

Positive Practice Positive Outcomes

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

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DH INFORMATION READER BOX

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Forewords

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The first duty of the Criminal Justice System is to keep the public safe and protect our communities from crime. That said, professionals working within the Criminal

Justice System are legally bound to consider the needs of the disabled or vulnerable people that come before them. This includes people with learning disabilities.

This document has been produced in order to help criminal justice professionals recognise when a person has learning disabilities, consider the effective legislation, and know how to secure the types of support available.

The positive practice examples included here demonstrate how effective communication and support – throughout contact with the Police, Courts, Prison and Probation – help to promote fair treatment, based on a full consideration of the needs of this vulnerable group of people.

John Boyington, *Director of Health and Offender Partnerships*

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People with learning disabilities are full and equal citizens. This means that they have the same rights as everyone else, but also have the same responsibilities.

The added complexity is that, because of an individual's learning disability, they are quite likely to need some additional support in order to assert those rights and fulfil those responsibilities.

Without this appropriate support people may be extremely vulnerable to neglect, abuse and the risk of persistent re-offending. There is thus a shared interest between those involved in the Criminal Justice System, the Health and Social Care Systems and the learning disabled people themselves in ensuring the provision of high quality support.

The combination of the Government's 'Valuing People' policy and legislative requirements through the Disability Discrimination Act are leading to radical changes in the lives of this traditionally marginalised and excluded group of citizens. This publication is concerned with helping the Criminal Justice System to be an effective partner in these changes.

Rob Greig, *National Director for Learning Disabilities*

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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. Some people may already be in touch with their local learning disability services and will inform criminal justice professionals of their disability. Others may not be aware of their disability or may not mention it.

It is very important that individuals with learning disabilities are identified within the Criminal Justice System to ensure that they are supported appropriately. Health and social care services are in place to facilitate and advise on this process. The positive practices outlined in this handbook promote strong and effective partnership working between organisations to produce a person-centred response for each individual.

The recent update to the Disability Discrimination Act (2005) means that all public services have a duty to eliminate discrimination and harassment of disabled people and to promote greater equality of opportunity for disabled people. This includes those people with learning disabilities and applies to all criminal justice organisations.

Criminal justice services are also bound by various pieces of service-specific legislation, such as the Police and Criminal Evidence Act (1984/2006) which outlines safeguards and procedures to protect the rights and ensure support for vulnerable people in the Criminal Justice System.

In a Police setting, for example, the support of an Appropriate Adult for someone with learning disabilities will help to ensure that the person's individual needs are identified and communicated at an early stage. They may have additional sensory problems or problems communicating with strangers for instance. This kind of support helps to improve their experience through the Criminal Justice System and helps the person to have a voice.

This handbook aims to help Criminal Justice Professionals to:

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

How to use this Handbook

This handbook is designed to be read by criminal justice professionals and others working with the Criminal Justice System, including Health and Social Care Professionals. Pages 4 to 14 provide important information about people with learning disabilities that should be read by everyone.

Pages 15 to 26 contains sections identified for use by criminal justice organisations; Police, Courts, Prisons and Probation. Each of these sections outline information and positive practices specific to that area of the Criminal Justice System, although they may still be of interest to related organisations.

A list of useful organisations and contacts are included as well as space for you to record the contact details of the appropriate health and social care professionals for your local area. Advice on how to find such professionals is provided on page 10.

An on-line copy of the handbook can be found at www.hscjpc.csip.org.uk/learningdisabilities

1 What is a Learning Disability?

A learning disability is identified by:

- 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. Tasks such as reading, budgeting and completing forms etc may be especially difficult. The person may have communication needs that make certain situations particularly stressful, for example, they may find it difficult to follow complex instructions.

A person with 'impaired social functioning', may require extra support to live independently, the level of help will depend on individual needs. They may require assistance with some everyday activities such as cooking, shopping, self-care and in developing social relationships and using community facilities.

Other terms and labels for a Learning Disability

The term 'learning disabilities' replaced 'mental handicap' in the early 1990s. Some other terms used in the UK and internationally are 'intellectual disabilities/dysfunction,' 'developmental disabilities,' 'mental retardation' (USA), 'mental impairment' and 'mentally vulnerable'.

Some of these terms, for example, 'mental retardation' are, understandably, considered derogatory by people with learning disabilities who usually

prefer to use the term 'learning difficulties'. However, this can sometimes lead to confusion since it is also used in some educational settings to describe specific conditions such as dyslexia. Dyslexia and associated conditions are not classed as learning disabilities.

Some facts about Learning Disabilities

- It is estimated that 1.2 million people in the general population of England have a mild or moderate learning disability.
- Mild to moderate learning disabilities are linked to poverty and rates are higher in deprived and urban areas
- An 'IQ' below 70 (plus the behaviours listed above) is often used as an indicator that a person has learning disabilities. An IQ score alone is not a sufficient indicator. Social factors must always be considered.
- Severe cases of learning disability are easily identified. However, mild or moderate learning disabilities are often more difficult to identify

EXAMPLE Positive Practice

In the West Midlands a voluntary organisation 'Autism – West Midlands' has joined forces with West Mercia Police to raise awareness of the issues surrounding autistic offenders. They have set up a Criminal Justice Forum with representatives from the Police, Probation Service, Forensic CAMHS (Children and Mental Health Services), Psychiatrists and family members.

They have held workshops focusing on the prevention of offending, supported mentoring schemes and also promoted the carrying of Autism "ATTENTION" Identity cards in their area. These enable the person with Autism to explain their condition through showing their card to a Criminal Justice Professional, or other member of the public to avoid confusion and misunderstandings.

A year after the introduction of the card, most users have reported it making them feel safer and that they have had positive experiences using the card.

- A learning disability is a lifelong condition – not an illness or a disease. Many of the problems experienced by people with learning disabilities are due to stigma, discrimination and barriers in society.
- Of those people living in the community known to be learning disabled, approximately 3% have previous convictions. Approximately 70% of offenders with learning disabilities are male.
- People with learning disabilities should be treated as people first, their individuality must be recognised and respected.

What are the differences between Mental Illness and Learning Disabilities?

Mental health problems are not uncommon and affect about one in four people in Britain. Like physical well being, mental health can vary according to what is happening in the person's life and can change over time. Depression and anxiety are the most widespread conditions. People with mental illness may experience difficulties with their relationships, work and day to day life. Support should be tailored to the individual and strategies to alleviate symptoms may include lifestyle changes as well as medication and psychological therapies.

Having learning disabilities is a life-long condition not an illness. People with learning disabilities find it harder to learn, but they can do so with help from other people. Some people with severe learning disabilities will need a lot of help

with day to day support to meet their needs and fulfil their potential.

It is possible for a person to have both learning disabilities and a mental illness. Criminal Justice professionals are not required to formally identify such conditions. Swift referral to health services is critical if mental health problems are suspected.

What about People with Autism and Asperger Syndrome?

This handbook is primarily about learning disabilities rather than Autism and Asperger Syndrome. However, a significant number of people with Autism and Asperger Syndrome also have learning disabilities and historically both groups have shared some services.

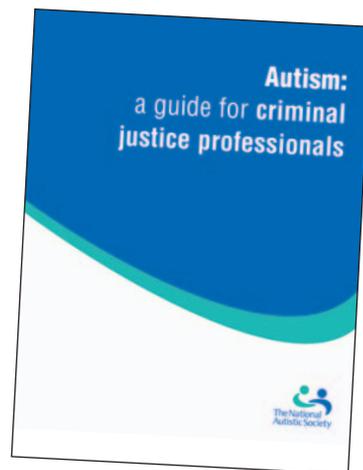
Much of the advice and the positive practice examples listed in this handbook will still be relevant to offenders with Autism and Asperger Syndrome. However, for much more detailed guidance on Autism and Asperger Syndrome in the Criminal Justice System, including more communication tips, you should refer to the information booklet published by the National Autistic Society (NAS).

- Autism is a lifelong developmental disability that affects the way a person communicates and relates to people around them. People with autism have difficulties with everyday social interaction.
- People with Autism can often have accompanying learning disabilities but everyone with the condition shares a difficulty in making sense of the world.
- Asperger Syndrome is a form of Autism. This term is used to describe people with some autistic behaviour who are usually more able to function in society.

Source: National Autistic Society (NAS)

Action:

- Obtain a copy of National Autistic Society guidelines



“Reality to an autistic person is a confusing, interacting mass of events, people, places, sounds and sights. There seems to be no clear boundaries, order or meaning to anything. A large part of my life is spent just trying to work out the pattern behind everything.”

An extract from *The National Autistic Society – Guidelines for Criminal Justice Professionals*

2 Learning Disability and the Criminal Justice System

The Criminal Justice System must treat all individuals equally and make adequate provision for addressing their needs. This includes identifying and supporting people with learning disabilities. It is therefore important to establish good links with local learning disability services who can offer advice, assessments, treatment and court reports (See page 10 for more information).

It can be appropriate for a person with a learning disability to go through the Criminal Justice System. This helps to give them an understanding of the consequences of their actions, to take responsibility for these actions and to make more appropriate choices about their behaviour.

However, people with learning disabilities can be more vulnerable in the Criminal Justice System as they may not understand the processes involved, the information given to them, or their rights.

The percentage of adults with learning disabilities in the Criminal Justice System is thought to be between 2% - 10% of the offender population and possibly even higher in those under 18 years old.

Like the general population, offenders with learning disabilities may commit a range of offences, but access to rehabilitation or treatment programmes may be limited.

The real life scenario on the opposite page illustrates how important it is to identify people with learning disabilities within the Criminal Justice System and ensure their individual needs are assessed and addressed.

Offending Behaviour

People with more severe learning disabilities are less likely to come to the attention of the Criminal Justice System, except if they are involved in a more serious crime and are dealt with under 'Unfit to Plead' court proceedings.

Of those people living in the community known to be learning disabled, approximately 3% have previous convictions. Approximately 70% of offenders with learning disabilities are male.

"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 since then. He was convicted of criminal damage and received a community sentence with an evening curfew of 7pm. When he later failed to adhere to his curfew he was arrested and detained in the Young Offender Institute. He was distressed and confused. 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 when the curfew was set."

Dr Nikki Fowler, Clinical Psychologist, Birmingham and Solihull Mental Health Trust

Unsure if someone has a Learning Disability?

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

- **Can you tell me where you live? /Can you tell me who you live with?**

This might help to determine 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, noting that the person may not perceive their school as a 'special' school. They may have gone to a main stream school but with support.

- **What do you usually do in the day?**

Try to establish if they attend a day service or if they attend sheltered employment.

- **Have you ever been in hospital? How long for and when? Do you know the hospital name?**

This may help you to find out if they have used local learning disability or psychiatric services and may also provide indicators about their physical well being.

- **Do you find reading and writing hard?**
- **Do you find it hard to know what time it is?**
- **Do you sometimes find it hard to understand what other people are saying?**
 - **Can you tell me how old you are and when your birthday is?**

If the answers given lead you to think the person may have learning disabilities you will need to contact the appropriate health or social care professional, depending on whether you require an assessment, advice or services. *Please see page 10* for a description of the options available to you at this stage.

If you are questioning a person in Police Custody, you must refer to the PACE guidance on vulnerable suspects (see *page 15*). The Metropolitan Police Service also has 'Form 57M – Appropriate Adult and Medical Care, Appendix D: Screening form for people with learning disabilities.'

Actions:

- Obtain a list of the Specialist Schools for children with learning disabilities in your local area.
- Ask your PCT (Primary Care Trust) for information about relevant health services and their contact details in your area, for example, a list of hospitals.
- Ask your Local Authority for information and contact details for local day services and employment schemes for people with learning disabilities.

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Meeting 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.

Many people with learning disabilities require additional support in recognising, explaining and meeting their health needs.

It is vital that medical opinion is sought if the person is reporting symptoms or displaying signs of illness or if there are changes in behaviour. People with learning disability are at increased risk of having undiagnosed illness because it is wrongly thought that such changes due to or, are part of, their 'disability'.

Generally people with learning disabilities are at increased risk of experiencing:

- Epilepsy (*approximately 33% of people with learning disabilities have some form of epilepsy*)
- Difficulties with eating and Gastro-Intestinal problems
- Hypertension and Respiratory Disease
- Obesity (*and therefore Coronary Heart Disease*)
- Poor Dental hygiene
- Diabetes
- Thyroid Problems
- Anxiety, phobias and panic disorders

- Depression
- Schizophrenia (*3 times more likely to have this*)
- Attention Deficit Hyperactivity Disorder (ADHD), and
- Sight or hearing problems (*approximately 40% of people with learning disabilities have some form of sensory problem.*)

Information from various sources, including 'Meeting the Health Needs of People with Learning Disabilities: Guidance for Nursing Staff', RCN (2006).

People with learning disabilities are also vulnerable to exploitation, bullying and abuse of all kinds: physical, emotional, psychological, sexual, financial etc. The extent to which they feel this increased vulnerability will impact on how they react when approached by others.

People with learning disabilities who engage in offending behaviour usually have complex social care needs. Co-work between the relevant agencies such as health and social care, housing, education and employment is needed to help people address their offending behaviour.

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4 The Valuing People White Paper

Valuing People is the government's plan for improving the lives of people with learning disabilities, their families and their carers. It is a cross government White Paper that is concerned with all aspects of people's lives, such as jobs, employment, transport, housing etc as well as health and social services.

The 'Valuing People White Paper' (2001) aims to improve the quality of life for people with learning disabilities. It is based on 4 key principles concerning their:

- rights as citizens
- inclusion in local communities
- choice in daily life, and
- real chances to be independent.

A Person-Centred approach to Planning with People

The Valuing People White Paper stresses the importance of maintaining a rights based approach in supporting people with learning disabilities. This ensures that the individual's wishes and aspirations are upheld and respected and keeps the person firmly at the 'centre of things.' Professionals should make every effort to ensure that the person and those closest to them are involved in all decision making and planning.

It is important to maintain a person-centred approach to health and social care planning to ensure that the individual's wishes and aspirations are heard and respected and keeps the person at the centre of things. This involves ensuring that the person and those closest to them are involved in decision making and planning.

Most people with learning disabilities are able to make their own decisions. Mental capacity must be assumed unless there is evidence to the contrary. See page 12 for information on the Mental Capacity Act (2005). They must be provided with the information and support necessary to make decisions about how they live their lives. For more information on the Person Centred Approach and Person Centred Planning, including information on training and advice, can be found on the Valuing People Support Team website (www.valuingpeople.gov.uk).

Promoting Better Health

The Valuing People White Paper also includes requirements for all people with learning disabilities to be offered the chance to have a Health Action Plan. This is particularly important because many people with learning disabilities who offend will have additional mental and/or physical health needs.

A Health Action Plan is a personal plan about what a person with learning disabilities can do to be and stay healthy. It lists any help people might need to do those things. It helps to make sure people get the services and support they need to be healthy. The plan should be in a format that is helpful to the individual.

The person that supports them with health action planning is called a health 'facilitator'. This role might be undertaken by a health professional such as a community learning disability nurse or it could be a relative. The important thing is that it is someone the person knows and trusts and that primary care, particularly the person's GP, are fully involved.

Action:

- Check out the Valuing People Support Team website for general information about Health Action Planning and Person Centred Planning www.valuingpeople.gov.uk
- Contact your local PCT (Primary Care Trust) or Learning Disability Partnership Board (LDPB) to find out more about health facilitation and health action planning in your area. Your Local Authority will have details of how to get in touch with your LDPB.

Getting Help and Support

Community Teams for people with Learning Disabilities (CTLDs)

Most local authorities have Community Teams for people with Learning Disabilities (CTLDs). These are multi-disciplinary teams who can give advice and to whom referrals can be made.

CTLDs consist of a range of professionals and may include Community Learning Disability Nurses, Psychiatrists, Clinical Psychologists, Social Workers, Care Managers, Speech and Language therapists, Occupational therapists and Physiotherapists.

People with learning disabilities should, wherever possible, access mainstream health services, including mental health, and CTLDs promote this by providing advice, training and support.

Most CTLDs operate an open-referral system, accepting referrals from the person themselves, relatives or carers, or other related professionals. Some teams do undertake work with children however, most support *adults* with learning disabilities.

Individuals may already be known to their local CTLD, although it is not uncommon for offenders with learning disabilities to have had no previous contact with services. There is variation regarding the commissioning and experience of local CTLDs in working with offenders. Some CTLDs may have identified teams or identified individuals who work specifically with offenders or they may have arrangements in place with local mental health teams.

Local Authorities have a duty of care to assess people to see what their level of need is under 'Fair Access to Care Services', 2002. These assessments work to national guidelines, however, the Local Authority itself decides on the level of need at which they allow access to services.

Criminal Justice Liaison Teams

These teams typically work to provide early detection and assessment of mentally disordered offenders. They may then be diverted from the Criminal Justice System to services providing forensic treatment and support. These teams also facilitate Police, Courts, Probation, Health and Social Services working together to support people through the Criminal Justice System. Not every local area has such teams.

Forensic Mental Health or Forensic Learning Disability Teams

These teams are usually partnerships between Health, Social Care and Criminal Justice professionals. They facilitate the appropriate transfer, diversions and treatments of offenders. Most of these teams are Mental Health focused, with only a small number of specialised Forensic Learning Disability Teams. Not every local area has such teams.

How to contact the appropriate professionals

You should contact your Local Authority Community Team for people with Learning Disabilities (CTLD) if you think someone has

learning disabilities. To find contact details for your local team start by contacting your Local Authority (Social Services).

If the Community Team for people with Learning Disabilities are unsure whether the person has learning disabilities, they will be able to ask some initial screening questions and refer on for a formal assessment if necessary. At this stage it is useful to obtain details of the person's home GP, their home Primary Care Trust, their Mental Health Trust and their Local Authority (Social Services).

The social care needs of a person in custody or in prison are the responsibility of the Local Authority at their place of (home) residence. Health care needs and mental health care are the responsibility of the Primary Care Trust in which the prison or police station is located. You can find a list of Primary Care Trusts at www.nhs.uk/England/AuthoritiesTrusts/Pct/list.aspx

In an emergency situation, if you are unable to contact the CTLD quickly you should contact the on-call psychiatrist, the duty social worker or equivalent.

Action:

- Ensure you have up to date contact details for your local CTLD and information about referrals etc. It is a good idea to have 'named person' from the CTLD to link with.
- Ensure you have details of any other relevant teams that could help, if available in your area, such as Forensic Learning Disability or Mental Health Teams.
- Ensure you have access to an on-call psychiatrist, duty social worker or equivalent.

5 Recent Legislation relating to people with Learning Disabilities

Both the Disability Discrimination Act (2005) and the Mental Capacity Act (2005) serve to protect the rights of vulnerable groups in society, including people with learning disabilities.

All public services must be aware that someone who has had a disability which falls within the definition given above is protected by the DDA from discrimination. This extends to if they have recovered, or where the condition is controlled by medication.

Police

The “Disability in the Police Service” guidance was launched in October. 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 preparing for the implementation of the DDA.

Courts

The Department for Constitutional Affairs has published an action plan regarding the DDA in the Courts service.

The Disability Discrimination Act (DDA) (2005)

Under the DDA (1995) all public services have a legal responsibility not to discriminate against disabled people, or to provide a poorer quality of service because of their disability. The revised DDA (2005) came into force in December 2006. It places new statutory duties on public bodies to eliminate discrimination and harassment of disabled people. It also promotes greater equality of opportunity for disabled people.

Severe disfigurement and many others.

“Mental impairment”

is intended to cover a wide range of conditions relating to mental functioning, including learning disabilities and mental illness.

The DDA defines disability 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”.

“Impairment” covers physical or mental impairments and includes sensory impairments, such as those affecting sight or hearing. It includes Diabetes, Dyslexia, Autism, Deafness, Asthma, Arthritis, Depression,

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This will be implemented by Regional Diversity Managers. The Department intends to explore the issues that affect people with learning disabilities in the courts system.

Prison

The Prison Service have issued a Prison Service Order (No. 2855) addressing issues surrounding Prisoners with Disabilities. The intention is that all staff in the prison system understand and comply with the DDA. See page 21 for more details.

Probation

The Probation Circular Reference number 34/2006 gives advice on the DDA (2005) and also on monitoring arrangements for disabled probation employees and offenders.

For further information and helpful guides go to:

http://www.opsi.gov.uk/ACTS/act_s2005/20050013.htm

<http://www.direct.gov.uk/DisabledPeople/RightsAndObligations/YourRights/fs/en>

<http://www.drc.org.uk/>

Action:

Ensure you are aware of your organisation's response to the requirements of the DDA (2005).

The Mental Capacity Act (2005)

The Mental Capacity Act (2005) provides a framework for acting and making decisions on behalf of individuals (over 16) who lack the mental capacity to do this for

themselves. This includes those with learning disabilities, dementia, other mental health difficulties or brain injury.

The Mental Capacity Act states the principles that must be applied when working with or caring for these adults. The key principles are:

- Assume a person has capacity unless proven otherwise for a particular decision
- Do not treat people as incapable of making a decision unless you have tried all you can to help them
- Do not treat someone as unable to make a decision because their decision seems unwise
- Do things for people without capacity in their best interests, and
- Before doing something to someone or making a decision on their behalf, consider whether you could achieve the outcome in a less restrictive way.

The Act covers all types of decisions, including personal welfare and financial matters, and covers decision-making on behalf of those who lack capacity by attorneys, or court-appointed "deputies".

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 about medical treatment or where they live. The role of an IMCA is to support, represent and protect the rights of particularly vulnerable people. The IMCA voices the person's wishes, feelings, beliefs and values and they explain the relevant information appropriately. Local authorities and NHS bodies may give somebody an IMCA for a care review or in cases of abuse (in abuse cases even if they have family or friends).

The Mental Capacity Act 2005 comes into force in 2007. It sets out a framework for assessing a person's capacity and, if they lack capacity, for making 'best interests' decisions on their behalf. It also introduces new services; IMCA services, a new Court of Protection and a new Office of the Public Guardian.

For further information and helpful guides go to:

<http://www.opsi.gov.uk/acts/acts2005/20050009.htm>

<http://www.dca.gov.uk/legal-policy/mental-capacity/index.htm>

http://www.mencap.org.uk/download/Why_Mencap_Supports_MCB.pdf

"Any paid employees working with people lacking capacity, including those working in prisons and in the Criminal Justice System, will have to adhere to the Act's Code of Practice. Breaching the Act and not having regard to the Code could be used in legal or disciplinary proceedings. The Act also introduces a new offence of ill treating or wilfully neglecting a person who lacks capacity that is punishable by a fine or up to 5 years imprisonment"

Paul Gantley, Implementation Manager
Mental Capacity Act, Department of Health

6 Communicating Effectively with people with Learning Disabilities

People with learning disabilities may have difficulties speaking, understanding and expressing themselves. Often they have problems remembering things or concentrating for long periods of time. The combination of some or all of these difficulties puts a person with learning disabilities at a disadvantage. It can cause anxiety for them when communicating with someone who does not take these difficulties into account.

Here are some practical tips help you to establish more effective communication. You can also contact your local Community Team for people with Learning Disabilities, who may be able to help with staff training or provide someone with expertise to communicate on your behalf.

Practical Tips and Techniques

- Always explain to the person themselves exactly why they are in a new situation, what they should expect and when this will happen. Try using their name at the start of each sentence.
- Visual aids (drawings, photos, a calendar for dates) and clear, simple, slow, focused language (spoken or written down) will help to increase the person's understanding. Avoid using jargon.
- Emphasise key words and use concrete terms not abstract terms, for example, "At breakfast time" rather than "early on".
- Break large chunks of information into smaller chunks

and ensure you give the person time to understand the information.

- 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."

- Be patient and calm whilst communicating, do not rush the person you are talking to – they may need longer to process the questions and think about their answers.
- Try to use open-ended questions rather than closed (restricting) 'yes/no' questions and avoid double-negative statements or vague questions such as "You were not in the shop, were you?"
- Be aware that repeating questions may suggest to the interviewee that they have given the wrong answer when asked the first time.

Planning Interviews

- Planning the interview carefully will save you time and help you get a fair and calm response. You may want to seek assistance from a healthcare professional or someone else who knows the person, for example, a member of their

"People with Learning Disabilities may answer "Yes" to all questions in order to please the interviewer. As a result it is important that at some stage the interviewer ask the same question but in a different way that would expect a negative answer, or to ask the person to explain what they think the question means. By this method one can check whether the person understands what is being said."

Ian MacKenzie, Probation Officer (formerly a Learning Disability Worker), Greater Manchester Probation Service

family, a social worker or an advocate or friend they wish to be present.

- Wherever possible, several short interviews or sessions are likely to be more productive than one long session. This may help with the person's concentration levels and reduce anxiety.
- Try to have interviews in a familiar environment and avoid changing the interview room. Ensuring the environment is free from distracting noises and that it is as calm as possible will help reduce anxiety.
- At the beginning of the interview explain why they are there, what will happen, when and why. Explain what they will be asked to talk about.

Things to note

- Some people with learning disabilities may not want to reveal that they have a disability.
 - Some people with learning disabilities may not understand what the term 'learning disability' actually means.
 - If someone does not think they have learning disabilities it is not your place to inform them otherwise. The situation should be handled by health and social care professionals.
 - Some people with learning disabilities may agree with a statement or a question to please you or because they are frightened.
- It may not always be immediately obvious that the person does not understand what is happening or what is being said.
 - Great care has to be taken to establish clear communication and understanding with the person.

“Having an interview space that is warm, comfortable and feels ‘safe’ is really important. It’s quite likely that an offender with a learning disability will be quite frightened and intimidated... You may also have an offender who understands what you are telling them and what they’ve done, but has difficulties keeping appointments [for interviews etc] as they may not have an awareness of days and times.”

Probation Officer,
Wilts Probation Service

7 Information specific to the Police Service

Studies in London Police Stations have found 9% of those arrested had an IQ under 70 and 34% under 75.

(Gudjonsson et al. (1993))

This section holds information primarily for Police professionals. However, other agencies may find the material of interest.

Please ensure you have read the general sections:

- What is a Learning disability? *(Page 4)*
- Unsure if a person has learning disabilities? *(Page 6)*
- Communication Advice *(Page 13)*
- Health and social care needs of people with learning disabilities *(Page 8)*
- Useful Contacts *(Page 32)*
- Recent Legislation *(Page 11)*

interview and examine the detainee.

Once the detainee has been interviewed, examined and suitable arrangements made for their treatment or care, they can no longer be detained under section 136. A detainee must be immediately discharged from detention under section 136 if a registered medical practitioner, having examined them, concludes they are not mentally disordered within the meaning of the Act.

Home Office Guidance on Safer Detention and Handling of Persons in Custody (2006)

When a person is detained under section 136 of the Mental Health Act (1983), they must be taken to a place of safety for an assessment. They cannot be transferred from one place of safety to another. If they are taken elsewhere for medical treatment they must be returned to the original place of safety for the assessment.

Rights and Responsibilities

PACE (Police and Criminal Evidence Act 1984/2006) – 2006 Update

There are safeguards and procedures specified in PACE Codes of Practice which apply to 'Persons with a mental disorder and those who are otherwise mentally vulnerable' (Code C, Notes for guidance, 1G). "Mentally vulnerable" applies to any detainee who, because of their mental state or capacity, may not understand the significance of what is said, of questions or of their replies and covers those with learning disabilities. When the custody officer has any doubt about the mental state or capacity of a detainee, that detainee should be treated as mentally vulnerable and

an appropriate adult called.

An interpreter must be called for people if there is doubt about their ability to hear, speak or understand English, or when the custody officer is unable to establish effective communication. If a person is blind, seriously visually impaired or, for other reasons unable to read, an independent person must be made available to help check any documentation regarding the detainee.

It is imperative that a mentally disordered or otherwise mentally vulnerable person, detained under the Mental Health Act (1983), section 136, be assessed, in a place of safety, as soon as possible. If that assessment is to take place at the police station, an approved social worker and a registered medical practitioner should be called to the station as soon as possible to

Appropriate Adult Schemes

Vulnerable people should have an 'Appropriate Adult' with them when they are being interviewed by the police. Their role is to make sure that the suspect's rights are respected and that they understand the procedures. The intention is to protect vulnerable suspects from their 'tendency to provide information which is unreliable, misleading or self-incriminating' (Home Office, 1995a; 2004).

Appropriate adults can:

- provide support
- insist on legal representation (noting that the suspect cannot be compelled to see the legal

- representative when they arrive)
- explain what is happening to the suspect, and
- request 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 social or health care professional. Increasingly, organised groups of trained volunteers carry out this very important role.

PACE (Police and Criminal Evidence) 2006 Update

In the case of people who are mentally disordered or otherwise mentally vulnerable, it may be more satisfactory if the appropriate adult is someone experienced or trained in their care than a relative lacking such qualifications. But if the detainee prefers a relative to a better qualified stranger or objects to a particular person, their wishes should, if practicable, be respected.

A detainee should always be given an opportunity, when an appropriate adult is called to the police station, to consult privately with a solicitor in the appropriate adult's absence if they want. A solicitor or independent custody visitor present at the police station in that capacity may not be the appropriate adult.

The Appropriate Adult should be informed of their role: to advise the person being questioned; to observe whether or not the interview is being conducted properly and fairly; and to facilitate communication with the person being interviewed.

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

EXAMPLE Positive Practice

In Sefton, Liverpool, partnership working between the local Community Learning Disabilities Team and the Criminal Justice Liaison Team (including a Police Liaison Officer) has ensured that people with learning disabilities who offend are treated in the same way as other citizens, and receive the appropriate support.

Partnership working has included:

- Advice to police regarding fitness for interview of people with learning disabilities.
- Support and advice to the police through liaison with a learning disability nurse whilst the person is in custody.
- Advising magistrates on the implications of having learning disabilities.
- Facilitating transfer to hospital under the Mental Health Act (1983), including coordination of a mental health assessment.
- Ensuring that people with learning disabilities understand the terms of bail conditions and also Court proceedings.

organisations providing appropriate adult services.

NAAN seeks:

- To promote and protect the rights and interests of young people and vulnerable adults in police custody
- To support the development and maintenance of effective Appropriate Adult services throughout England and Wales.

NAAN has developed national standards for best practice of Appropriate Adult schemes including recruitment and training of volunteers or paid staff, and the resourcing of schemes. They aim to support the development of Appropriate Adult schemes across England and Wales.

National Appropriate Adult Network,
www.appropriateadult.org.uk,

NAAN, 26 Ellora Road, London, SW16 6JF, tel: 0208 378 2736.

Guidelines published
<http://www.appropriateadult.org.uk/Text/1116267097734-4822/National-Standards>

Action:

- Ensure your organisation has an Appropriate Adult Scheme and that all staff are aware of when an Appropriate Adult is needed and who to contact.

Communication in a Police setting

- People with learning disabilities may have difficulties understanding the meaning of a Police caution and what their rights are if arrested.
- They may struggle to read important documents such as the 'Notice to Detained Persons', which is designed to inform the suspect about the caution and their rights. This disadvantage, combined with poor memory skills often leaves a person with learning disabilities unable to understand or exercise their rights.
- The use of Police 'jargon' such as 'arrested', 'suspected' and 'defendant' can be confusing.

- People with learning disabilities under arrest may make false confessions, thinking that this will mean they can go home more quickly and correct themselves later in court.
- The Police uniform or its absence may be a source of confusion (i.e. plain-clothed Police) and may require a clear explanation.

Action:

- Familiarise yourself with 'How to Communicate' including interview tips. See page 13.
- Draw attention to the barriers faced by people with learning disabilities through creating a wall poster or other awareness raising activities for staff.

What service users say

Good things

"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 things

"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"

Extract from a study into 'People with Learning Disabilities experience of being interviewed by the Police'(2007) (W. Goodman, J. Leggett & S. Dinani)

"Dorset Police now send all trainee officers on community placements and we ['People First'] have found it really useful in developing relationships with the Police. We have also found it helped people with learning disabilities to meet the Police in an informal way and vice-versa, so that if they do have to meet later in a crisis situation, whether as victim or offender, it will be easier for them to communicate with each other. We hope that this will be a long-term arrangement, we have had two officers working with us on a placement so far and plan to continue for the foreseeable future. We think it is a great example of cross-agency working and brings great benefits to all involved. Members have reported feeling more able to approach Police in the community and they have also established relationships with their local Police Community Support Officers."

Helen Nicolson, Dorset 'People First'
(A Charity run by and for people with Learning Disabilities)

"Since the introduction of community beat Police officers, we have had more success in dealing with minor repeat offenders. Attending planning and core group meetings means we can approach problems as a team rather than in isolation. This consistency was lacking previously."

Paul Francombe, Learning Disabilities Partnership Manager, Plymouth

The Prisoner Escort Record

This record stays with a person through the Criminal Justice System. By ticking the 'Vulnerability' box and recording that they have learning disabilities you can help them to obtain the appropriate support and treatment.

"Barriers to Justice" Mencap (1997)

In their paper concerning learning disabled witnesses and victims Mencap recommends:

- Introduction of initial learning disability awareness training for all new recruits entering the Police force
- Compulsory refresher training in learning disabilities for all ranks of officer

- Increased interaction between officers and local Police stations and groups involving people with learning disabilities such as day centres, community homes etc.

Many areas now have nurses and social workers working in a liaising role between the various agencies of the Criminal Justice System and the appropriate health and social services. Some police stations have started to employ nurses to assist with any medical aspects during a detainee's time in custody. Having a trained health professional at the Police Station helps to increase the likelihood of suspects with possible learning disabilities being noticed and it also facilitates obtaining the appropriate medical professionals and specialist services.

8 Information specific to the Courts

This section holds information primarily for professionals working in or with the Courts, however, others may find the material of interest.

Please ensure you have read the general sections:

- What is a Learning Disability? (Page 4)
- Unsure if a person has a Learning Disability? (Page 6)
- Communication Advice (Page 13)
- Health and Social Care needs of People with Learning Disabilities (Page 8)
- Useful Contacts (Page 32)
- Recent Legislation (Page 11)

Provided the Police stations or teams have in place good provisions for identifying people with learning disabilities, the number of people appearing at court un-identified should decrease. However, the short amount of time they have to process suspects, and other factors such as the cloaking effects of drugs and alcohol, can make identification more difficult. Those involved in the Court process must report to the Judge or other official any concerns about the person on trial having a possible learning disability. The Judge has the power to request a formal assessment of the person's condition.

Rights and Responsibilities

Every individual has The Right to a Fair Trial under Article 6 of The European Convention on Human Rights and as set out in The

Human Rights Act (1998). However, the presence of learning disabilities and the lack of awareness within the Courts System about this group of individuals may leave a defendant at a disadvantage.

The Reed Committee (1992) produced a series of reports called "A Review of Health and Social Services for Mentally Disordered Offenders and Others Requiring Similar Services." These outlined a set of principles that underpin service planning and provision and are applicable when considering sentencing:

- Regard to the quality of care and proper attention to the needs of the individual
- Provision in the community, rather than institutional settings
- Conditions of no greater security than is justified by the degree of danger people present to themselves or to others
- Maximise rehabilitation and chances of sustaining an independent life
- Services as near as possible to the users' own homes or families.

Government policy emphasises the least restrictive alternative and community-based treatment

CASE Study

A young man was arrested for sexual assault. At his court appearance, the judge was unhappy about the young man's level of awareness and understanding of his alleged crime and of the legal procedures, he therefore called for probation reports. The probation officer who interviewed the young man thought it likely that he had a learning disabilities. The probation officer asked for support from the local Community Team for people with Learning Disability who assessed the client and agreed that he did indeed have learning disabilities.

The team set up a programme of care, therapy and work/volunteering activities. They also helped their client re-organise his own responsibilities as a carer for his physically disabled mother. It was agreed with the court that this package of activities and support was an appropriate diversion from the Criminal Justice System.

“Considering that the client was so isolated when he first came to the service, he has quite an active week now and seems a much happier person. Obviously we have to be mindful of the offending behaviour but I feel that we’ve tried hard to ensure that the risk assessment has been a tool to allow him opportunities within a safe framework rather than using it to restrict opportunities. There have been some very positive outcomes for the client from what was an initially negative situation. It’s been a very rewarding experience as well, it’s good to know that we’ve helped make a real difference.”

A Community Learning Disability Nurse
(Member of the Bolton Mentally Disordered Offenders Panel).

that behaviour. This distinction exists to help establish intent and insight into the defendant’s actions. The extent of a defendant’s learning disability may be used as an indicator of the presence of Mens Rea.

To assess this, typically an ‘Expert Witness’ presents a report on the extent to which the defendant’s learning disability affects their behaviour. An Expert Witness is not known to the defendant. A Professional Witness is known to the defendant, typically as a support worker, Probation Officer or Health Professional who has worked with the defendant.

To determine whether someone is Fit to Plead requires two psychiatrists to provide reports. If deemed unfit, a Trial of Facts can take place. The defendant can be found to “have done the act or made the omission.” This does not amount to being found guilty.

Communication

All information, both written and verbal, must be fully understood by the defendant. Ensuring accessible material is available will help to speed up the process and ensure a fair trial for the defendant.

In some cases people with learning disabilities may appear to be more able than they are. They may communicate in such a way that masks their disability. Their learning disability may, therefore, not be taken into consideration and the correct services might not be put into place. If there is doubt, the basic questions provided on *page 6* should be used as a first check.

The communication section of this handbook explains that people with learning disabilities

wherever possible. This growing pressure to support people in the community who offend or might offend if not properly supervised requires a package tailored to the defendants’ specific needs and risks, involving multi-disciplinary input in order to be successful.

Crown Prosecution Service; Code for Crown Prosecutors, Full Code Test (2005)

A prosecution is less likely to be needed if: the defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is real possibility that it may be repeated. The Crown Prosecution Service, where necessary, applies Home Office guidelines about how to deal with mentally disordered offenders. Crown Prosecutors must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill health with the need to safeguard the general public.

Fitness to Plead

The Criminal Procedure (Insanity and Unfitness to Plead) Act (Home Office, 1991), states that if a defendant is fit to plead, they are considered responsible for their actions. In practice, a relatively small percentage of people with learning disabilities are diverted out of the Criminal Justice System because they are considered ‘unfit to plead.’

Fitness to Plead is based on five criteria:

- Ability to plead
- Ability to understand the evidence
- Ability to understand the court proceedings
- Ability to instruct a lawyer, and
- Ability to challenge a Juror.

The court must show Actus Reus and Mens Rea. That is, an accused must not only have behaved in a particular way, but must also have had a particular mental attitude to accompany

“An inability to communicate is often regarded as non-compliance or a difficult person, and in addition the ability to converse with legal executives is also limited, leading to the potential of a lesser defence.”

Jeff Shaw,
Team Leader, Mentally
Disordered Offenders
unit, North Staffordshire

respond better to certain types of questions (for example ‘open’ rather than ‘closed’ questions have been found to give more accurate accounts). They are much more easily led during questioning. Suggestive or leading questions put a learning disabled defendant in an unfair position.

It is important for Court Professionals to tailor their language to the level of understanding of the defendant and for the Judge to uphold this standard. The communication advice on *page 13* provides some useful practical tips.

It is good practice for those defending and those supporting a defendant with learning disabilities to ensure their situation has been assessed, communicated to others involved in the hearing and made as stress-free as possible.

Live Links

Police & Justice Bill (2006)
transitional arrangements;
Live Links

The legislation regarding ‘Live links’ directly into the Court has recently been updated. It now permits use of links where the defendant suffers from a mental disorder or has a significant impairment of intelligence (as described in the Mental Health Act(1983)). The Court has the power to allow the use of a live link if it is felt that the accused might be able to participate more fully in the Court proceedings. A defendant with learning disabilities may be able to give better evidence in a more relaxed and informal setting, as has been the case when used with witnesses and victims.

Work undertaken in Hull and East Riding magistrates Court and Hull Crown Court revealed that the main things which may cause anxiety for people with learning disabilities are:

- 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.
- Being unable to sit with or see support staff, and

- A lack of understanding about learning disabilities within the court system

Extract from the ‘Court Protocol’ developed by Nikki Hollingsworth (CSIP Yorkshire and Humber).

Court Diversion and Liaison Schemes

Some Courts have Court Diversion and Criminal Justice Liaison schemes now in place. These facilitate screening defendants’ behaviour for signs of serious mental illness. They are also referred to as Criminal Justice Mental Health Liaison Schemes or Court Assessment Schemes.

Court diversion describes the arrangement whereby mental health assessments of offenders are undertaken in partnership with the Court, usually around the time that the defendant appears in Court. The aim is to provide the court with information about the offender’s mental condition and any treatment that may be appropriate.

The purpose is to refer offenders to mental health services, where appropriate, rather than proceed automatically with prosecution. The Courts also have a number of formal psychiatric disposals available to them under the Mental Health Act or Criminal Justice legislation, ranging from the hospital order requiring detention in a psychiatric hospital, to a probation order with a condition requiring the offender to undergo psychiatric treatment.

9 Information specific to the Prison Service

This section holds information primarily for professionals working in or with the Prison Service. However, others may find the material of interest.

Please ensure you have read the general sections:

- What is a Learning disability? (Page 4)
- Unsure if a person has learning disabilities? (Page 6)
- Communication Advice (Page 13)
- Health and social care needs of people with learning disabilities (Page 8)
- Useful Contacts (Page 32)
- Recent Legislation (Page 11)

and the Disability Discrimination Act (2005) (see page 11).

The DDA (1995) applies to service providers (including the Prison Service, for example in its provision of education, work, drug treatment programmes etc but not to activities such as allocation of prisoners) and requires access (both physical and in the broadest sense) to be ensured to services and for reasonable adjustments to be made.

The DDA (2005) goes further, placing specific duties on public bodies to: a) look at all policies which impact upon prisoners, not just to respond reactively to prisoners' individual needs; b) not to discriminate against people with disabilities by introducing a new requirement to promote equality of opportunity; c) eliminate harassment and to promote positive attitudes towards people with disabilities.

This PSO contains four mandatory actions:

- Governors Managers and staff must comply with the requirements set out in the DDA
- Governors and Managers must ensure that procedures exist in prisons for prisoners to be able to disclose disability both on reception and subsequently and this must be recorded on the Local Inmate Data system when that facility exists
- Governors must ensure that a local policy is in place to ensure that prisoners with disabilities are treated in accordance with Prison Service policy and this local policy must include how equality of opportunity for disabled prisoners will be promoted, and

Rights and Responsibilities

Prison Service Order (PSO) 3050 – Continuity of Healthcare for Prisoners (Transfer of prisoners with disabilities)

Establishments should have a local policy on the management of prisoners with disabilities and an identified Disability Liaison Officer. PSO 2855 Prisoners with Disabilities gives guidance on the management of prisoners with disabilities.

Disability, in most cases, should not be medicalised and allocation is not primarily a health care matter. The Healthcare team will however need to contribute as appropriate to the patient's health care needs and inform the establishment Disability Liaison Officer [DLO] so that they can ensure that the prisoner receives the necessary assistance to

enable them to cope with their disability whilst in prison.

Staff need to be clear about the tasks a disabled individual may need assistance with. It is helpful to perform an assessment of their abilities on reception into prison as staff will need to be clear whether tasks can be managed independently in the prison environment.

Prison Service Disability Policy Unit, whilst not responsible for allocations, can provide general policy advice in this area

Prison Service Order (PSO) 2855 – Prisoners with Disabilities

The desired outcome of this PSO is that all managers and staff understand and comply with the law as set out in the Disability Discrimination Act (DDA) (1995)

- The Governor must nominate as Disability Liaison Officer a suitable member of staff who has regular contact with prisoners and is given sufficient time to act as a contact point to receive information on policy issues and good practice and act as an adviser on disability issues in ensuring that disabled prisoners needs are met.

The Department of Health and the National Institute of Mental Health published the 'Offender Mental Health Care Pathway' (2005), to provide guidance on the management of offenders with mental health problems. This gives specific advice for care in a prison setting. Many of the principles of this document can be easily adapted for meeting the needs of people with learning disabilities.

The Royal College of Psychiatrists report 'Prison Psychiatry: Adult Prisons in England and Wales' (2006) recommends that those commissioning mental health services within prisons should take into account the needs of those with learning disabilities, for example, by employing a specialist learning disability nurse in remand prisons. It also suggests that treatment programmes in prisons should be adapted to meet the needs of those with milder learning disabilities.

Prison Reception

There is currently no lay screening tool for use by Prison Staff, although research is being conducted into this area. There are, however, recommended questions you may wish to ask (see page 6) to identify those offenders arriving or indeed already residing within the prison who may have learning

CASE Study

At HMP Wymott in Lancashire, the head of the Mental Health In-Reach Service, has facilitated a scheme whereby a senior officer on the Induction Wing can make a direct referral to the In-Reach team if it is thought that a prisoner has learning disabilities. The In-Reach Team can then make contact with the appropriate Community Learning Disability services, if necessary, with minimal delay. Prisoners' homes are often far away from the prison and the In-Reach team will sometimes need to contact Learning disability services from other regions to gain the necessary information.

disabilities. If the offender's answers lead you to think they may have learning disabilities you should contact the appropriate healthcare professional. See page 10 for further details.

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES

Action:

Find out who is leading on the implementation of the Disability Discrimination Act in your establishment and what actions are being taken.

Support within a prison setting

It is vital that an offender with learning disabilities does not go unrecognised and unsupported whilst in the prison system. It cannot be assumed that their learning disability will have been identified earlier in the Criminal Justice System.

It is possible that prison (rather than hospital) is the most suitable setting for the offender, provided the appropriate attention and

support is given. Should the offenders' learning disability be so severe that you think they do need to be transferred to a healthcare setting see page 24 for information on the national guidelines regarding prison to hospital transfers.

It is important that the Prison In-Reach Team and Healthcare Team are aware of any offenders with learning disabilities. By making contact with the appropriate Community Team for people with Learning Disabilities you can receive advice on the best course of action and, importantly, establish links to support for the prisoners' release.

A person with learning disabilities is generally more vulnerable than a person with no learning disabilities. This vulnerability can increase in a prison setting, due to, or resulting in, a poor ability to cope in this environment. Such offenders are also more vulnerable to bullying or abuse by more able inmates increasing the need for monitoring.

People with learning disabilities are often placed in the Vulnerable Persons Unit (VPU). It is important to locate people with learning disabilities in areas within the prisons best able to monitor and promote their safety and security, and their freedom from exploitation. This could be in the main wing, the VPU or in some cases the Healthcare centre.

People in prison with learning disabilities should have equal access to treatment, although it is recognised that in some areas there is a lack of adapted treatments designed for learning disabled offenders.

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES

Training

There is currently a Mental Health Awareness Training package being rolled-out across the prison estate for Prison Officers. There are also plans for a specific learning disability module to be included in this package. Many of the skills obtained in the mental health training transfer to dealing with prisoners with learning disabilities. The Learning Disability Awards Framework is a set of topic specific qualifications that can be obtained by staff working with people with learning disabilities, including mental health professionals (www.ldaf.org.uk).

Release and Resettlement

When preparing a person with learning disabilities for release it is vital that they have written confirmation of their learning disabled status. It is also important to ensure that they have a GP in the community to which they are returning and to write a letter to the GP informing them of the persons' learning disabled status and that they will be re-entering the community. If the person has complex needs or also has additional mental or physical health problems it is important to establish links with their local Community Team for people with Learning Disabilities (see page 10).

Transferring Prisoners to Secure Medical Units/Hospital

A small but significant number of people need to be treated in

CASE Study

HMP Bristol is working closely with colleagues in social services to adapt their 'Vulnerable Adults' policy for use in their prison. It has been agreed that prison healthcare staff can attend the relevant social services training and that two people within the prison will be trained as case managers. As well as raising awareness of learning disabilities and enabling prison staff to become more involved and helpful to offenders with learning disabilities, this joint working between the prison and the local social services is helping to link people in with community services upon release.

Deputy Head of Healthcare, HMP Bristol

specialist secure healthcare services rather than prison. In 2005 a document was produced outlining this transfer procedure. Full details can be found at the Department of Health Website (www.dh.gov.uk). Search for 'Transfer Prisoners' or see the full web link under 'Resources you may find Useful' at the end of this handbook.

In summary, the document 'The Procedure for the Transfer of Prisoners to and from Hospital under sections 47 and 48 of the 'Mental Health Act (1983)' relates to the transfer of sentenced prisoners and unsentenced

prisoners from prison to either low, medium or high healthcare facilities. The procedures apply equally to those with learning disabilities.

The national guidance on such transfers provides details on the procedures regarding who to contact and at what stages, information on who to call depending on what area of the country you are, details of 'out of hours' transfers and also an explanation on who is the responsible commissioner for such transfers.

"Locally we have a good liaison with the local generic forensic services. The local Prison In-Reach services will contact us if they are concerned that someone has learning disabilities and needs extra support. We have a local network of Forensic Psychiatrists with good liaison between adult/adolescent and Learning Disability Forensic services."

Dr Gill Bell, Consultant Learning Disability Psychiatrist,
Northgate and Prudhoe NHS Trust

10 Information specific to the Probation Service

This section holds information primarily for Probation professionals. However, others may find the material of interest.

Please ensure you have read the general sections:

- What is a Learning disability? (Page 4)
- Unsure if a person has learning disabilities? (Page 6)
- Communication Advice (Page 13)
- Health and social care needs of people with learning disabilities (Page 8)
- Useful Contacts (Page 32)
- Recent Legislation (Page 11)

on learning disabled services. There is scope for joint working between the Probation service and the Community Team for people with learning disabilities, for example, joint assessments and joint treatment programmes.

Rates of Re-offending

One study found approximately 6% of probation clients to have an IQ below 70 plus a deficit in social functioning, and 11% with an IQ below 75 (Mason & Murphy (2002a)). Various studies have found relatively high rates of re-offending in the learning disabled population (of those who were on hospital orders between 32% to 72% have been found to re-offend) although it is not known whether these rates are significantly different from the non-learning disabled re-offending population.

Rights and Responsibilities

The National Probation Service Standards 2005 are predicated on the principle that the National Probation Service, and organisations acting on its behalf, will operate fairly and consistently to all offenders and avoid inappropriate 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.

The Probation Circular Reference number 34/2006 gives advice on the Disability Discrimination Act (2005) and also on monitoring arrangements for disabled probation employees and offenders.

Community Team for people with Learning Disabilities can usually

provide services for those with less complex needs and low risk offenders. They can also offer advice

“I have supervised at least three people with learning disabilities over the last two years. I have had mixed experiences, in all three cases one of the first things I did was contact the Community Learning Disability Team and made a referral. With two offenders there was considerable input, one offender being allocated a social worker and we worked closely together with numerous joint meetings with offender, and on-going liaison. This was vital in managing the case appropriately and the team were able to offer resources, such as appropriate accommodation, day-care facilities etc, plus advice on ways of working with the offender. One of the most helpful services was a support worker who attended appointments with the offender. This meant that the offender was able to have support and assistance in meeting the objectives set for him by myself.”

Probation Officer, Wiltshire Probation Service

CASE Study

A Probation Officer from West Yorkshire Probation Service notes how she found working with her CTLD (Community Team for people with Learning Disabilities) very beneficial. Once her client was confirmed as having learning disabilities, it enabled the CTLD to become involved, helping her client with every day tasks, such as sorting out benefits. They also helped to forge close relationships between him and his parents who, by this time, could no longer cope with his behaviour. Working with the team, she was able to keep this young man in the family home and in the community. The CTLD also attended court with the client and accompanied him to the police station when he was to be questioned regarding further alleged offences. They were also able to find him short-term immediate accommodation for respite when things got too much for his parents. Without the teams intervention the Probation Officer feels she would not have known how to access some of these services and fears the client may have ended up homeless for a period of time.

Probation Officer, West Yorks Probation Service.

Accommodation and Work

People with learning disabilities have the same range of housing needs and rights as any other non-disabled person. Having learning disabilities does not mean that a person automatically needs residential care. Some people with high needs can manage in their own accommodation, provided they have the appropriate help.

Some people with learning disabilities may not need assistance from

specialist learning disability services, but can be well supported by mainstream community services – such as supported living schemes or help with employment. The Community Team for people with Learning Disabilities will be able to advise on this (see page 10 for details). Offenders with learning disabilities often face disadvantages in securing housing appropriate to their needs.

All housing options for people with learning disabilities must be explored with the person. You will need to provide the information in an understandable format and give reasonable time to explore and get the persons views and ideas. 'www.housingoptions.co.uk' are a good example of a local organisation who provide a wide range of helpful information and resources (including photo stories exploring different people's housing and support). Also, for more general advice see the Valuing People Support Team website (www.valuingpeople.gov.uk/dynamic/valuingpeople148.jsp).

Local Partnership Boards include representatives from all areas of social care, including housing, benefits and health. They meet to discuss and plan learning disability services. There is an important opportunity for Criminal Justice representatives to link in with these Partnership Boards to help with resettlement plans in their area. These boards are a good source of local contacts and advocates for people with learning disabilities.

Communication

Any guidance, literature or workbooks you give to the client must be accessible. Advice on how to make things accessible can be found at the Valuing People Website www.valuingpeople.gov.uk

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Organisations you may find useful

Association for Real Change (ARC) www.arcuk.org.uk

A membership organisation, supporting providers of services to people with a learning disability to promote real change.

ARC House, Marsden Street, Chesterfield, Derbyshire, S40 1JY

Tel: 01246 555043

BILD, British Institute of Learning Disabilities

www.bild.org.uk

Works to improve the lives of people in the UK with a learning disability.

British Institute of Learning Disabilities, Champion House, Green Street, Kidderminster, Worcestershire, DY10 1JL

Tel: 01562 723 010

British Psychological Society

www.bps.org.uk

The representative body for psychology and psychologists in the UK.

The British Psychological Society, St Andrews House, 48 Princess Road East, Leicester LE1 7DR

Tel: 0116 254 9568

Central England People

First Ltd www.peoplefirst.org.uk

An organisation of people with learning difficulties, run and controlled by people with learning difficulties.

Central England People First Limited, P. O. Box 5200, Northampton NN1 1ZB

Tel: 01604 721 666

Change

www.changepeople.co.uk

National organisation run by disabled people. People with learning disabilities in CHANGE campaign and work for equal rights for all people with learning disabilities.

Tel: 0113 243 0202

College of Occupational

Therapists www.cot.co.uk

The professional body for occupational therapy staff in the UK.

College of Occupational Therapists, 106-114 Borough High Street, Southwark, London SE1 1LB

Tel: 020 74502328

Foundation for People with Learning Disabilities

www.learningdisabilities.org.uk

Promote the rights, quality of life and opportunities of people with learning disabilities and their families.

London Office, 9th Floor, Sea Containers House, 20 Upper Ground, London, SE1 9QB

Tel: 020 7803 1100

Intellectual Disabilities information Website

www.intellectualdisability.info

Provide up-to-date information for busy practitioners and students about the health needs of people with intellectual disabilities.

Learning Disabled Offenders Website www.ldoffenders.co.uk

Information on the Care and Treatment of Offenders with a Learning Disability

Mencap www.mencap.org.uk

Learning disability charity working with people with a learning disability and their families and carers.

Mencap, 123 Golden Lane, London EC1Y 0RT

Tel: 020 7454 0454

Mind www.mind.org.uk

Mental health charity in England and Wales. Working to create a better life for everyone with experience of mental distress.

Mind, 15-19 Broadway, London E15 4BQ

Tel: 020 8519 2122

Nacro www.nacro.org.uk

Crime reduction charity. Nacro's vision is a safer society where everyone belongs, human rights are respected and preventing crime means tackling social exclusion and re-integrating those who offend.

Nacro, 169 Clapham Road, London, SW9 0PU

Tel: 020 7582 6500

National Appropriate Adult Network (NAAN)

www.appropriateadult.org.uk

Brings together those involved in managing schemes of volunteers or paid workers. NAAN gives advice, guidance and support to all those involved in this, provides information on training and standards, and works with Government and others on policy and practice issues.

NAAN, 26 Ellora Road, London. SW16 6JF

Tel: 0208 378 2736

National Autistic Society

www.nas.org.uk

Champions the rights and interests of all people with autism and to ensure that they and their families receive quality services appropriate to their needs.

The National Autistic Society, Head Office, 393 City Road, London EC1V 1NG

Tel: 020 7833 2299

National Network for Learning Disability Nurses

www.nnldn.org.uk

A 'network of networks' which aims to support networks and nurses within the field of learning disability.

Photosymbols

www.photosymbols.com

Photosymbols are full colour pictures for making easy read information featuring positive images of disabled people, objects, places and everyday things.

Photosymbols Ltd, The Greenway Centre, Doncaster Road, Bristol, BS10 5PY

Tel: 0117 959 4424

Prison Reform Trust

www.prisonreformtrust.org.uk

Aims to create a just, humane and effective penal system.

15 Northburgh Street, London, EC1V 0JR

Tel: 020 7251 5070

Revolving Doors Agency

www.revolving-doors.co.uk

Charity dedicated to improving the lives of people who are caught up in a damaging cycle of crisis, crime and mental illness.

Revolving Doors Agency, The Turnmill, Units 28 and 29, 63 Clerkenwell Road, London, EC1M 5NP

Tel: 020 7253 4038

Royal College of Nursing

www.rcn.org.uk

Represents nurses and nursing, promotes excellence in practice and shapes health policies.

Royal College of Nursing, 20 Cavendish Square, London, W1G 0RN

Tel: 020 7409 3333

Royal College of Speech and Language Therapists

www.rcslt.org

The professional body for speech and language therapists and support workers.

Royal College of Speech and Language Therapists, 2 White Hart Yard, London, SE1 1NX

Tel: 020 7378 3012

The Royal College of Psychiatrists

www.rcpsych.ac.uk

The professional and educational body for psychiatrists in the

United Kingdom and the Republic of Ireland.

National Headquarters, 17 Belgrave Square, London SW1X 8PG

Tel: 020 7235 2351

The UK Advocacy Network, (UKAN)

www.u-kan.co.uk

Founded in 1990 to be a national resource, linking mental health user groups of all types. The common aim is the use of advocacy in many forms to empower people who use specialist services.

UK Advocacy Network, Volserve House, 14 - 18 West Bar Green, Sheffield, S1 2DA.

Tel: 0114 272 8171

Valuing People Support Team

www.valuingpeople.gov.uk

The Valuing People Support Team was set up as part of the Valuing People White Paper. We help make the changes in Valuing People happen. We do this by working with Learning Disability Partnership Boards, Local people and organisations and Government Departments.

Valuing People Support Team, Wellington House, 135-155 Waterloo Road, London, SE1 8UG

Voice UK

www.voiceuk.org.uk

National charity supporting people with learning disabilities and other vulnerable people who have experienced crime or abuse. We also support their families, carers and professional workers.

Voice UK, Wyvern House, Railway Terrace, Derby DE1 2RU

Tel: Helpline 0845 122 8695
General enquiries 01332 295775

Resources you may find useful

RESOURCES GENERAL

- Disability Discrimination Act 2005
<http://www.opsi.gov.uk/ACTS/acts2005/20050013.htm> (2005)
- Mental Capacity Act
<http://www.opsi.gov.uk/acts/acts2005/20050009.htm> (2005)
- Police and Criminal Evidence Act (PACE)
<http://police.homeoffice.gov.uk/operational-policing/powers-pace-codes/pace-code-intro/> (1984)
- Valuing People: A New Strategy for Learning Disability for the 21st Century
<http://www.archive.official-documents.co.uk/document/cm50/5086/5086.pdf> (March 2001)
- Valuing People Support Team contacts, offer support and advice to people working to change services in accordance with the Valuing People White Paper
<http://valuingpeople.gov.uk/dynamic/valuingpeople40.jsp>
- Royal College of Nursing publication, Meeting the Health Needs of People with Learning Disabilities: Guidance for Nursing Staff, (2006)
- Learning Disability Awards Framework for qualifications relating to working with people with Learning Disabilities
www.ldaf.org.uk
http://www.rcn.org.uk/publications/pdf/meeting_the_health_needs_of_people_with_learning_disabilities.pdf

- List of NHS Mental Health Trusts in England
<http://www.nhs.uk/England/AuthoritiesTrusts/MentalHealth/list.aspx>
- List of Primary Care Trusts
www.nhs.uk/England/AuthoritiesTrusts/Pct/list.aspx
- Supporting Complex Needs: A practical guide for support staff working with people with learning disabilities who have mental health needs
www.turning-point.co.uk
tel: 020 7553 5220

RESOURCES PUBLISHING ACCESSIBLE INFORMATION

If you are planning to produce your own documentation or visual aids etc, these organisations offer help, guidance, advocates to advise, etc.

- Valuing People Support Team
<http://valuingpeople.gov.uk/index.jsp>
- British Institute of Learning Disabilities, 'Fact Sheet on Communication'
<http://www.bild.org.uk/pdfs/05faq/communication.pdf>
- Change, 'Words to Pictures Scheme'
<http://www.changepeople.co.uk/default.aspx?page=14126>
- Change, 'Accessible Information Guidelines'
<http://www.changepeople.co.uk/default.aspx?page=12855>

- Mencap's 'Make it Clear' campaign home page
<http://www.mencap.org.uk/html/ldw/makeitclear/index.asp>
- Change, publications including Picture Bank CDs
<http://www.changepeople.co.uk/default.aspx?page=9541>
- Photosymbols
<http://www.photosymbols.com/index.jsp>
- Mencap 'Easy-to-use' pages
<http://www.mencap.org.uk/html/easytoread/easytoread.asp>
- Royal College of Psychiatry, series 'Books Beyond Words', including titles 'Going to Court', 'You're On Trial', 'You're Under Arrest'
<http://www.rcpsych.ac.uk/publications/booksbeyondwords/aboutbbw.aspx>
- List of Books Beyond Words titles
<http://www.rcpsych.ac.uk/publications/booksbeyondwords/bbwtitlesa-z.aspx>

RESOURCES ADVOCACY

- British Institute of Learning Disabilities, Advocacy homepage
<http://www.bild.org.uk/04advocacy.htm>
- Mencap 'Advocacy Strategy'
http://www.mencap.org.uk/download/advoc_strategy.pdf (February 2004)
- Foundation for People with Learning Disabilities, Advocacy homepage
<http://www.learningdisabilities.org.uk/page.cfm?pagecode=ISRVADAR>
- Voice UK, advice for advocacy and self-advocacy groups
<http://www.voiceuk.org.uk/train-equalaccess2.htm>

- Central England People First, 'National Self-Advocacy Directory'
<http://www.peoplefirst.org.uk/direct.html>
- The National Autistic Society, 'Autism, The Demand for Advocacy'
<http://www.nas.org.uk/content/1/c4/34/67/advocacy.pdf> (2003)
- The UK Advocacy Network (UKAN) <http://www.ukan.co.uk/index.html>

RESOURCES LEGAL ADVICE FOR VULNERABLE PEOPLE

- Voice UK, access to legal advisors
<http://www.voiceuk.org.uk/legaladv.htm>
- Department of Health, Valuing People: A New Strategy for Learning Disability for the 21st Century, (March 2001)
<http://www.archive.officialdocuments.co.uk/document/cm50/5086/5086.pdf>
- Mind, Carer's Factsheet, Legal Advice
http://www.mind.org.uk/Information/Factsheets/Carers/#Legal_advice
Legal Unit, Mind, Granta House, 15-19 Broadway, London E15 4BQ Tel: 020 8519 2122
- 'Directory of Expert Witnesses' (Psychological experts able to advise on a given area in court) <http://www.bps.org.uk/e-services/find-a-psychologist/expertwitness.cfm>
- NACRO – database of Criminal Mental Health Teams, Court Diversion and Court Assessment Teams.
<http://www.nacro.org.uk/about/directory/index.htm>

RESOURCES SPECIFIC TO THE POLICE

- Guidance on the Safer Detention and Handling of Persons in Police Custody (2006)
http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/Safer_Detention_and_Handlin1.pdf?view=Binary
- Voice UK, Vulnerable Witness Training for police
<http://www.voiceuk.org.uk/train-vulnerablewit.htm>
- A video, 'What can I do if I'm arrested?' is available from Speak up Self Advocacy. Tel: 01709 710199.
- National Appropriate Adult Network
<http://www.appropriateadult.org.uk/>
- NACROS guide to Appropriate Adults work. 'The appropriate adult and vulnerable people: Working with mentally disordered offenders and other vulnerable adults.'
<http://www.nacro.org.uk/publications/mentalhealth.htm#adult> (2005)
- Mencap, 'Appropriate Adults'
http://www.mencap.org.uk/html/organisedforlife/guidelines/pdf/full_appropriate_adults.pdf

RESOURCES SPECIFIC TO THE COURTS

- Her Majesty's Courts Service response to the Disability Discrimination Act
<http://www.hmcourts-service.gov.uk/infoabout/dda/index.htm>
- Crown Prosecution Service, Mentally Disordered Offenders webpage
http://cps.gov.uk/legal/section3/chapter_a.html#21

RESOURCES SPECIFIC TO THE PRISONS

- Nacro, Prisons Link Unit trains prison officers to give housing and employment advice to prisoners
<http://www.nacro.org.uk/services/prisoners.htm>
- Prison Reform Trust 'No One Knows' campaign to raise awareness of Learning Disabilities in prisons
<http://www.prisonreformtrust.org.uk/subsection.asp?id=525>
- Nacro CD Available from
<http://www.nacro.org.uk/>
- Royal College of Psychiatrists, Prison Psychiatry: Adult Prisons in England and Wales
www.rcpsych.ac.uk/docs/Prison%20Report%20Council%20Approved%20Document%20May%2020061.doc (2006)
- Prison Reform Trust, Mental Health publications list
<http://www.prisonreformtrust.org.uk/standard.asp?id=242>
- The Howard League for Penal Reform
<http://www.howardleague.org/>
1 Ardleigh Road, London, N1 4HS, Tel: 020 7249 7373
- National Guidelines for the Transfer of Prisoners to Secure Hospitals
http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4123628&chk=6xTVN%2B

RESOURCES SPECIFIC TO THE PROBATION

- Valuing People Employment Framework
<http://valuingpeople.gov.uk/dynamic/valuingpeople122.jsp?highlight=employment>
- Mencap Employment Campaign
http://www.mencap.org.uk/html/campaigns/employment_index.asp#1
- Disabled Workers' Co-operative
<http://www.disabledworkers.org.uk/>
- Disability Rights Commission, Your Rights at Work, Easy Read Guide <http://www.drc-gb.org/pdf/EMP21ER.pdf>
- Housing Options, A Housing Advisory Service for People with Learning Disabilities
<http://www.housingoptions.org.uk/>
- Foundation for People with Learning Disabilities list of websites concerning housing for people with learning disabilities
http://www.learningdisabilities.org.uk/profilesites.cfm?areacode=ld_accommodation_sites&pagecode=ISSIACWB
- Supporting People (offers vulnerable people housing-related services)
<http://www.spkweb.org.uk/>

Local Contacts

This space is for you to write in your local contacts for future use: See page 10 for information on how to contact the relevant professionals.

Emergency Contacts

On-Call Psychiatrist and/or Duty Social Worker:

Other Necessary Contacts:

Local Authority:

Primary Care Trust:

Community Team for people with Learning Disabilities:

Local Forensic Mental Health or Learning Disability Teams (if available in your area):

Learning Disability Partnership Board:

Your Organisations Lead for the Disability Discrimination Act:

Your Organisations Lead for your Appropriate Adult Scheme (Police only):

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

Specialist Schools in your Area:

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

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Finally, thank you to the Yorkshire Centre for Forensic Psychiatry, who's Forensic Learning Disability Art Project Group produced the Jackson Pollock inspired artwork used as background imagery throughout this document.

Who we are...

Health and Social Care in Criminal Justice Programme (HSCCJP)

Care Services Improvement Partnership 

Health and Social Care in
Criminal Justice

This programme is one of eight 'Care Services Improvement Partnerships' (CSIP) initiatives. It aims to support positive changes in the well-being of people with health and social care needs in all areas of the Criminal Justice System.

www.hscbjp.csip.org.uk

www.csip.org.uk

The Valuing People Support Team (VPST)

Care Services Improvement Partnership 

Valuing People
Support Team

This CSIP initiative aims to improve the lives of people with learning disabilities and their families in accordance with the 'Valuing People White Paper' (2001).

www.valuingpeople.gov.uk

www.csip.org.uk

Who commissioned this work...

Health and Offender Partnerships (HOP)

HOP is a directorate of 'National Offender Management Service' ('NOMS'). It aims to build on the experience of existing partnerships between the Home Office and the Department of Health in order to improve the health of offenders, address their health inequalities and reduce crime by maximising the opportunities provided through better integration of health, social care and Criminal Justice Systems.

