more about Health Action Planning in your area. Your Local Authority will have details of how to get in touch with your LDPB or you can find it through the Valuing People website (see *resources on page 55*).
- Criminal justice healthcare staff to obtain a copy of the Royal College of Nursing (RCN) Health and nursing care in the criminal justice service and Meeting the Health Needs of People with Learning Disabilities (2006) (see *resources on page 55*).
- Download any relevant health leaflets in easy read for patients/offenders with communication problems. See www.easyhealth.org.uk
- Prison healthcare staff to be aware of the Prison Health Performance and Quality Indicators (2009) that relate to prisoners with learning disabilities (see *resources on page 55*).



4 Recent Developments

Valuing People Now: A new three-year strategy for people with learning disabilities. "Making it happen for everyone" (2009)

This new strategy follows on from 'Valuing People: A new strategy for learning disabilities in the 21st century' (2001). It promotes the principles and values of this original strategy in the new, wider context of increased partnership between health, social care and local communities.

It recognises the existing body of legislation and policy that places a duty on public services, in particular the Disability Discrimination Act (2005) and the Human Rights Act (1998). It suggests ways services can carry out best practice when meeting the needs of people with learning disabilities.

The four guiding principles promoted for people with learning disabilities are:

- **Rights** – having the same human rights as everyone else
- **Independent Living** – having greater choice and control over the support needed for daily life and greater access to community services
- **Control** – being well informed, involved and in control of all decisions concerning them
- **Inclusion** – being able to participate in all aspects of the community (and being supported to do so).

Valuing People Now stresses the importance of maintaining a 'rights-based approach' when supporting people with learning disabilities. This means that the person's wishes are upheld and respected and that they are kept firmly at the 'centre of things' that involve them.

This 'Person Centred Approach' encourages staff to make every effort to ensure that the person with learning disabilities, and those closest to them, are involved in all decision

making and planning. *For information on the Person Centred Approach and Person Centred Planning see resources on page 55.*

The ability to uphold these four main principles for someone with learning disabilities in the criminal justice system (as an offender) will be affected. For example, having greater choice regarding independent living, etc. However, the loss of any rights, independence or choice should only equal that lost by other, non-disabled, offenders in the same situation.

The strategy refers to offenders with learning disabilities both in custody and in the community. It emphasises the importance of Person Centred Planning, health screening and increased planning for this vulnerable, and often overlooked, group of people.

The Bradley Report: Lord Bradley's Review of people with Mental Health problems or Learning Disabilities in the Criminal Justice System (2009)

In 2007, Lord Bradley began an independent review into the extent to which offenders with mental health problems or learning disabilities could, where appropriate, be diverted away from the criminal justice system to other services. His 2009 report identifies barriers to diversion and also gives recommendations to bring about positive change.

The review looked at the whole offender pathway and related services. Whilst the report recognises that some offenders with learning disabilities may benefit from a criminal justice sanction, be it time spent in prison or a community sentence, for many people diversion away to more specialist services can be more appropriate. The report gives 82 recommendations for the government and for

police, courts, prison and probation services as well as health and social care services.

Lord Bradley calls for more comprehensive information to be made available on the needs and abilities of people with learning disabilities in all stages of the criminal justice system. This is to allow informed decisions to be made, for example, concerning arrest, sentencing, diversion options, treatment and reducing re-offending programs.

The report also recommends that all police custody suites and all courts should have access to liaison and diversion schemes (see *page 26 for a definition of these schemes*).

No One Knows: Learning disabilities and learning difficulties in the criminal justice system The Prison Reform Trust

'No One Knows' is a UK-wide programme that aims to bring about change by exploring and publicising the experiences of people with learning disabilities and difficulties who come into contact with the criminal justice system. No One Knows was supported by The Diana, Princess of Wales Memorial Fund and chaired by the Rt Hon Baroness Joyce Quin, former prisons minister for England and Wales.

Mencap was a partner organisation of the No One Knows program.

Several publications have been produced as part of the No One Knows programme.



These include research findings from a survey of prison staff and interviews with prisoners; a review of provision for vulnerable defendants in the criminal courts, and police responses to suspects with learning disabilities. These publications include helpful overviews and explanations of the relevant issues and legislation regarding offenders with learning disabilities and difficulties at various stages of the criminal justice system.

Although the No One Knows programme concluded in 2008, the Prison Reform Trust remains interested and involved in this area of work, in particular The Bradley Report (2009). The Prison Reform Trust's program on reducing child imprisonment, "Out of Trouble" is also concerned with children with learning disabilities and difficulties who offend, see for example the publication, Seen and Heard: supporting vulnerable children in the youth justice system.



5 Key Legislation

The Disability Discrimination Act (2005) and The Equalities Act (2010)

Under the DDA (1995) all public services have a legal responsibility not to discriminate against disabled people and not to provide a poorer quality of service for someone for a reason related to their disability. In 2005 an amendment to the Act placed statutory duties on public bodies to stop any discrimination and harassment of disabled people. It also states that public bodies are required to promote equal opportunities for disabled people. Public bodies are to meet these duties through developing Disability Equality Schemes. In 2010 the new Equalities Act replaced most of the DDA, although this Disability Equality Duty still applies.

Disability is defined as:

"When a person has a physical, sensory or mental impairment* which has a long-term and substantial effect on their ability to carry out normal day to day activities".

* "Mental impairment" is intended to cover a wide range of conditions relating to mental functioning, including learning disabilities, autism, dyslexia, ADHD and speech and language difficulties. All public services must be aware that someone who has had a disability, which falls within the DDA definition, is protected by this legislation from discrimination and thereby from 'less favourable treatment' than non-disabled people for a reason related to his or her disability. This includes cases where the person has recovered, is in remission or where their condition is controlled by medication.

Disability Legislation and the Criminal Justice System

Police: The 'Disability in the Police Service' guidance was launched in 2006. This was published jointly by the Home Office, ACPO

(Association of Chief Police Officers) and the APA (Association of Police Authorities). The guidance aims to provide best practice advice to assist police forces in using the DDA.

The Ministry of Justice/Courts: The MoJ has published its Disability Equality Scheme (2008-2011). This is an action plan regarding the DDA in the courts service and is being lead by the courts regional diversity managers. The Ministry of Justice intends to explore further the issues that affect people with learning disabilities in the courts system.

The courts service has also published 'Reasonable Adjustments Guidance' (HMCS, 2009a) and 'Disability Factsheets' (HMCS, 2009b), which state 'that all citizens, regardless of their differing needs, (should) have access to justice'.

The National Offender Management Service (NOMS)/Prison/Probation:

NOMS has published the Single Equality Scheme (2009-2012). This sets out how the agency will meet its equality duties and deliver fair prison and probation services to all. The scheme covers race, disability and gender equality.

The NOMS Equality Impact Assessment Tool (NEAT), as set out in PSI 2009/25, replaces the need to conduct separate Race Equality and Disability Impact Assessments. This tool gives an assessment of the effects of a function, policy or practice on different groups of people, to help ensure equality for everyone.

Prison: Prison Service Order (PSO) '2855' addresses issues surrounding 'Prisoners with Disabilities'. A new Equalities Framework is due to be published in 2011. The aim is that all staff in the prison system understand and comply with the DDA and new the Equalities Act. (See page 47 for more details on this PSO and the Prison Service Instruction (PSI) that accompanies it concerning the allocation of prisoners with disabilities, PSI '31/2008').

The Prison Service has also developed guidance on 'Reasonable Adjustments' (as described in the DDA) for common disabilities, in a prison setting. This includes brief descriptions of the conditions covered in the DDA and examples of reasonable adjustments used in prisons. This will be made available on the prison intranet. The MoJ Disability Equality Scheme also has actions for the prison service.

Probation: The National Probation Service have published a Probation Circular (Ref: 34/2006) called 'Disability Monitoring.' It provides an overview of the DDA and the conditions covered by the Act. It states that all local areas must develop their own Disability Equality Schemes and must monitor offenders with disabilities, recording any needs and barriers offenders face and reasonable adjusts that they require.

"If our interventions are not designed with the needs of disabled offenders in mind, or are delivered in ways or places that mean they are not accessible to disabled offenders, then we are not just depriving a significant proportion of our population of equal opportunities, we are failing to achieve our goal of reducing re-offending."

Extract from the NOMS Single Equality Scheme (2009-2012)

Action:

- Find out what steps your service is taking to meet the requirements of the DDA and the duties and responsibilities that apply to your role.

Photograph courtesy of West Midlands Police



The Mental Health Act (1983) (2007)

The Mental Health Act (1983), as amended by Mental Health Act (2007), aims to limit the negative impact of having a mental disorder on the person affected by such a condition, and on society. The Act explains the situations when a person must accept an assessment of their mental health by specialists. It covers the circumstances when a person must receive mental health treatment and when they need to be admitted to a psychiatric hospital.

The Mental Health Act defines a mental disorder as 'any disorder or disability of mind.' A learning disability is not classed as a mental disorder under the Act, unless it is 'associated with seriously irresponsible or abnormally aggressive conduct.' Autism and Asperger Syndrome are classed as a mental disorder under the Mental Health Act. The Act does not apply to people who only have learning *difficulties*.

Part 3 of the Mental Health Act focuses on how the Act is to be used during criminal proceedings. Certain criminal justice staff have specific powers under the Act for dealing with people with mental disorder. Registered mental health specialists will provide information and recommendations to the relevant criminal justice staff, after they have assessed a person, before any decisions are made about whether it is appropriate to use the powers of the Act.

Sections are included on disposal options for the courts under the MHA, the process of transferring a prisoner to a secure psychiatric hospital and guidance for police on when and how a person can be removed from public if they are believed to be suffering from a mental disorder and taken to a 'place of safety.'

The Department of Health has produced guidance on the details of prison transfer process and most Mental Health Trusts will have local guidance on police using a 'place of safety' under the MHA, or will be able to offer further advice to police who are unsure about how to carry this out.

Case Study

We supported a young person who had a significant learning disability and an attachment disorder. It was quite quickly apparent that he was struggling to cope with prison life. He was on the Disruptive Prisoner Protocol but it was believed that moving him to another prison could make his attachment disorder worse. After the multi-disciplinary team assessed his degree of 'mental disorder' and his level of vulnerability and risk in prison, it was agreed that treatment in hospital was the more appropriate option. He received the formal psychiatric assessments required for a transfer under the Mental Health Act. We then made sure that he was appropriately supported in prison until he could be transferred.

Learning Disability Lead
HMYOI Hindley

The Mental Capacity Act (2005)

The Mental Capacity Act (2005) sets out a framework for assessing an adult's mental capacity and, if they lack capacity, for making 'best interests' decisions on their behalf. It can be applied to adults with a learning disability, dementia, other mental health difficulties or brain injury, who cannot make decisions for themselves. Most people with learning disabilities are able to make their own decisions, although they may sometimes need support.

The MCA covers all types of decisions, including personal welfare and financial matters. It also covers the conditions of decision-making, on behalf of those who lack capacity, by attorneys or court-appointed "deputies," as well as other individuals.

If a person, who lacks capacity, has no friends or family who can support them, an Independent Mental Capacity Advocate (IMCA) can help them when they have to make a serious decision, such as deciding on medical treatment or where they are to live.

An assessment of a person's mental capacity involves considering whether the person is able to understand any information that is relevant to the decision in question and whether they are able to remember and use this information. A person with mental capacity should be able to communicate the nature of the decision being made.

The Act outlines key principles that should be applied by anybody providing a service to someone who may (potentially) lack the mental capacity to make certain decisions for themselves.

These principles are:

- Presume a person has mental capacity: every adult has the right to make his or her own decisions. It must be assumed that they have the capacity to do so, unless proved otherwise.
- Give support in decision-making: people must be given all the appropriate help before anyone concludes that the person cannot make an eccentric or unwise decision.
- People have a right to be irrational: people who have the capacity to make a particular

decision must be allowed the right to make an eccentric or unwise decision.

- Act in the person's best interests: anything done for, or on behalf of, people without mental capacity must be in their best interests.
- Use the least restrictive intervention: anything done for, or on behalf of, people without mental capacity should cause the least restriction possible to their basic rights and freedoms.

Any paid employees working with people lacking capacity, including criminal justice staff, will have to adhere to the Act's 'Code of Practice'. Breaching the Act, and not having regard for the Code, could be used against staff in legal or disciplinary proceedings. The Act also makes it an offence to ill treat, or wilfully neglect, a person who lacks mental capacity.



6 Getting Help and Support

There are various statutory and non-statutory teams and organisations who can offer advice to criminal justice staff and provide assessments and support for people with learning disabilities and most of the other conditions mentioned in this handbook.

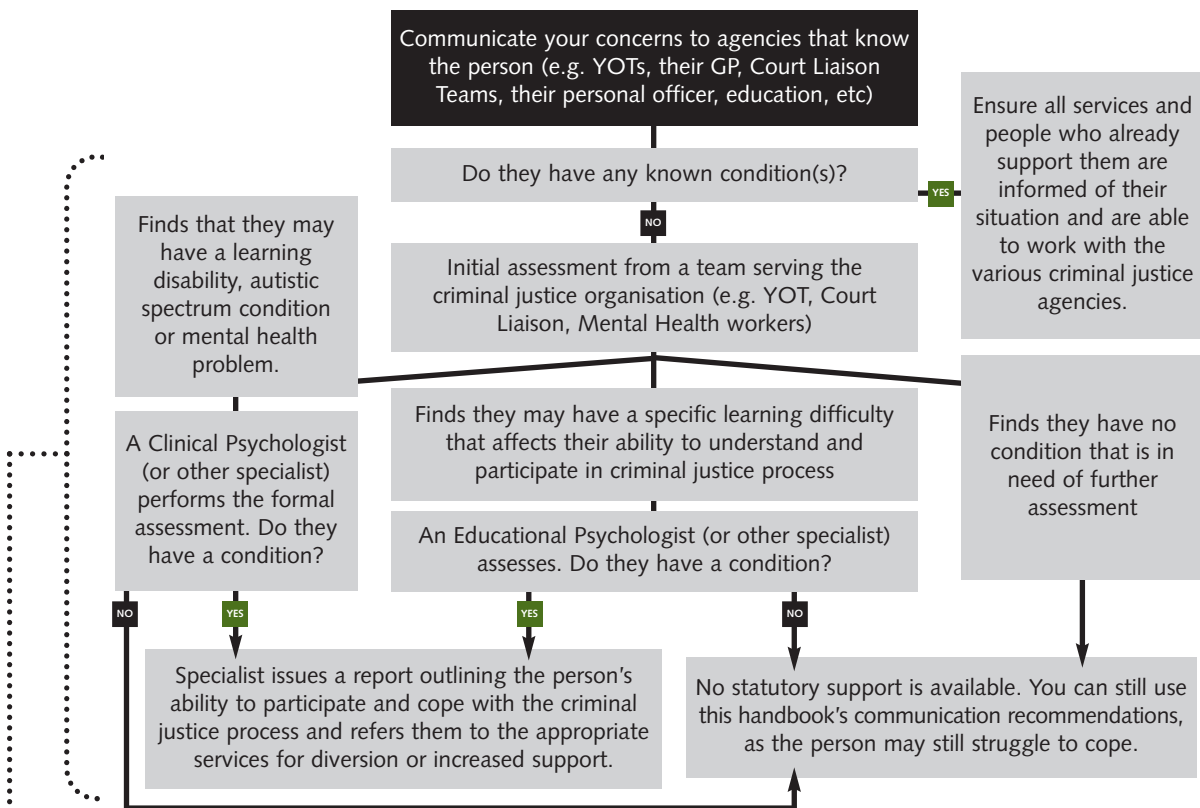
As a general rule, the first action for staff, if they are concerned about a person's ability to cope, should be to contact the specialist health and/or social care teams supporting the criminal justice service. For the courts this might be the Youth Offending Team or Court Liaison and Diversion Team, for example. In Prison the healthcare department would be consulted. Such specialists should be able to do an initial assessment and then organise a referral for a formal assessment, if required.

As illustrated in the flow-chart, obtaining a full assessment involves several stages and specialists. If a person is found to have a

condition affecting their ability to cope, the final report from the formal assessment is likely to recommend a joined-up approach of support between the relevant criminal justice and health and social care agencies.

This can often mean criminal justice agencies, health and social care services, families and carers, and education all working together to ensure a person is supported through the criminal justice system or, if appropriate, diverted away from it.

What to do if you think someone has a learning disability or similar condition



Any interview or trial process is put on hold until all assessments are completed

Community Learning Disabilities Teams

All local authorities have Community Learning Disabilities Teams (CLDTs), in some form. These are teams of different health and social care specialists who can give advice about and for adults with learning disabilities. They also accept referrals for assessments and provide support and therapies for people with learning disabilities. The teams will have links with all local learning disability services, such as, residential services and day-centres, etc.

The teams are for people with known learning disabilities or those thought to possibly have a learning disability and are in need of an assessment. They are not for people with other conditions such as learning *difficulties* and ADHD (except when these conditions are present with a learning disability).

CLDTs employ a range of staff and may include community learning disability nurses, psychiatrists, clinical psychologists, social workers, care managers, speech and language therapists, occupational therapists and physiotherapists.

Local Authorities have a duty of care to assess people to see what their level of need is under 'Fair Access to Care Services,' (2003). These assessments work to national guidelines. However, the Local Authority itself decides on the 'level of need' cut-off point, at which they allow access to services.

Some people may already be known to their local CLDT, although it is not uncommon for offenders with learning disabilities to have had no previous contact with this type of service. There are regional differences regarding the commissioning and experience of local CLDTs working with offenders. Some CLDTs may have identified teams or individuals who work specifically with offenders or they may have arrangements in place with local mental health or forensic teams for joined-up work.

You can contact your Community Learning Disabilities Team (CLDT) if you think someone has a learning disability and your service does not have a specialist to assess them. Contact details for your local team should be available through your Local Authority (Social Services).

If the Community Learning Disabilities Team are unsure whether the person has learning disabilities, they will be able to ask some initial screening questions and organise a formal assessment, if needed. At this stage, it is useful for criminal justice staff to provide details of the person's home GP, their home general health services, Mental Health Trust and Local Authority (Social Services), if available. *Details on how to find these services can be found in the resources section on page 55.*

Positive Practice

Kent Probation have been working with a local Community Learning Disability Team (CLDT) to help meet the needs of offenders, and those at risk of offending, who have a learning disability. The joint work has allowed both services to share specialist knowledge and to produce adapted intervention programs. The CLDT have benefited from an increased awareness of risk management, public protection and general offender issues that they can integrate into their service. The CLDT has in turn helped probation staff to adapt their sex offender program for use with sex offenders with learning disabilities.

The two services deliver this adapted program to men in both local residential homes and in Probation Approved accommodation. This allows convicted sex offenders to meet the conditions of their community orders and those residents who have a history of sexually problematic behaviour to volunteer to attend. Each group has a positive effect on the other as the statutory group gain from the motivation of the voluntary attendees. The convicted group also act as a deterrent to future offending by sharing their experiences of the criminal justice system.

Criminal Justice Liaison (and Diversion) Teams

These teams are made up of various health and social care specialists and act as a link between health and social care services and criminal justice agencies. Most teams mainly focus on adults, in the criminal justice system, with

mental health problems. Some teams have specialist learning disability expertise.

Such teams aim to provide assessments at police stations, courts and some other custodial environments for people who have or are thought to possibly have a serious mental health need and future delivery plans are to extend this remit to learning disabilities and substance abuse problems.

A person may then be diverted, where appropriate, to services that can provide specialist forensic treatment and support for their condition and offending behaviour. Alternatively, they may remain in the criminal justice system. Some teams may be able to advise and train criminal justice staff on how to support the individual.

Different types of teams have developed across the country that offer help to criminal justice staff through providing, more or less, the same type of service. Other types of teams you may want to ask about in your local or regional area include, Court Diversion and Liaison, Forensic Mental Health teams, Forensic Learning Disability teams, Forensic Services for People with Learning Disabilities and Forensic Support Services.

Some of these teams tend to concentrate on the police and courts stages, whilst others are more focused on the post-sentence stages, for example, to concentrate on treating a person's offending behaviour. Some teams also work with those people in the community thought to be 'at risk of offending.'

Some teams may also help different service areas to work together to support people through the criminal justice system. Their knowledge of both criminal justice and health and social care services means that they can easily contact additional support services and save the criminal justice system time trying to understand the local system of available and appropriate support.

Not all local areas have such teams (currently one third of magistrates' courts have access to such a service). However, The Bradley Report (2009) (see page 18) makes recommendations regarding Criminal Justice Liaison teams which have been recognised by the government as a priority.

These teams can be 'based' in one of several types of services. A good place to ask about these teams would be through any local secure (mental health/learning disability) hospitals or the local Mental Health Trust.



Services for Children and Young People with Learning Disabilities

Child and Adolescent Mental Health Services' (CAMHS) teams can help to meet the needs of people, under 18, who have mild to moderate learning disabilities and challenging or offending behaviour. These teams should have close links with CLDTs (see *description above*) and are also made up of various specialists who can provide assessments, therapies and other types of support. They also work with children and young people with mental health problems.

Many children with mild to moderate learning disabilities, or learning *difficulties*, combined with challenging behaviour, may also be seen by educational psychology services.

Every Local Authority has a Youth Offending Team (YOT). These are teams made up of the criminal justice staff and health and social care services. The teams work with all young offenders (regardless of whether they have a learning disability) to assess their level of need and risk, and to try to prevent future offending.

Learning Disability Partnership Boards (LDPBs)

As part of Valuing People (see *page 18*), the Government has asked each local council to set up a Learning Disability Partnership Board. LDPBs meet regularly to talk about opportunities and support available for people with learning disabilities in their area.

LDPBs aim to bring together people who have an influence over local services for people with learning disabilities, such as council services, health trusts and other services or projects. They also involve people with learning disabilities and their carers.

There is an important opportunity for criminal justice representatives to link in with these LDPBs. Some LDPBs already include police and other local criminal justice staff in meetings concerning relevant local issues. The two organisations can direct each other to useful

information and advice and can provide recommendations for planning services for offenders with learning disabilities. One of the recommendations of Valuing People Now (2009) is for LDPBs to engage with their local Crime and Disorder Reduction Partnerships.

You can find out how to contact your local Learning Disability Partnership Board through the Valuing People website (see *resources on page 55*) or through your Local Authority.

Positive Practice

The Hambleton and Richmondshire Learning Disability Partnership Board (LDPB) has strong links with the local Community Safety Partnerships and the North Yorkshire Police Force training department. This link allows the LDPB members to have their say on policies that could affect local people with learning disabilities, such as the recent 'Hate Crime' project. These links also help local criminal justice staff to understand the nature of learning disabilities and how this relates to their work through training and work experience in local learning disabilities organisations.

Finding the Responsible Organisations for Assessments and Support

The social care needs of a person in custody or in prison are the responsibility of the Local Authority based in their home area. The majority of support that people with learning disabilities require come from social services. This can cause confusion and delay for staff and the person concerned, for example, when the person is in a prison in a different area to where they live.

This should not be used as an excuse to delay getting help for someone in prison. It is in the interests of the local social services to assess prisoners in their area and make contact with

the person's home social services in advance to prevent future problems when the person is released. The physical and mental health care needs of offenders are the responsibility of the local general health services and Mental Health Trust in which the prison or police station is located.

If a person is thought to possibly have a learning disability, or other condition which affects their ability to understand and cope, staff can initially contact the on-call psychiatrist, the duty social worker or equivalent healthcare professional serving that particular stage of the criminal justice system. It is likely that these professionals will conduct an initial screening of the person and then contact the appropriate service for a formal assessment, further support and access to specialist services.

If you have a team already serving your service, a Youth Offending Team or a Court Liaison Team, these can be contacted for the initial screening process.

Community Learning Disability Teams usually have an open referral system. This means that anyone who has concerns about a person possibly having a learning disability can ask for an assessment.

Alternatively, the local Criminal Justice Liaison Team (or equivalent) may be able to provide a faster assessment than the Community Learning Disability Team as they are more accustomed to how the criminal justice system operates. They can also assess for other mental health conditions.

Time can be saved by making sure that criminal justice services have a named contact for their local Community Learning Disability Team and have established links between the two services. In some cases, Criminal Justice Liaison Teams (or equivalent services) have acted as a 'bridge' between the two services, for example, helping probation get support for an offender from the local CLDT.

Positive Practice

The Bradley Report (2009) brought the needs of offenders with learning disabilities to the notice of local services in Yorkshire and Humber. The regional Offender Health and Social Care group (Yorkshire and Humber Improvement Partnership) decided to hold a learning disability 'Master Class' event to bring together staff from the criminal justice and health and social care services in the region.

The aim was to raise awareness of the issues learning disabled offenders face and the support services that are available for the criminal justice system to link with in the community. It was also a chance for the local health and social care services to get more of an understanding of the criminal justice system. The event has increased the links between local services and means offenders are able to be supported more quickly and appropriately.

Independent/Private Providers and Third Sector Organisations

There are many national and local charities, not-for-profit organisations, as well as advocacy and voluntary organisations that work on behalf of people with learning disabilities. These groups can offer information, resources, advice, specialists and other useful contacts. There are organisations for people with learning disabilities, as well as others for people with conditions such as autism, ADHD, dyslexia, etc.

Many organisations also offer direct services to people with learning disabilities, such as housing networks, social activities and sheltered work. A good way to find out what organisations are in a local area would be to ask the local Community Learning Disability Team who should have links with third sector learning disability organisations.

For other conditions, the national charity for a specific condition is usually a good starting point for useful local contacts. For example, if managing an offender with autism or Asperger

Syndrome, the National Autistic Society (NAS) would be able to provide information on local groups and services, as well as more general information and resources.

Another potentially helpful form of support is Peer-support Advocacy Groups and also Professional Advocacy Schemes. Such groups can share their knowledge and experiences and provide emotional support.

Professional (paid) advocates can help an individual with important decisions, typically at a time of crisis. The local CLDTs and LDPBs should be able to provide information on any advocacy schemes in the local area.

"Lots of offenders with learning disabilities are very isolated. They may not have a network of peer support, or their peers may be a negative influence on their offending behaviour and their lifestyle. A criminal justice professional working with a person with a learning disability could help them to access additional support by linking them with a local advocacy group or network. This could have a potentially positive effect on someone with learning disabilities, their families and carers."

Director, 'Inclusion North'

An organisation that works to promote Inclusion for people with learning disabilities, their families and carers

Actions:

- Ensure you have access to, and contact details for, an on-call psychiatrist, duty social worker or equivalent for emergency and out-of-hours cases plus any other emergency contacts for children (if different).
- Ensure you have up to date contact details for your local CLDT and information about the local referral route from your service. It is a good idea to have 'named person' from the CLDT to link with (*see resources page 55*).
- Ensure you have details of any other relevant teams that could help, if available in your area, such as Criminal Justice Liaison Teams or Forensic Community Learning Disability Teams, for example.
- Contact your local Learning Disability Partnership Board and ask whether they have any criminal justice representation on the Board and discover how you can help each other (*see resources page 55*).
- Look into joining any local or national forensic learning disability networks (such as meetings, conferences, virtual communities or mailing lists). For local initiatives enquire with your local secure hospital or try searching on the internet.



7 Effective Communication

Learning disabilities, and other conditions covered in this handbook, are largely defined by problems with some or all forms of communication. This can include speaking and listening, understanding spoken and written communication, understanding body language, as well as explaining or expressing thoughts and feelings.

Some people also have problems remembering things or concentrating for long periods of time. Experiencing communication difficulties can make a person significantly more disadvantaged in the criminal justice system.

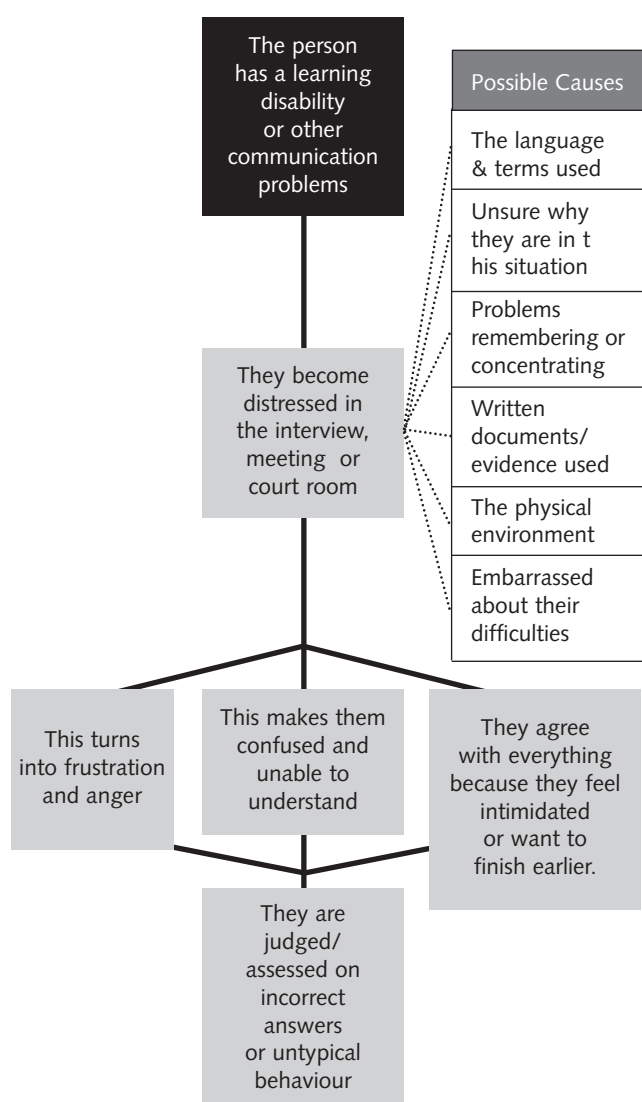
If the person is not able to communicate when they are asked questions or in important meetings they can become frustrated and react negatively (see the flow-chart). This can then effect how they are treated by others, including influencing important sentencing or assessment decisions.

This chapter includes some practical tips that should help staff to communicate more effectively. These small changes should also help staff to support a person with communication problems to understand information and to express themselves more fully.

The recommendations given will benefit all people with learning disabilities, as well as those with conditions such as learning difficulties, dyslexia, ADHD, autism, etc. Organisations may even want to consider the possible benefits of these small changes for all offenders (regardless of whether they have a recognised condition).

You can also contact your local Community Learning Disability Team or (where available) Forensic Learning Disability Team (regarding offenders with learning disabilities). These teams may be able to help with staff training or provide a specialist to communicate on your behalf. For other conditions, speech and language therapists and other experts should be able to help and advise

A possible chain of events when a person's communication needs are not identified



Practical Tips and Techniques

Remember to always speak clearly and slowly, using plain language and avoid jargon. Explain any technical words to the person. Ensure they understand things before moving on.

- Use the person's name when addressing them at the start of a question or comment.
- Always explain to the person concerned exactly why they are in a new situation, what they should expect and when.
- Prepare the person for each stage of the communication, for example, "David, I will now ask you some simple questions" or "David, I will now explain what we are going to do next."
- Emphasise important words.
- Avoid using acronyms, abbreviations, sarcasm and metaphors.
- Be patient and calm whilst communicating, do not rush the person you are talking to. They are likely to need longer to process the questions and think about their answers.
- Use concrete terms not abstract references, for example, "At breakfast time" rather than "Early on."
- Break large chunks of information into smaller chunks, with short breaks.
- It may help to use visual aids when asking questions. For example, you could use photos or drawings to illustrate a point.
- Ask questions in the chronological order in which they happened. You could use a calendar and spoken prompts. For example, "Was it the day after you went to the doctors?"
- Keep the questions precise and not vague, for example, 'Where were you yesterday afternoon?' rather than 'Where have you been recently?'
- Avoid double-negative and unclear questions. For example, instead of "You were not in the shop, were you?" you could ask "Were you in the shop?"
- Be aware that repeating questions may suggest to the person that they have given the wrong answer the first time.
- The person must not feel pressured into a response. Many people are more suggestible or they may be eager to give what they think is the 'desired' answer.
- It is important to check that the person understands what has been said. You can ask them to repeat the question or message in their own words, or they could be questioned further.



"I would often use a flow-chart, with pictures, to describe the different stages of the courts process. This would help defendants, especially those with Asperger syndrome, to know what to expect and the various possible outcomes. It is important that they understand that the process is not always fixed and may seem unclear at times. Appropriate preparation and information helped prevent clients from becoming more distressed and confused."

(former) Community Forensic Learning Disability Nurse
Humber NHS Foundation Trust

Planning Interviews, Hearings or Meetings

- Careful planning will save time in the meeting and help to ensure a fair and calm response from the person. You may want to seek assistance from a health or social care professional or someone else who knows the person. For example, a member of their family, a social worker, or perhaps an advocate or friend they wish to be present (when permitted).
- If information is sent out before hand about the meeting or event, ensure it is easy to understand. The person may need assistance to organise attending, for example, with travel arrangements or with understanding and remembering the time and date.
- Wherever possible, several short interviews or sessions are likely to be more productive than one long session. This will help with the person's concentration levels and to reduce anxiety.
- Try to have sessions in a familiar environment and avoid changing the room each time. Ensuring the environment is free from distracting noises and that it is as calm and familiar as possible will help reduce anxiety.

Open Questions V Closed Questions (for interviews, hearings and other meetings)

Open-Ended Questions e.g. "What special help do you need?"	Closed Questions e.g. "Do you need help to read?"
<p>This style of question ensures that the person has to think about the answer (not just say 'yes' to everything).</p> <p>If the question is too hard it can be followed with some multiple choice options, or break it down into several closed questions.</p>	<p>This style helps to focus the person, as it is less vague and it makes the question more simple.</p> <p>Be sure to check answers. A person may just say 'no' (to the above question) but then when asked to read aloud, to demonstrate, they may not be able to.</p>

Case Study

I was called to assess a repeat offender with alcohol related offending behaviour. He kept missing appointments with his Probation Officer. I asked some simple (closed) questions, such as, 'Do you know the alphabet?' to which he confidently replied 'Yes, I do.' But then I asked him to say the alphabet aloud and he could only get as far as the letter 'D' before making several mistakes. Also, he could not tell the time in the 24-hour clock format in which his appointment letters had been written (for example, 13.30).

It is very common for people with learning disabilities and learning *difficulties* to try to mask or hide their lack of knowledge. The role of the professional is to show the person that they can trust them and encourage the person to share information about themselves.

Senior Psychologist
Kent Probation

Understanding Body Language

Often the body-language of people with learning disabilities and learning difficulties can be misleading and therefore misinterpreted. They may also find it difficult to read the body language of other people. This is particularly difficult for people with autism and Asperger Syndrome.

- Do not assume that a lack of eye-contact means the person is not listening.
- Just because the person is nodding does not mean they fully understand. Check that they understand by asking other questions.
- The person may not understand social rules, such as taking it in turns to speak and giving people their personal space.
- If the person appears agitated, restless or distracted it is likely to be because of their condition and the stress of the situation. Having a break may help.
- Remember that the person may not understand the meaning behind other peoples' gestures or facial expressions.

People with learning disabilities and other communication problems often have problems remembering information. Using visual prompts can help to jog their memory. Also, 'Objects of Reference' can help people to remember actions, appointments or information. This involves giving the person an object to act as a reminder. For example, you could give someone a napkin or menu to remind them that they are to go to the canteen.

Written Communication

From the very start, the criminal justice system involves filling in forms, reading letters and following written instructions and directions. At every stage, there is therefore an opportunity to ensure the words used are in plain language, with all the technical terms and jargon explained clearly in the appropriate language. Taking this approach will help everyone

entering the criminal justice system, regardless of them having a communication problem.

For those with recognised communication problems, such as a learning disability, additional measures are recommended (although, these changes could also potentially benefit everyone). To ensure the person is given the best possible chance of understanding all written information, the text and layout should be made 'accessible'. There are some simple rules to help make written material more accessible.

An example of 'accessible text'

The accessible text uses size 14 text in a clear font that shows the shape of the word. It has a 21-point line spacing so it is not squashed together. It is aligned to the left with a ragged edge on the right.

There is a line between paragraphs to add more space. Paragraphs and sentences are short. The words used are simple.

An example of 'inaccessible text'

In this example we have used a size 12 line-spacing with a size 12 text which has been justified to provide a clean edge. Paragraphs and sentences are slightly longer and there is a 'tab' rather than a line to indicate the presence of a second paragraph. This font type is more condensed and is therefore more rectangular in shape. We have also allowed hyphenated-words.

This is a fairly standard formatting-style for many printed documents but you will probably agree that this second example is not so easy to read.

Positive Practice

The advocacy organisation 'CHANGE' has a project working with people with learning disabilities (ex-offenders and non-offenders) and with police, courts, prison and probation staff. They are developing specific 'Easy Read' images for the criminal justice system that can be used with more general, everyday images that are already on the 'CHANGE' picture bank of images.

A simple guide to using the images will also be provided, which will allow criminal justice staff to produce their own documents, in an accessible, 'Easy Read' format. For more information on the progress of this project contact the Learning Disability Advocacy Organisation CHANGE (see resources on page 55).

Practical Tips and Techniques

- Use a simple, well shaped font, such as Comic Sans, Arial or Helvetica.
- A minimum font size of 14 is recommended for those with a learning disability, visual impairment or poor literacy skills.
- Increase the line spacing to spread the text lines (in 'Word' go to Format>Paragraph>Line Spacing).
- Limit the use of italics, underline, or bold.
- Use bullet point lists, rather than long written paragraphs and use text boxes to summarise points.
- Avoid using BLOCK CAPITALS as the word loses its shape.
- Keep sentences short and simple.
- Do not use documents with hand-written text as this would be too hard to read.
- Check the overall 'readability score' (in 'Word' go to Tools>Options>Spelling and Grammar> then tick the 'show readability statistics' box).
- Keep the layout simple and include plenty of blank space.

- Avoid shiny paper with black text; the contrast causes difficulty for people with visual stress
- Off-white or pastel shades of paper are easier to read, particularly for people with dyslexia, but it is always advisable to ask the person what they prefer.

Using pictures (line drawings, photos, diagrams, maps, flow-charts and specialist cartoons and symbols) will make a document more accessible to someone with a reading problem. Any pictures used should give clues about the meaning behind the text.

There are several good 'Clip Art' and photo packages available as well as specialist 'Easy Read' images designed for use on documents that are read by people with learning disabilities. For more information on supporting text with images see resources on page 55.

If you are using your own photographs make sure they do not have too much background information as this can confuse the message. Here is an example of 'Easy Read' text, with 'Easy Read' style pictures to help people understand the text.

You have an
appointment at 3pm.



Remember to bring
your Passport.



It is important to provide clear and simple directions for any meetings or appointments. These need to be in an accessible layout, ideally with a map marking out significant landmarks. A contact number can also be included in case the person is delayed or lost.

Some people with dyslexia or similar reading problems may prefer to receive documents electronically so they can use specialist software that reads the text aloud.

Case Study

Our Forensic Support Service was asked to advise local Court staff on how to manage a repeat sex offender with learning disabilities. He had been given a restraining order that was complicated with lots of text and legal terms. With the help of a speech and language therapist from his local learning disability team we broke the information down to a level he could understand, whilst keeping the essential points of the restraining order.

We made a wallet, which he carries around with him. It contains 'prompt' cards, with easy words and some pictures. His cards have basic signs, such as a big red cross next to things he should avoid. We worked together with our criminal justice colleagues to produce a simple tool that suited the needs of this offender, who was then able to understand and meet the restrictions put upon him.

Forensic Practitioner
*Forensic Support Services,
Cheshire and Wirral*

Actions:

- Obtain a copy of 'Crossing the Communication Divide: A toolkit for prison and probation staff working with offenders who experience communication difficulties' by NOMS. See resources on page 55.
- Obtain a copy of 'Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses and using special measures' by the Home Office. See resources on page 55.
- Obtain a copy of 'Sentence Trouble' by the Communication Trust. This outlines the communication issues for children and young people who offend. See resources on page 55.
- Obtain a copy of 'Good Practice Guide for Justice Professionals: Guidelines for supporting clients and users of the justice system who have Dyslexia and other Specific Learning Difficulties' by the British Dyslexia Association and 'danda.' See resources on page 55.



8 Information relating to the Police Service

This section is for professionals working in or with the Police Service. As the police service is typically the first criminal justice service to come into contact with the public (as suspects or as victims of crime) there is an important opportunity for staff to raise concerns, or pass on information, regarding a person's behaviour or possible condition.

The earlier a learning disability or learning difficulty is identified the sooner the appropriate support can be given. Depending on the severity of a person's condition and the nature of the crime, the criminal justice system can be the appropriate for some people with learning disabilities who have committed a crime. The process of being arrested can help the person become aware of the consequences of their actions.

This will also make police and support services aware of an individual and their behaviour. Steps can then be taken to help ensure their offending behaviour does not escalate and also that they receive the appropriate support, if required.

Using the communication recommendations listed on page 31 will allow the person detained in custody to fully understand why they are in contact with the police and what to expect. This will in turn reduce a person's distress and encourage them to cooperate.

The tips for interview settings will also help police when interviewing a detainee with a learning disability or similar condition that affects their ability to communicate

"Suspects with communication problems need longer time to process a question and to think of their answer. Repeating the question before they have processed it only confuses and delays them. Police should not automatically perceive a slow response

to a question as suspicious, the person may have significant communication problems."

Forensic Practitioner
Forensic Support Service, Cheshire and Wirral

Rights and Responsibilities

Police will be familiar with the safeguards and procedures in place under PACE (the Police and Criminal Evidence Act 1984/2006), that apply to detainees with learning disabilities. The 2006 PACE update provides notes for guidance concerning people believed to be 'mentally disordered' or 'mentally vulnerable.'

"Mentally vulnerable" is used to refer to someone who, because of their mental state or capacity, may not understand the significance of what is said to them. They may not understand the importance of the questions they are asked or of their own replies to any questions.

When the custody officer has any doubt about the mental state, or the capacity to understand, of a detainee, the person in question should be treated as mentally vulnerable and an Appropriate Adult should be called to support them.

The Mental Health Act (1983/2007) can be used by police for people with learning disabilities (under the circumstances outlined in the Act), to remove a person from the public domain and move them to a 'place of safety.' For more information on the Mental Health Act see page 23.

An effective risk assessment will help to ensure the safety and well being of both the detainee and police staff. This is also an opportunity for the custody officer to find out, and record, whether the detainee has any medical conditions or special needs, including a learning disability.

Positive Practice

Kent Police have been working closely with a local learning disability organisation (The Skillnet Group) to allow both services to exchange knowledge on potentially helpful issues. A Community Liaison Officer involved in the joint work reported that the experience of working with people with a learning disability, and learning about their needs, has helped him to deal with suspects, victims and witnesses who he believes to have a learning disability, or related communication problems.

He now realises that people being interviewed may feel intimidated by the situation and he understands how important it is to ensure that there are no barriers to the person being able to communicate. An important lesson he has taken away from this joint work is to be able to accept the limitations of a person with learning disabilities. For example, they may not know the time an event occurred or be able to give full details of a situation. He has found that reassuring the person that everything is ok can help them to stay calm and remember useful information.

The custody officer will also assess whether there is a risk that a person is vulnerable to interference or assault by others. This is particularly important for detainees with a learning disability as they are recognised as being more vulnerable.

Making sure that potentially useful information about a detainee's condition, needs and possible risks, are recorded and passed on to any staff and agencies in contact with the person will help to ensure that they receive the appropriate support and treatment.

The NPIA have recently produced guidance for police on mental health and learning disabilities

and the responsibilities of staff with regards to these conditions (see *resources on page 55*). As part of this package an e-learning course has also been developed to train all staff on mental health and learning disabilities. For more information on this training please contact the NPIA.

Appropriate Adults

Vulnerable adults should have an 'Appropriate Adult' with them when they are being interviewed by the police. The role of the Appropriate Adult is to make sure that the rights of the person detained are respected and that they understand the procedures involved. The use of an Appropriate Adult is a legal requirement for any juveniles (defined under PACE as a person under 17 years of age) being held by the Police and for all adults identified as 'mentally vulnerable.'

The Appropriate Adult should be informed of their responsibilities by police staff. Their role is to advise the detainee being questioned, to observe whether or not the interview is being conducted properly and fairly and to facilitate communication between staff and the detainee.

"I am an Appropriate Adult for detainees with known learning disabilities. I see my role as an intermediary between the police and the detainee, helping the police to communicate with the person and to understand their behaviour. Each detainee is an individual, with unique needs that may seem confusing to the police working with them. I also support the detainee to fully understand what is happening and I often have to explain to them the seriousness of the situation."

Appropriate Adult/Social Worker

Walsall Shared Lives (Adult Placement) Scheme

Appropriate Adults can:

- explain what is happening to the suspect
- provide them with support

- insist on legal representation if the suspect has not already requested it (although the suspect cannot be forced to see the legal representative when they arrive, if the suspect does not want to)
- suggest the need for a psychiatric assessment, prior to the interview, to ensure that the person is well enough to cope with the stresses involved (although they do not have the right to insist on this).

An Appropriate Adult can be a family member, a friend, a volunteer, or a health or social care professional. There are also organised groups of trained volunteers who carry out this role.

According to PACE, if the person in question is known to be mentally disordered or otherwise mentally vulnerable, it may be more effective if the Appropriate Adult is someone experienced or trained in their care.

Positive Practice

A selection of learning disability nurses from the forensic learning disability directorate and the learning disability directorate, within Northumberland Tyne and Wear NHS Foundation Trust, are being trained up as Appropriate Adults.

The aim is to increase the number of professional staff available to act as an Appropriate Adult for when the police have a detainee with a learning disability, usually known to the in-patient services. This is to try to reduce the amount of time detainees are left waiting to be interviewed, which can be a distressing time for them.

The suspect should always be given an opportunity, when an Appropriate Adult is called to the police station, to consult privately with a solicitor, without the Appropriate Adult, if they want to. A solicitor or independent custody visitor present at the police station (working in that role) cannot also be the person's Appropriate Adult.

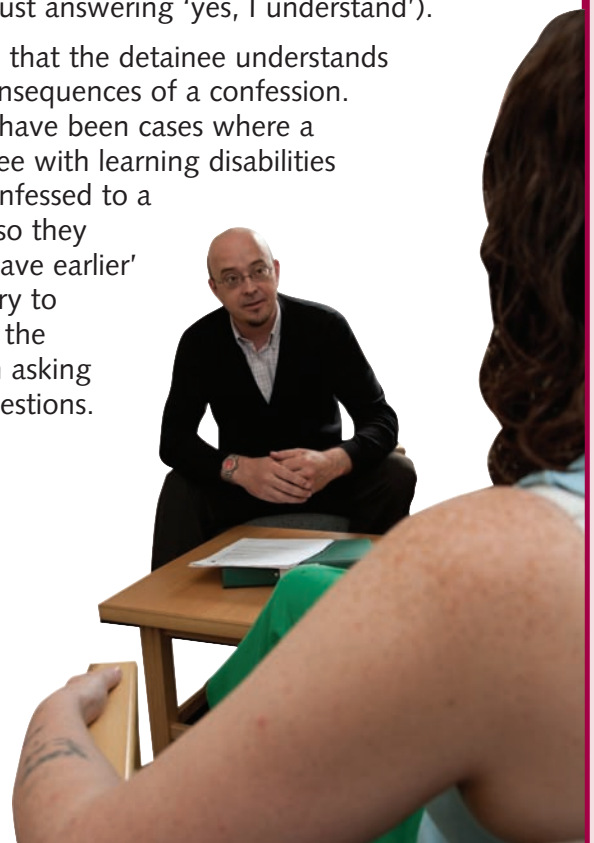
The National Appropriate Adult Network (NAAN) is the national membership body for

organisations providing Appropriate Adult services. NAAN has developed national standards for the best practice of Appropriate Adult schemes in England and Wales.

Appropriate Adult schemes must be independent of the police. Schemes for vulnerable adults can be provided by the Local Authority, the local Mental Health Trust or by a local charity or volunteer group. Youth Offending Teams (YOTs) have a statutory responsibility provide Appropriate Adults for juveniles. See *resources on page 55 for details on NAAN.*

Helpful Tips for Police Staff

- Explain who you are to the detainee and what your role is. Additional explanation may be needed for plain clothed police.
- Make sure you explain all jargon and terms used. Terms such as 'arrested', 'suspected' or a police 'caution', for example, are likely to need explaining.
- Check that the detainee understands what their rights are. This may involve going through the rights and asking the detainee to communicate these back to you (rather than them just answering 'yes, I understand').
- Ensure that the detainee understands the consequences of a confession. There have been cases where a detainee with learning disabilities has confessed to a crime so they can 'leave earlier' or to try to please the person asking the questions.



- Do not misinterpret behaviour such as a poor memory or the person being easily distracted as suspicious, without further investigation. These are common features of having a learning disability.

“Think about the everyday phrases a policeman may use that could cause confusion. ‘Caught red-handed,’ ‘Skating on thin-ice,’ ‘You’re nicked.’ We train the local police to be aware that this type of communication will only be understood by people with a highly developed grasp of language and will not be helpful when talking to people with learning disabilities or other communication problems.”

Speech and Language Therapist
Community Learning Disability Team, Surrey

Good experiences when being interviewed

“They understood when I couldn’t understand the questions, so they asked for a solicitor and she was explaining it to me so I could answer the questions”

“They let me put my side of the story across and he was listening to what I said”

Bad experiences when being interviewed

“They didn’t listen to me, what I had to say, and the social worker stopped the policeman talking and told them to listen”

“I was scared, frightened, nervous, because they took ages to get another adult to be there with me”

An extract from a study into ‘People with learning disabilities experience of being interviewed by the police’
(Goodman, et al, 2007)

Mencap published a report called ‘Barriers to Justice’ (1997) which sets out recommendations

for the police when working with victims and witnesses with learning disabilities.

These recommendations include learning disability awareness training as well as programs that involve the police working with people with learning disabilities and visiting day-centres. These actions would also help police to identify and communicate with suspects and known offenders with potential learning disabilities.

Positive Practice

The local police and local forensic learning disability services in Northumberland have formed a ‘Police Liaison Group’ that meets regularly to discuss issues concerning suspects with learning disabilities and other mental health problems.

The type of areas the group covers includes crime reduction issues, being pro-active in developing protocols, managing the details and outcomes of individual cases. This joint working has allowed other initiatives to develop such as learning disability awareness training and work placements for police officers.

Actions:

- Check with your Custody Officer if there is an Appropriate Adult scheme for vulnerable adults in your local area. If not, consider liaising with your local health and social care services regarding setting up a scheme. See resources on page 55 for NAAN details.
- Make sure all officers are aware of the use of Appropriate Adults and have the contact details for your local scheme(s).
- Obtain a copy of ‘You’ve been Arrested’ by the Royal College of Psychiatrists. This is a picture book designed to help police staff explain about being arrested. See resources on page 55.
- Obtain a copy of ‘Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses and using special measures’ by the Home Office. See resources on page 55.

9 Information relating to the Courts Service

This section is for professionals working in or with the criminal courts or HM Courts Service. Staff in the courts service should be alert to the fact that a person's learning disability, or any other condition that affects their ability to cope, may not have been identified during any proceedings before reaching court.

Identifying the needs and issues of defendants with potential learning disabilities, or learning difficulties, as early as possible will allow for pre-trial planning, the use of more accessible materials, plus support and advice from other organisations or professionals.

Courts have the power to request a formal assessment of a defendant's mental condition.

Therefore, any staff working with a defendant who they have concerns about (regarding their ability to cope, understand or participate) could help the defendant's situation by raising these concerns with the appropriate court as early as possible.

Making sure all courts staff are made aware of the communication recommendations (see page 31) and any support or reasonable adjustments required for a particular individual will help to reduce the distress felt by the defendant. This may in turn encourage them to participate and will help to ensure fair and equal treatment for them throughout the court process.

Positive Practice

The Norwich Combined Courts Assessment Scheme provides support for people with mental health problems or learning disabilities who are on bail, in court and after sentencing. The scheme allows an assessment of the defendant to be carried out and reported to the courts quickly.

The main nurse acts a link between the criminal justice system and the health and social care services. They are able to advise both services on how best to support a particular person. If it is decided that a defendant will remain in the criminal justice system (as opposed to being diverted out) the lead nurse is able to support that person through the process.



Rights and Responsibilities

Every individual has the right to a fair trial, according to The Human Rights Act (1998). The Act sets out 5 minimum rights for the defendant, some of which may be violated if the defendant's learning disability means they cannot understand, or participate in, their own trial and are unsupported to do so.

The court has some disposal options available to them under the Mental Health Act (1983/2007) for defendants with learning disabilities, if the learning disability is associated with abnormally aggressive or seriously irresponsible conduct. See page 23 for more information on the Act.

Defendants must be 'fit to plead' their case as outlined in the Domestic Violence, Crime and Victims Act (2004). The main criteria used to determine if a defendant is fit to plead are:

- The ability to plead (their case)
- The ability to understand the evidence
- The ability to understand the court proceedings
- The ability to instruct a lawyer
- The ability to challenge a juror.

The prosecution, the defence or the judge are able raise the question of whether the defendant is fit to plead. A 'fitness to plead' hearing can be held in the

Crown Courts, where it is up to the judge to decide upon whether the defendant is fit to plead. This decision is informed by the assessments by qualified specialists. The Domestic Violence, Crime and Victims Act (2004), plus other statutes, provide guidance on these procedures.

Case Study

Having supported a client from point of arrest to trial at crown court, I was asked by their barrister to produce a court report. The person had a known learning disability and was accused of a serious crime. The barrister wanted to understand and to be able to explain to the judge and jury what having a learning disability meant for the defendant, in terms of his day-to-day life.

My assessment and report proved extremely helpful for all concerned. Some people thought a learning disability just meant a poor education and inability to read and write and therefore did not understand its relevance to the offence. The report helped the court to make a fair and informed decision in relation to the sentence imposed.

(former) Community Forensic Learning Disability Nurse
Humber NHS Foundation Trust



Additional Sentencing Considerations

When a community-based sentence is being considered for a person with a learning disability, or a similar condition, knowledge of a defendant's condition and support needs will be helpful to the judiciary. They may want to consider whether the needs of that person could be more appropriately met with a multi-agency approach, and with person-centred planning.

This would help the defendant to understand and meet the particular conditions of their sentence and ensure they receive the appropriate support and treatment. There is also an opportunity for the community order to include certain activities or programs that would benefit a person with learning disabilities, such as a basic skills course.

If a fine is imposed it is advisable to check whether the defendant needs assistance in understanding the details of the system and in managing their finances to pay the fine.

If a custodial sentence is being considered, local community support services could be alerted to the fact that there is a defendant or prisoner with a learning disability. They could assist the person during their time in custody, and on release, with courses and paperwork that they may otherwise struggle to complete.

Specialists can also help with general coping strategies for the defendant once in custody, depending on their needs and their level of vulnerability. These measures may impact positively on parole dates and resettlement opportunities.

Some people with moderate to severe conditions may be assessed as requiring diversion to a secure hospital for specialist treatment and behaviour programs. Where possible, these facilities should be close to the individual's home and should be no more restrictive than the appropriate level of security for that individual. The Reed Report (1993) supports these recommendations, and also emphasises the need for placements that have the maximum potential for rehabilitation.

"Some low level offences, such as shoplifting, can often result in the matter being dealt with without access to a full assessment completed by Probation Officers, and can lead to the offender receiving a Community Order. Whilst every effort is then made to assess the offender's capabilities, hidden disabilities could be missed due to either party not recognising an individual's needs. This could mean that some offenders with learning disabilities are unable to understand or complete their community order.

It is important that any tasks or courses that form part of a community sentence suit the persons' level of ability. Where there is any doubt, a full assessment or specialist should be called to assess whether they are actually capable."

Effective Practice Training Manager
North West Probation Training Consortium

Communication in the Courts

Making sure, where possible, that written material presented to the defendant is easy to understand will help to speed up the process. It will help the defendant understand the proceedings and receive a fair trial.

It will help both the defendant and court staff if spoken language is kept at a level the defendant can understand. Some communication recommendations can be put in place immediately, such as simplifying commonly used paperwork and instructions for particular processes.

The need for simple, clear language that a vulnerable defendant is able to understand is one of the recommendations in the practice direction issued by the Lord Chief Justice (April 2007). This practice direction also recommends that any cross-examination of the defendant uses short and clear questions.

Another suggestion given in this practice direction is to ensure that the court proceedings, and what the defendant can expect, are fully explained before hand, using terms that they can understand.

It is also recommends that the court check throughout the trial that the defendant understands what is happening and what has been said by other people involved in the process.

The communication section of this handbook (see *page 37*) explains that people with learning disabilities generally respond better to certain types of questions, asked in a particular way. This vulnerable group are more suggestible and easily led when being questioned.

Positive Practice

Stratford Magistrates Court organised for members of a local learning disability charity (the 'Outward Group') to have a tour of the court building and an informal talk about how the court system works. It provided a chance for the people with learning disabilities to give feedback on their impressions of the court, for example, on the physical layout. It also allowed them to ask questions about the courts process, which they fed back to staff as being very complicated and hard for them to understand.

As well as educating members of the local community in this stage of the legal system, this exchange of information gave courts staff a significant insight into the perspective and challenges of having a learning disability. Some of the questions asked by the visitors highlighted how much staff took the process for granted and assumed other people would understand it all.

Ensuring all courts staff are aware of the characteristics of having a learning disability, and conditions such as autism and specific learning difficulties, helps to avoid staff misinterpreting the defendant's behaviour.

For example, people with communication problems may hesitate, give confusing responses or look distressed when being asked questions.

In some cases, people with learning disabilities may appear to be more able than they actually are. They may have learned to communicate in such a way that masks their disability.

A Registered Intermediary is a trained professional, typically with a background in areas such as psychology, speech and language therapy, mental health nursing or social work. The intermediary is used to facilitate communication and understanding between a vulnerable witness and a person asking questions, for example, the police or a solicitor.

The Witness Intermediary Scheme was originally designed to provide impartial support to vulnerable witnesses and victims only. The Coroners and Justice Act (2009) contains provisions that enable a vulnerable defendant's evidence to be examined through an intermediary at a magistrates' court or before the Crown Court. At the time of publication these provisions were not in force.

Criminal courts do have a common law power to appoint an intermediary to facilitate communication in a criminal trial.

The Court Environment

The Practice Direction (April, 2007) recommends that the ordinary trial process should, so far as necessary, be adapted for the purpose of helping a vulnerable defendant understand and participate in the proceedings.

These recommendations include making the court environment less intimidating for vulnerable defendants, for example:

- Arranging for the defendant to visit the courtroom before the trial or hearing, so they can familiarise themselves with it.
- Enlisting the support of the police to ensure that the defendant is not, when attending court, exposed to intimidation, criticism or abuse.
- Holding the proceedings in a courtroom in which all participants are on the same, or almost the same, height level.
- Allowing the defendant to sit with members of their family and/or other supporting adults, and in a place where they can easily communicate with their legal representatives.
- Conducting the trial according to a timetable that takes into account a vulnerable defendant's ability to concentrate, which may mean allowing regular and frequent breaks.
- Staff removing robes and wigs in the Crown Court.
- Restricting attendance to the court proceedings by members of the public and reporters.

Another possible change to the courtroom environment and proceedings is the use of a live television link for the 'vulnerable accused' to give evidence, where certain conditions are met (see the Youth Justice and Criminal Evidence Act (1999) and the Police and Justice Act (2006) for more information).

"A person's inability to communicate is often regarded as non-compliance or a difficult person. Also, a person's ability to converse with legal executives is often limited if they have a learning disability, this can lead to a potentially weaker defence."

Team Leader

Mentally Disordered Offenders Unit, North Staffordshire

Things which can cause anxiety for people with learning disabilities:

- The intimidating buildings and people
- Not knowing what is going to happen
- Lack of preparation for court hearing
- Confusing practices and procedures
- Difficulty hearing and understanding information presented in court
- The rapid delivery of information and process
- The use of legal jargon
- Excessive waiting during and between court appearances.
- A lack of understanding about learning disabilities within the court system.

An extract from the 'Court Protocol' developed by Yorkshire and Humber Improvement Partnership, with Hull and East Riding Magistrates Court and others

Actions:

- Obtain a copy of 'You're on Trial' and 'Going to Court' by the Royal College of Psychiatrists. These are picture books designed to help court staff explain the situation. See resources on page 55.
- Obtain a copy of 'Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses and using special measures' by the Home Office. See resources on page 55.
- Familiarise yourself with the learning disability and specific learning difficulty sections of the 'Equal Treatment Bench Book' by the Judicial Studies Board. See resources on page 55.
- Crown Prosecution Service staff to ensure they are familiar with the CPS guidance in dealing with cases of 'Mentally Disordered Offenders.' See resources on page 55.

10 Information relating to the Prison Service

This section is for professionals working in or with the Prison Service. Prisoners with learning disabilities or learning difficulties are likely to need additional support and reasonable adjustments to allow them to cope with and understand the demands of prison life.

Making small communication changes can have a powerful effect on the lives of prisoners who struggle to communicate. For example, providing written rules and instructions that they can understand will help prisoners to avoid breaking the rules accidentally.

A learning disability, in most cases, should not be 'medicalised' in prison. The healthcare team will need to meet the prisoner's healthcare needs, as with all prisoners. They should ideally inform the Disability Liaison Officer (DLO)/ Equalities and Diversity Officer, and any other staff working with a particular prisoner, of any concerns or support needs that they have identified.

Potential problems can be avoided by each prison ensuring it has

in-house support, with certain staff taking on particular responsibilities (such as the Disability Liaison Officer, healthcare, education, Mental Health In-Reach teams, etc).

There is also potential for support from other prisoners (through peer support schemes) and from other prison roles such as the prison chaplain and IAG (Information and Advice Guidance) workers.

These roles and responsibilities can then be communicated to all prison staff. As can the prison's procedures for accessing additional support or assessments for prisoners with potential learning disabilities. This includes an awareness of the support available through local services. *See page 25 for more information.*



Positive Practice

The Disability Liaison Officer (DLO) at HMP Kennet works closely with the prison Education Department. One of the Education Coordinators provides the DLO with a weekly list of prisoners who have been found to have certain learning difficulties. The DLO is then able to help prisoners who cannot read or who suffer from various related difficulties.

The DLO also works closely with Offender Supervisors in the Offender Management Unit regarding how to assist prisoners with these kinds of needs. Knowing the communication problems of certain prisoners allows staff to plan ahead and avoid causing the prisoner stress or taking up lots of staff time unnecessarily.

Rights and Responsibilities

The Prison Service Order (PSO) number 2855 ('Prisoners with Disabilities') is the prison services' response to the Disability Discrimination Act (2005). The aim of this PSO is that all managers and staff understand, and comply with, the law as set out in the Act. The Prison Service are due to roll out their new Equalities Framework in 2011 in accordance with the new Equalities Act (2010) (*see page 21 more information on the two Acts*).

This existing PSO sets out eight mandatory actions to enable the prison to plan for, and meet, the needs of prisoners with disabilities. This includes each prison having a nominated Disability Liaison Officer (DLO) who is responsible for advising and sign-posting prisoners with disabilities and also helping other members of staff with any queries. This post may also be referred to as the 'Equalities Officer.'

This PSO is supported by a Prison Service Instruction (PSI) '31/2008' ('Allocation of Prisoners with Disabilities') which specifically relates to transfers and the re-categorisation of prisoners.

Prison Service Order (PSO) 3050, 'Continuity of Healthcare for Prisoners,' provides general guidance on how to ensure the healthcare received by prisoners continues at all stages and through all services. It includes guidance on reception, transfer and the discharge of prisoners. It also has a section on transferring and allocating prisoners with disabilities.

Some prisoners may need to be treated in a secure psychiatric hospital, rather than remain in prison. These prisoners, once assessed as not able to cope with prison because of their mental disorder, can be transferred under the Mental Health Act (2005). *See page 23 for more information on the Act.* The Department of Health has also produced guidance on this transfer process (covering both adults and those prisoners under 18), *see resources on page 55.*

Other PSOs that prison staff working with prisoners with learning disabilities or learning difficulties should be aware of include PSO 2700 'Suicide Prevention and Self-Harm Management' and PSO 2750 'Violence Reduction' which covers the issue of bullying.

Positive Practice

The In-Reach Team at HMP Gloucester have developed a joint working protocol with their local mental health and learning disability services. A representative from the prison's In-Reach team, and also a member of the local Criminal Justice Liaison Team, visited the local community services in the region to tell them about their role with offenders and to ensure that the local services have a contact should they know of any people with learning disabilities due to enter the prison or the other criminal justice services.

This allows the teams to ensure the person does not go unrecognised or unsupported and that their care plans can be passed on. The prison's local learning disability team also visits the weekly prison In-Reach meetings.

The Journey through Prison

The needs and issues of a prisoner with learning disabilities, or learning difficulties, will vary depending on their stage of the prison journey. Staff will benefit from being aware of these additional considerations.

Reception and Induction:

- Do not assume that a person's learning disability will have been identified before arriving in prison.
- People may be unwilling to disclose their condition, or unaware of having a learning disability.
- The 'Cloaking' effect is when people develop ways of appearing to cope by hiding their disabilities.
- Trauma, mental ill-health or drug abuse may all mask a learning disability.
- Difficulty in understanding information and instructions received may make the induction process stressful and also less effective.

If staff are unsure about whether a prisoner may have a learning disability they may want to use the questions on page 13.

Staff need to be clear about the tasks a prisoner with disabilities may need assistance with. It will help to perform an assessment of their abilities upon arriving into prison.

The Equalities Group at NOMS Headquarters, whilst not responsible for allocations, can provide general policy advice in this area (see resources on page 55).

Allocating prisoners to certain areas or tasks:

- People with learning disabilities and learning difficulties have poorer coping skills and poorer social skills compared to non-disabled prisoners.
- They are more vulnerable to abuse, bullying and exploitation.
- Staff may want to get a professional assessment of how vulnerable a prisoner is and recommendations on the best placement

for them. Ideally this will be a place that can best guarantee their safety and security.

- There have been cases of people with learning disabilities being placed in the Vulnerable Prisoners Unit (VPU). However, this can mean placing vulnerable prisoners with known sex offenders, also in the VPU.

Once prisoners are settled:

- Be aware of quiet, compliant prisoners. Keeping quiet is a good way to hide a learning disability.
- Prisoners may need help accessing services, such as healthcare and education.
- People in prison with learning disabilities, or learning difficulties, should have equal access to suitable treatment and offending behaviour programs.
- The fact that prison life is based upon routine may help some prisoners with learning disabilities and other conditions, such as Asperger Syndrome, to settle in. However, if the person's support needs are not recognised they may still struggle upon release or in times of crisis or change.

Release and Resettlement:

- Allow extra time when organising the resettlement of a prisoner with learning disabilities.
- Contact the local Community Learning Disability Team (CLDTs) at least 6 weeks before the prisoner's release and begin to arrange their community support.
- It will be helpful to have written confirmation of the prisoner's learning disability when accessing services.
- Prisoners with other conditions, such as Asperger Syndrome, ADHD, and specific learning difficulties, will also have additional things to consider regarding their resettlement. These will depend on the severity of their conditions.
- Ensuring the prisoner is registered with a GP will allow faster access to services in the community.

- Uncertainty around being released is very stressful for some prisoners. It may be harder for those who struggle to cope or who have additional mental health problems.
- Useful information regarding a prisoner's condition and support needs should be passed on to any services they are going to.

Any prisoners serving a short-term sentence (under 12 months) who will not receive support from probation (unless under 21) will require additional support and planning from resettlement officers and community services.

The Local Authorities 'Vulnerable Adults Scheme' may be able to provide a degree of support. For example, ensuring an individual, who is considered to be vulnerable, is able to find their way home after release (when no other support is available). Also, some local and national voluntary programs can provide support for certain groups of vulnerable offenders.

Positive Practice

At HMYOI Hindley the learning disability nurses work with wing staff to help explain the needs of certain prisoners and to enable them to support vulnerable prisoners on the wing. Often when a prisoner is vulnerable, being bullied or seen to be not coping well, the initial response of staff has been to move them to the complex needs unit. Now the learning disability nurses support staff to try to recognise how the prisoner's needs are different and then see if they can be met with a different approach on the wing, before considering the need to move them.

It can often be the case that behaviour judged to be 'poor coping,' for example, not wanting to engage with education or other activities, is because the person is struggling to understand the information or instructions involved. Making small changes to communication and the actual activities, to match the level of ability of the prisoner, will allow them to participate more.

Awareness Training for Prison Staff

Two Learning Disability Advocacy Organisations (The Skillnet Group and KeyRing) have delivered a program of learning disability awareness training, targeted at three key members of staff from every prison in England and Wales. Over a year period, more than 500 members of staff have attended the one-day course.

The program aimed to train the Disability Liaison Officer (DLO) from each prison to ensure that they can support prisoners with learning disabilities more fully. A healthcare representative was also trained, as well as a representative from either reception or induction. This was to help staff identify prisoners with possible learning disabilities or learning difficulties as early as possible.

The course was delivered by two trainers from the above learning disability organisations and involved people with learning disabilities in both the design and delivery stages.

"Having a co-trainer with learning disabilities brought a new dimension to the training. He gave staff on the course a real insight into how he thought and felt.

The recommendations for small changes to practices, once back at the prison, had the whole team buzzing with ideas concerning how we can work with and for prisoners with learning disabilities."

Disabled and Older Prisoners Lead Officer
HMP Woodhill

Actions:

- Obtain a copy of 'Crossing the Communication Divide: A toolkit for prison and probation staff working with offenders who experience communication difficulties' by NOMS. See resources on page 55.
- Make sure you know the Disability Liaison Officer (DLO)/Equalities and Diversity Lead in your prison and the processes in place for managing prisoners with learning disabilities.

11 Information relating to the Probation Service

This section is for professionals working in or with the Probation Service. Once under the supervision of the probation service, an offender with learning disabilities or learning difficulties is likely to need additional support to ensure that they understand what is expected of them whilst they are serving their sentence in the community, and the consequences of not meeting those requirements.

The communication recommendations outlined in this handbook (see page 31) will help probation staff to explain any instructions or rules. If a person on probation is not known to have a learning disability but has given staff cause for concern, it is important that they are assessed by a specialist as soon as possible (see page 25).

Probation staff managing offenders with learning disabilities will benefit greatly from making the local Community Learning Disability Team (CLDT) aware of the individual in question. Using the expert advice, sign-posting and support available in these teams will help to ensure the person can meet their probation requirements and help to move them away from offending behaviour.

Specialists will be able to assess whether the individual requires, for example, supported housing or employment schemes (for people with learning disabilities).



Photograph courtesy of West Midlands Police

Where an individual has very complex needs or extremely challenging behaviour the CLDT may decide to recommend additional help from forensic services trained in these areas or involve other teams such as Community Justice Drug Teams.

A similar approach will also benefit offenders on probation with other conditions. The health and social care and/or educational specialists who are responsible for supporting conditions such as autism, dyslexia, ADHD, etc, will be able to assess how severe a person's condition is and the level of support they need. They can advise probation staff on how to support the person.

If staff are preparing pre-sentence reports for the courts, or other types of assessments, and they think that an offender may have a learning disability or learning difficulty, they can contact the appropriate specialist who can help to assess an offender's condition and provide recommendations for suitable treatment or other interventions.

"When conducting an assessment for a pre-sentence report, it is important to get a full picture of the person and their lifestyle. Pay attention to the details, such as the language they use and their physical behaviour."

Speaking to family members and the arresting officer will help to paint a picture. Find out about the type of school they attended and what activities they do in the daytime. Also find out about any relationships or support they have. This information should help to reveal any hidden conditions in need of professional assessment and should provide insight into any repeat offending behaviour."

Probation Officer
Thames Valley Probation

Rights and Responsibilities

The National Probation Service Standards (2005) and National Standards for the Management of Offenders (2007) are based on the principle that the Probation Service, and organisations acting on its behalf, will operate fairly and consistently to all offenders and avoid discrimination or disadvantage on grounds of race, nationality, ethnic origin, sex, age, disability, religion and belief, sexual orientation, literacy, language or any other improper ground.

Probation staff will undertake an initial screening of offenders at the report stage. The tool used is "First Move – Initial Skills Checker" which provides an indication of an offenders basic skills needs. The results of this initial screening will also go on to help inform the "Education, Training & Employability" section of the Offender Assessment (OASys) report for those offenders who go on to receive an OASys assessment.

The Learning and Skills Council (LSC) are also introducing a new tool for those offenders who are referred on to the Offenders Learning and Skills Service (OLASS) in custody. The LSC have commissioned Dyslexia Action to undertake a project which involves the Hidden Disabilities Questionnaire (HDQ) tool and a Behavioural Indications Checklist. The HDQ has been developed to look at the amount of dyslexia, dyspraxia and ADHD amongst offenders.



Positive Practice

After making contact with a local Community Learning Disability Team and working together successfully on several cases, Thames Valley Probation now have several systems in place to help any staff who are managing offenders with known, or potential, learning disabilities.

The service has formed a 'Mental Health and Learning Disabilities Development group' who meet to discuss cases and develop systems for meeting the needs of offenders with mental health and/or learning disabilities. They have also allocated a member of staff as the main point of contact for colleagues seeking advice on pre-sentence reports for people with learning disabilities and requiring sign-posting to the appropriate health and social care support services.

A learning disability awareness training program has also been delivered to staff working in the service and small but effective measures have been brought in, such as sending mobile phone text messages, via the email system, to remind offenders of appointments they have to keep. A 'Directory of Local Mental Health and Learning Disability Services' is currently being developed for the local probation staff to use.

Accommodation

People with learning disabilities and learning difficulties have the same housing needs and rights as non-disabled people on probation. Having a learning disability does not automatically mean a person needs specialist residential housing or to be housed in 'approved premises.' However, those people able to live in standard accommodation are still likely to need some support with paperwork, meetings and organising benefits, etc.

People with greater support needs can often manage well in accommodation that is overseen by specialist learning disability services or other types of housing networks. This could be in the form of a supported residential community, for example.

Depending on the nature of a person's offending behaviour, they may benefit from specialist housing for people with learning disabilities that also caters for offenders or people with challenging behaviour. Such facilities are available in some areas of the country.

Your local Community Learning Disability Team (CLDT) will be best suited to assess the amount of support a person with learning disabilities will need for housing. When all the options are made available, it is important that these are explored with the person in question.

If an offender is staying in approved premises, with a key worker, probation staff could tell the key worker about the person's condition and any small support suggestions. For example, getting them to remind the offender of important appointments.

"The vulnerable people who become part of a KeyRing supported living Network have the security of knowing that support is nearby, whilst at the same time they are able to build independent lives and to get involved in their local community. The peer support that comes from being part of a small local Network can help people who were previously isolated to feel more secure and in control."

Member Involvement Leader

KeyRing (a national supported living charity for people with learning disabilities).

Work, Education and belonging to the Community

People with a learning disability, or learning difficulties, want to lead ordinary lives and do the things most other people take for granted. They face more barriers preventing them from getting a job or completing an education course.

There are several government initiatives aimed at getting people with learning disabilities into

some form of employment, into education and using public transport. Disability employment advisors, 'Connexions' special needs staff and other supported employment schemes may be able to help secure work for offenders with learning disabilities or learning difficulties.

Another facility often used are day-time drop in services designed for people with learning disabilities or other mental health needs. These centres can often offer a range of activities aimed at encouraging the person to be part of the community.

Local CLDTs and Learning Disability Partnership Boards should be able to give advice on relevant national and local programs that address these needs.

If a person is in danger of exploitation or abuse, but they do not fit the criteria for having a learning disability and therefore cannot receive support from the local CLDT, another possible source of some support is the local authorities 'Safe-guarding Vulnerable Adults' team.

"Criminal justice staff can feel helpless and isolated when working with an offender with learning disabilities and other problems. The probation staff that I worked with often felt that there was little support for them and for the individual in question. My response was always that no one person can meet all the needs of an offender with complex needs.

There are services and specialists available to advise probation staff on how to manage and communicate with offenders with learning disabilities. And for those offenders with a learning disability, these support services can offer a range of services and activities, as well as sign-posting to other possible interventions."

Mental Health Nurse and Trainer
Offender Health and Social Care Yorkshire and
Humber Improvement Partnership

Experiences of being on Probation

The 'Working for Justice' group are a group of people with learning disabilities who have experience of the criminal justice system as offenders. They were asked about their experiences of being on probation:

"I found it hard to concentrate on what they were telling me."

"I was not given enough time to get things done."

"I had to wait for a long time for help."

"I felt I didn't understand my situation."

"I felt I was treated like I was 'thick'."

"I felt a pressure to get a job and this made me more anxious, as I wasn't ready."

"I was supported to attend Alcoholics Anonymous."

"The probation staff made appointments for me."

"I had a named contact who took care of the details of things for me."



Case Study

I was called to do a pre-sentence report on an offender well known to both the police and mental health services. He had made lots of suicide attempts and the community police were called out to his house, where he lived with his mother, every few days for minor offences. When I assessed his case it became apparent that additional services were needed to manage this person's situation and also the impact he was having on those around him.

Several meetings were held between myself, the local Community Learning Disability Team, the Social Services 'Safe-guarding Adults' team (as his violence was often directed at his mother), plus mental health and police representatives. We also liaised with his family members to discuss their concerns and any negative influences on his behaviour. Both the family and the community police were then able to contact myself regarding any concerns and I was fully supported by the consultant psychiatrist. Working together we managed to prevent this person's offences from escalating, reduce the amount of police call-outs and reduce his suicide attempts.

Probation Officer
Thames Valley Probation Service

NAPO (the trade union and professional association for family court staff and probation staff) carried out a survey into literacy, language and speech problems amongst individuals on probation or parole (2009).

It involved 2306 people on probation supervisions and revealed that over half (53%) had low educational attainment or learning difficulties. It also found that 32% had difficulties expressing themselves or understanding what is said to them.

One in 5 people had been to a 'special school' or a pupil referral unit in the past.

As part of this research, probation staff from 16 areas were asked to highlight any concerns or comments they had about the topic of speech and language, and communication in general. Two of the recommendations given as a result of this survey include:

- The Probation Service must ensure that all forms of communication, particularly letters and contracts, are accessible to those who have learning difficulties or disabilities.
- There is need for investment in inter-agency cooperation and information sharing to ensure that the best advice and services are available for those people on orders with learning difficulties and disabilities.

Actions:

- Obtain a copy of 'Crossing the Communication Divide: A toolkit for prison and probation staff working with offenders who experience communication difficulties' by NOMS. See resources on page 55.



Resources

Organisations for Advice and Support

Department of Health

www.dh.gov.uk

tel: 0207 210 4850

Department of Health – Offender Health

www.dh.gov.uk/en/Healthcare/Offenderhealth

tel: 0207 210 4850

Department of Health – Valuing People Now

(program work due to end March 2011)

www.valuingpeoplenow.dh.gov.uk

The Equalities Group at National Offender Management Service (NOMS)

email: equalities.group@noms.gsi.gov.uk

tel: 0300 047 5270

Mencap (a national learning disability charity)

www.mencap.org.uk

tel: 020 7454 0454

British Institute of Learning Disabilities

www.bild.org.uk

tel: 01562 723 010

Foundation for People with Learning Disabilities

www.learningdisabilities.org.uk

tel: 020 7803 1100

People First Ltd (self-advocacy organisation run by people with learning disabilities/difficulties)

www.peoplefirst.org.uk

tel: 01604 721 666

Voice UK (support vulnerable people who have experienced crime or abuse)

www.voiceuk.org.uk

helpline: 0845 122 8695

general enquiries: 01332 295775

The National Mental Health Development Unit (formerly called 'NIMHE', program work due to end March 2011)

www.nmhdu.org.uk

Mind (a national mental health charity)

www.mind.org.uk tel: 020 8519 2122

The Centre for Mental Health (formerly The Sainsbury Centre, research into offenders with mental health problems)

www.centreformentalhealth.org.uk/criminal_justice/index.aspx

tel: 020 782 78300

British Dyslexia Association

www.bdadyslexia.org.uk tel: 0845 251 9002

Dyslexia Action

www.dyslexiaaction.org.uk tel: 01784 222339

Dyspraxia Foundation

www.dyspraxiafoundation.org.uk tel: 01462 454 986

The National Attention Deficit Hyperactivity Disorder (ADHD) Information and Support Service

www.addiss.co.uk tel: 020 8952 2800

National Autistic Society

www.nas.org.uk tel: 020 7833 2299

The Royal College of Psychiatrists

www.rcpsych.ac.uk tel: 020 7235 2351

Royal College of Nursing

www.rcn.org.uk tel: 020 7409 3333

Royal College of Speech and Language Therapists

www.rcslt.org tel: 020 7378 3012

British Psychological Society
www.bps.org.uk tel: 0116 254 9568

Prison Reform Trust
www.prisonreformtrust.org.uk tel: 020 7251 5070

Revolving Doors Agency (works with and for offenders with mental health problems)
www.revolving-doors.co.uk tel: 020 7253 4038

Turning Point (social care charity for people with complex needs, including learning disabilities)
www.turning-point.co.uk tel: 020 7553 5220

Nacro (works with offenders to reduce crime and promote positive changes)
www.nacro.org.uk tel: 020 7840 7200

Communication: Organisations and Tools

Making written information easier to understand for people with learning disabilities: Guidance for people who commission or produce Easy Read information (2010)

Valuing People Now and The Office for Disability Issues (A joint Government initiative)
www.odi.gov.uk/formats

'Crossing the Communication Divide: A toolkit for prison and probation staff working with offenders who experience communication difficulties' NOMS (2009)
www.kentprobation.org/index.php#/diversity/ or NOMS intranet (EPIC system)

'Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses and using special measures' Home Office (2007)
www.homeoffice.gov.uk/documents/ach-bect-evidence/

'Sentence Trouble' (2009) The Communication Trust; Every Child Understood
www.thecommunicationtrust.org.uk/publications.aspx

Easy Health ('easy read' health information/leaflets on a range of health issues)
www.easyhealth.org.uk tel: 020 88796333

CHANGE (has 'easy read' information and black and white images)
www.changepeople.co.uk tel: 0113 243 0202

Photosymbols (has 'easy read' information and images from photos)
www.photosymbols.com tel: 0117 959 4424

Inspired Services (has 'easy read' information and colour images)
www.inspiredservices.org.uk
tel: 01638 561 753

Mencap's 'Make it Clear' guidance
www.mencap.org.uk/document.asp?id=1579

Books Beyond Words ('Going to Court,' 'You're On Trial' and 'You're Under Arrest')
Royal College of Psychiatry
www.rcpsych.ac.uk/publications/booksbeyondwords/aboutbbw.aspx

"You Need a Solicitor" An Easy Read leaflet on Legal Aid
Community Legal Advice's
www.communitylegaladvice.org.uk

Getting Help and Support

Find your local general health services
www.nhs.uk/NHSEngland/thenhs/about/Pages/authoritiesandtrusts.aspx

Find your local Mental Health Trust
www.nhs.uk/NHSEngland/thenhs/about/Pages/authoritiesandtrusts.aspx

Find your Local Authority (for social care)
www.local.direct.gov.uk/LDGRedirect/Start.do?mode=1

Find your local Community Learning Disability Team (CLDT)

Via your Local Authority (see previous link), follow the LA's links to 'disability' or 'learning disabilities'

Find your local Learning Disability Partnership Board (LDPB)

www.valuingpeoplenow.dh.gov.uk/find-your-partnership-board

National Appropriate Adult Network (NAAN)

www.appropriateadult.org.uk

tel: 0208 378 2736

Nacro directory of 'Criminal Justice Mental Health Liaison and Diversion schemes' in England and Wales (2009)

www.nacro.org.uk/data/files/nacro-2009040300-83.pdf

Legislation and Initiatives covered in this Handbook

Disability Discrimination Act (2005)

www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001068

The Equalities Act (2010)

www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001068

The Learning Disability Screening Questionnaire (LDSQ)

For more information please contact Dr. Karen McKenzie: drkmckenzie@hotmail.com and Donna Paxton: enquiries@gcmrecords.co.uk.

Mental Capacity Act (2005)

www.legislation.gov.uk/ukpga/2005/9/contents

Mental Health Act (1983 / 2007)

www.dh.gov.uk/en/Healthcare/Mentalhealth/Policy/InformationontheMentalHealthActs/index.htm

'Valuing People; A new strategy for learning disability for the 21st century' (2001)

Department of Health

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4009153

'Valuing People Now; A new three-year strategy for people with learning disabilities' (2009)

Department of Health

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093377

'The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system' (2009)

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_098694

'No One Knows' project/documents

Prison Reform Trust

www.prisonreformtrust.org.uk/ProjectsResearch/Learningdisabilitiesanddifficulties

Seen and Heard: supporting vulnerable children in the youth justice system (2010)

Prison Reform Trust

www.prisonreformtrust.org.uk/Portals/0/Documents/SeenandHeardFinal%20.pdf

Other Documents and Practices covered in this Handbook

'Health and Nursing Care in the Criminal Justice Service; Guidance for Nursing Staff' (2009)

Royal College of Nursing

www.rcn.org.uk/__data/assets/pdf_file/0010/248725/003307.pdf

'Meeting the Health Needs of People with Learning Disabilities; Guidance for Nursing Staff' (2006)

Royal College of Nursing

www.rcn.org.uk/__data/assets/pdf_file/0004/78691/003024.pdf

'Mental Health Nursing of Adults with Learning Disabilities' (2007)

Royal College of Nursing

www.rcn.org.uk/__data/assets/pdf_file/0006/78765/003184.pdf

'Healthcare for All' (2008)

An independent inquiry into healthcare for people with learning disabilities
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_099255

'Health Action Plans & Health Facilitation Guidance' (2009)

Department of Health
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_096505

Person-Centred Planning

Valuing People, Department of Health
www.valuingpeoplenow.dh.gov.uk/content/personalisation-resources

'Guidance on Police Responses to People with Mental Ill Health and/or Learning Disabilities' (2010)

National Policing Improvement Agency (NPIA)
Please contact the NPIA for more information.

'Good Practice Guide for Justice Professionals: Guidelines for supporting clients and users of the justice system who have Dyslexia and other Specific Learning Difficulties'

The British Dyslexia Association and danda' (2009)
www.bdadyslexia.org.uk/news/publications/justice-guide.html

'Autism: A Guide for Criminal Justice Professionals' (2008) plus other documents and tools for criminal justice professionals.

National Autistic Society.
www.nas.org.uk (search under 'criminal')

'Review of Health and Social Services for Mentally Disorder Offenders and others requiring similar services – The Reed Report' (1992)

Department of Health and The Home Office
www.ncbi.nlm.nih.gov/pmc/articles/PMC1884089/

'Barriers to Justice' (1997)

Mencap
Please contact Mencap for a copy

'Intermediary Procedural Guidance Manual' (2005)

Home Office
http://lcjb.cjsonline.gov.uk/area15/library/intermediaries/Intermediary_Procedural_Guidance_Manual.pdf

Mentally Disordered Offenders (guidance for the CPS, updated on-line 2008)

Crown Prosecution Service
www.cps.gov.uk/legal/l_to_o/mentally_disordered_offenders/

Lord Chief Justice – Practice Direction (April 2007)

www.justice.gov.uk/criminal/procrules_fin/contents/practice_direction/part3.htm#id6328221

'Equal Treatment Bench Book' (updated in 2008)

Judicial Studies Board publications
www.jsboard.co.uk/etac/etbb/index.htm

'Prison Health Performance and Quality Indicators' (2009)

Department of Health
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_097118

'Procedure for the transfer of prisoners to and from hospital under sections 47 and 48 of the Mental Health Act' (2005)

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081260

'Out of Trouble' project

The Prison Reform Trust
www.outoftrouble.org.uk

'Literacy, language and speech problems' (2009)

NAPO – The Trade Union and Professional Association for Family Court and Probation Staff
www.napo.org.uk/publications/Briefings.cfm

Additional Useful Documents and Websites

'Information book for prisoners with a disability' (2009)

Department of Health and The Prison Reform Trust
www.prisonreformtrust.org.uk/Portals/0/Documents/disability%20booklet.pdf

'Healthy children, safer communities; A strategy to promote the health and well-being of children and young people in contact with the youth justice system' (2009)

HM Government
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_109771

'Offender Mental Health Care Pathway' guidance for providers and commissioners on mental health services for those involved in the criminal justice system (2005)

The Department of Health and the National Institute of Mental Health (NIMHE)
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4102231

'Services for people with learning disability and challenging behaviour or mental health needs'- Mansell report – revised edition (2007)

Department of Health
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_080129

'Better services for people with an autistic spectrum disorder: A note clarifying current Government policy and describing good practice' (2006)

Department of Health
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_065242

Nacro: guides to Appropriate Adults work with young people and with vulnerable adults

www.nacro.org.uk/search.html?q=appropriate+adult

'Supporting Complex Needs: A practical guide for support staff working with people with learning disabilities who have mental health needs' (2007)

Turning point
www.turning-point.co.uk/inthenews/Documents/SupportingComplexNeeds_web.pdf

Supporting People (offers vulnerable people housing-related information and services)

www.spkweb.org.uk

Learning Disabled Offenders (information on care and treatment)

www.ldoffenders.co.uk

Intellectual Disabilities (information regarding the health needs of people with learning disabilities)

www.intellectualdisability.info

Jan-Net (several learning disability mailing lists to join, including forensic issues)

www.jan-net.co.uk

Royal College of Speech and Language therapists; Working with Offenders (special interest group)

email: offendersig@yahoo.co.uk

Journal of Learning Disabilities and Offending Behaviour

pierprofessional.metapress.com/content/121645/

Journal of Applied Research in Intellectual Disabilities

www.wiley.com/bw/submit.asp?ref=1360-2322

Journal: Criminal Behaviour and Mental Health

www3.interscience.wiley.com/journal/112094296/home

'Positive Practice, Positive Outcomes: A Handbook for Professionals in the Criminal Justice System Working with Offenders with Learning Disabilities (2011)'

Department of Health

For a pdf version of this handbook go to:
www.dh.gov.uk/en/Healthcare/Offenderhealth/DH_4032016 or www.valuingpeoplenow.dh.gov.uk/content/offenders

These websites also allow you to download a copy of: **"Staying Positive: The Criminal Justice System and Learning Disabilities. (2011)"** An Easy Read guide for people with learning disabilities that explains the main messages of the **"Positive Practice, Positive Outcomes (2011)"** handbook.

Useful Local Contacts

This space is for staff to write in their local contacts for future use.

See resources on page 55 for information on how to contact the relevant professionals.

On-Call Psychiatrist and/or Duty Social Worker:

Local Authority:

Community Learning Disabilities Team (CLDT):

Learning Disability Partnership Board (LDPB):

Local general health services:

Mental Health Trust (MHT):

Local Children and Adolescents Mental Health Services (CAMHS):

Local Criminal Justice Liaison and Diversion Team or other forensic support service:

Lead person for the Disability Discrimination Act/Equalities Act/Disability Equality Scheme:

Local Day Services and Employment Schemes for people with learning disabilities:

Local Specialist Schools for people with learning disabilities and similar needs:

Local Appropriate Adult Scheme (Police only):

YOU MAY WANT TO COPY THIS SECTION ONCE COMPLETED AND HANG IT UP IN THE OFFICE.

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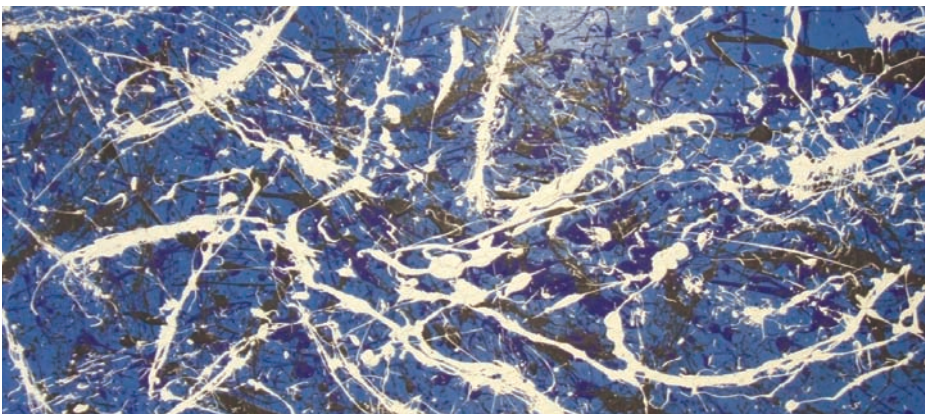
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For a pdf version of this handbook go to:

www.dh.gov.uk/en/Healthcare/Offenderhealth/DH_4032016

www.valuingpeoplenow.dh.gov.uk/content/offenders

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