

## **Keeping out of trouble:**

**Alternatives to prison or hospital for people with learning disabilities who get into trouble with the law**

**A discussion paper with examples of good practice and initial ideas for improvements in systems and services**

Pictures acknowledgement:



## Summary

This is a discussion paper from the Ideas Collective. The aim is to stimulate more thinking and ideas about how to:

- stop people with learning disabilities engaging in risky or offending behaviour that gets them into trouble with the law
- increase the availability of alternatives to prison or hospital
- help people resettle successfully following detention.

*“In prison you don’t feel safe. It takes everything away from you and if you’re vulnerable or different you’re an easy target”*

Expert by experience<sup>1</sup>

People with learning disabilities are over-represented in the criminal justice system. A series of authoritative reports illuminate the increased risks faced: of poor experiences in the system and poor support to reduce re-offending. There is more attention now on improving responses to people with learning disabilities, but there has been less focus on the three areas listed above. This paper concentrates on those three topics.

A group of people with relevant expertise (including experts by experience) met on 11 June 2015 to share concerns, examples of good practice and ideas for development. The main messages are:

- risky or offending behaviour often starts in childhood or teenage years. We think there are many opportunities to enhance prevention and early intervention, through increased awareness and better co-ordination with (and support for) services that work with children and young people, families and schools
- at each step of the criminal justice process there needs to be fair access to the full range of ‘disposal’ options, making full use of reasonable adjustments<sup>2</sup>
- people with learning disabilities whose behaviour has got them into trouble with the law often fall between a number of services. Good practice examples show what can be achieved through joined up action
- there is a welcome focus currently on improving resettlement from both prisons and hospitals; specific attention is needed to ensure that programmes and services are available and competent to work with people with learning disabilities.

In this paper we give some examples of good practice and set out some initial ideas for systematic improvement. We are sure there are more examples of good practice and would love to hear about them. We would also like to hear about other ideas for improving systems and services. Our aim is to use any further information we receive to publish an update with recommendations early in 2016.

Contact details are given on p.15. You can find information about the Ideas Collective in the appendix to this paper.

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<sup>1</sup> We use the term ‘expert by experience’ to mean people with learning disabilities who have had experience of the criminal justice system

<sup>2</sup> ‘Reasonable adjustments’ are the changes that organisations need to make in order to comply with the Equality Act 2010 duty to reduce inequalities faced by disabled people (including people with learning disabilities). Adjustments may be ‘anticipatory’, in the expectation that some disabled people will use the service, or individualised to respond to a particular person’s needs

## Easy read summary

This is a paper from the Ideas Collective. We hope it will get people talking about ideas:



- how to stop people with learning disabilities from doing things that get them into trouble with the law
- how to give people more choices. Not just prison or hospital
- how to help people to leave prison or hospital safely and get settled.

An expert by experience said: “In prison you don’t feel safe. It takes everything away from you and if you’re vulnerable or different you’re an easy target”



Too many people with learning disabilities are in prison.

Reports say too many people with learning disabilities have a bad experience in prison. People do not get much help to stop making bad choices.

We need to do more to change this.

People who know something about this work met on 11 June 2015. The group included people with learning disabilities who had been in prison.

Everyone said what they were worried about. They also told each other about good work they had seen. They had some good ideas for the future too.



The group said:



- bad behaviour can start when a person is a child or teenager. We need to talk about this so more people understand. Services that work with children and young people, families and schools need to know what to do



- services that work with adults who break the law need to know what to do. They need to understand people with learning disabilities and change how they work

- people with learning disabilities who have got into trouble with the law do not always get sent to the right place for help. A lot can be done by services working together and talking to each other



- it is important to make the return home from prison or hospital much better. Services for people with learning disabilities need to help the other services that do this



In this report we share some of the good things. We also tell you about the first ideas to make things better. We are sure there are lots more good things happening. We would like to hear about them!



We will use any more good ideas sent to us in a new paper at the beginning of 2016.

# 1. Background

People with learning disabilities are over-represented in the criminal justice system. National data<sup>3</sup> show that 5-10% of adults detained by the police or in prison have learning disabilities, compared to about 2% in the general population. Based on prison population data in June 2015, there could be about 6,000 people with learning disabilities in prison. In addition some people are diverted to hospital and detained under a section of the Mental Health Act imposed by a court (about 600 people in 2013<sup>4</sup>).

Some argue that people with learning disabilities should automatically be diverted from the criminal justice system. Others assert<sup>5</sup>:

*“[People with intellectual disability] who are at risk of offending should ... have a right to be held accountable for intentional actions, to have fair boundaries set and to have the full range of sentencing options available to them, if convicted.”*

People with learning disabilities whose behaviour gets them into trouble with the law sometimes fall between the eligibility criteria for different services:

- IQ too high for some learning disability teams (e.g. those that have set a strict IQ criterion as their ceiling)
- not meeting social care criteria
- rejected by mental health services because they do not have severe and enduring mental illness, or because of their learning disability
- not offered enough support by criminal justice services and services that work with offenders (including NHS services) and rejected by treatment programmes for not complying.

There have been a number of reports on the experiences of people with learning disabilities in contact with the criminal justice system<sup>6</sup>. Taken together, these reports suggest ways in which the justice system should take account of the needs of people with learning disabilities. NHS England published guidance on how prison healthcare services

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<sup>3</sup> Evidence from the Prison Reform Trust's 'No One Knows' project:

<http://www.prisonreformtrust.org.uk/ProjectsResearch/Learningdisabilitiesanddifficulties>

and the 2013 national literature review on offenders with learning disabilities and difficulties:

<http://dyslexiaaction.org.uk/news/improving-services-offenders-learning-disabilities-and-difficulties>

<sup>4</sup> Glover, G and Brown, I (2015) People with intellectual disabilities hospitalised by courts in England. *Tizard Learning Disability Review*, **20**, 1, pp 41-47

<sup>5</sup> Royal College of Psychiatrists (2014) *Forensic care pathways for adults with intellectual disabilities involved with the criminal justice system*. Faculty Report FR/ID/04

<sup>6</sup> In addition to papers cited above:

Bradley Report (2009):

[http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_098694](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_098694)

Prison Reform Trust and Rethink Mental Illness (2013) Mental health and learning disabilities in the criminal courts: [www.mhldcc.org.uk](http://www.mhldcc.org.uk)

Criminal Justice Joint Inspection thematic inspection of the treatment of offenders with learning disabilities: phase one (police custody to court) Jan 2014; phase two (prison) March 2015:

<https://www.justiceinspectorates.gov.uk/cjji/inspections/#.VRVRweHCsyU>

HM Inspectorate of Constabulary (2015) The welfare of vulnerable people in police custody:

<http://www.justiceinspectorates.gov.uk/hmic/publication/the-welfare-of-vulnerable-people-in-police-custody/>

should take account of the needs of prisoners with learning disabilities<sup>7</sup>. However, there is less published about what is needed to prevent people from getting into trouble in the first place, to help them desist from offending behaviour and hold them to account, and to resettle people successfully from prison or hospital.

## 2. Meeting in June 2015

In June 2015 the Ideas Collective held a meeting that included experts by experience (people with learning disabilities who had been in prison) and people with experience of working in different parts of the health, social care and criminal justice systems. We asked about what works and what else is needed:

- to stop people from engaging in risky or offending behaviour that gets them into trouble with the law
- as alternatives to prison or hospital
- to help people resettle successfully following detention.

## 3. What we learned

### 3.1 *Stopping behaviour that gets people into trouble with the law*

We know that risky or offending behaviour often starts in childhood or teenage years. (We will talk about 'young people' in the rest of this paper.) We need to think about prevention and early intervention from two angles:

- families, and the services that work with young people who have learning disabilities
- services that work with young people who are getting into trouble.

Evidence in relation to challenging behaviour suggests that families, schools and children's services have not always had enough support to prevent and intervene early. This includes behaviour that will get the young person into trouble with the law. Interviewed in later life, some people say that they never got help to understand their emotions, how to manage anger, or how to understand what is OK and what is not OK in relationships.<sup>8</sup>

#### **Promising practice example**

The 'BU Be Amazing' project in Northampton uses asset-based youth development and

<sup>7</sup> NHS England (2015) Equal Access, Equal Care: <https://www.england.nhs.uk/commissioning/health-just/hj-resources/>

<sup>8</sup> This should be understood in the context of knowledge about the wider health inequities experienced by children with learning disabilities: [https://www.improvinghealthandlives.org.uk/publications/313899/The\\_determinants\\_of\\_health\\_inequities\\_experienced\\_by\\_children\\_with\\_learning\\_disabilities](https://www.improvinghealthandlives.org.uk/publications/313899/The_determinants_of_health_inequities_experienced_by_children_with_learning_disabilities)

mentoring, combined with access to a very small personal budget. Some success is being reported<sup>9</sup> in helping young people to rebuild relationships and positive engagement in their communities.

#### **Promising practice example**

Work with young people and their families in Middlesbrough<sup>10</sup> shows that intensive support and active engagement, with or without personal budgets, can help to keep young people at home instead of in residential care. This requires cross-agency collaboration and proactive risk management.

#### **Promising practice examples**

The 'Be Safe' project in Bristol<sup>11</sup>, funded by The Big Lottery, works with children who are displaying sexually harmful behaviour, including children with learning disabilities.

Another project ('Keep Safe', Tizard Centre<sup>12</sup>) aims to develop a programme for adolescents with learning disabilities, based on the adult SOTSEC-ID programme.

Services do not always recognise when a person's behaviour should be understood as law-breaking. This can mean that a person is not helped to understand that what they are doing is wrong and will have consequences for them. Not everyone would be able to understand, but some people can. Most learning disability services do not work with children, and many child and adolescent mental health services do not work with young people with learning disabilities. So there is often a gap in the support available to families, schools and children's services (such as those for looked after children).

The result can be multiple exclusions from school, without alternative services, and this can increase the risk that a young person falls in with people who exploit and manipulate them into criminal behaviour. School exclusion, traumatic brain injury and being a looked after child are all recognised risk factors in relation to offending behaviour.

*"Peer pressure at a young age is a big factor; young people with learning disabilities can be more impressionable"*

Meeting participant

There is a range of services that work with families and young people who are getting into trouble (e.g. parenting programmes, Troubled Families initiatives, police, youth offending teams, mentoring programmes). However, these services are not always well informed about learning disability and may not recognise a young person's additional needs – and therefore not make the reasonable adjustments required<sup>13</sup>. This can result in the young person seeming to be unco-operative or 'acting out', when they have simply not understood what is required or how to achieve it. These services do not have any

<sup>9</sup> <http://www.in-control.org.uk/what-we-do/children-and-young-people/publications/children's-programme-publications/self-directed-support-and-early-intervention,-may-2014.aspx>

<sup>10</sup> <http://in-controlscotland.org/library/children/briefing-paper-returning-children-to-middlesbrough/>

<sup>11</sup> <https://www.nbt.nhs.uk/cchp/explore-cchp/be-safe>

<sup>12</sup> <https://www.kent.ac.uk/tizard/news/?view=962>

<sup>13</sup> Evidence from the Prison Reform Trust 'Seen and Heard' report (2010): <http://www.prisonreformtrust.org.uk/Publications/ItemId/67/vw/1>



mandatory screening to identify young people who may have learning disabilities, although some do use different screening tools. Some services and individual practitioners do work hard to make reasonable adjustments, but say they need better training and better access to specialist advice.

### **Good practice examples**

Examples we know of include:

- two youth offending teams that include learning disability nurses
- youth offending teams trying hard to adjust their services and the programmes and supports they can offer
- Mencap's 'Raising Your Game' project, which aimed to help young people understand more about staying out of trouble
- the comprehensive health assessment tool (CHAT) used in youth custody (optional in community settings)
- the extension of liaison and diversion services to young people (though fewer young people with learning disabilities have been recorded during the piloting than expected and full roll-out has not yet been agreed).

We hope that implementation of the Children and Families Act will result in better, and better co-ordinated, support for young people through Education Health and Care Plans and personal budgets. However, some young people with mild learning disabilities may not get these plans<sup>14</sup> and may still not get the right support at the right time. Better joint working between education, health, social care, public health and youth justice partners is still needed<sup>15</sup>.

The Ministry of Justice has started a review of the youth justice system, Public Health England has launched a new plan for school nursing and youth justice collaboration<sup>16</sup> and earlier in 2015 the Department of Health launched plans for improved mental health services for young people<sup>17</sup>. We think there are many opportunities to enhance prevention and early intervention.

**We would like to hear about more examples of positive practice.**

### **Key questions:**

- **how can the examples of good practice be replicated in other areas?**
- **what else is needed to ensure that young people with learning disabilities (and their families) get help early to prevent them from getting into trouble or to change behaviour that is already breaking the law?**

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<sup>14</sup> There is evidence that the number of children identified as having a 'moderate learning difficulty' at the level of statementing/having an Education Health and Care Plan is dropping rapidly – see <http://chrishatton.blogspot.co.uk/2015/11/the-disappeared.html>

<sup>15</sup> See for example recommendations from the Prison Reform Trust's 'Turning Young Lives Around' report (2012): <http://www.prisonreformtrust.org.uk/Publications/ItemId/168/vw/1>

<sup>16</sup> <https://www.gov.uk/government/publications/helping-children-to-be-safer-healthier-and-free-of-crime>

<sup>17</sup> <https://www.gov.uk/government/publications/improving-mental-health-services-for-young-people>



### 3.2 Alternatives to prison or hospital

As noted above, it is right for some people with learning disabilities to go through the criminal justice system if they are suspected of criminal behaviour. However, it is very important – both for their rights to justice and for effective action to reduce re-offending – that the system recognises their disabilities and makes reasonable adjustments.

*“People who work in the justice system have no concept of what it means to have a learning disability”*

Manager of prison healthcare service

At each step of the criminal justice process there needs to be fair access to the full range of ‘disposal’ options. Reasonable adjustments may be needed in, for example:

- police interviewing and cautions
- restorative justice
- court orders and sanctions.

Community orders have been shown to be more effective than short prison sentences at reducing re-offending. A range of orders can be made, specifying treatments or programmes that the person must undertake. The police and courts need to have confidence in community-based alternatives to prison. We have heard that courts sometimes send a person with learning disabilities to prison or hospital because they do not believe that the community alternatives will work (perhaps because they do not think the person will get support to comply), or they think the person will be safer in custody.

*“In prison you don’t feel safe. It takes everything away from you and if you’re vulnerable or different you’re an easy target”*

Expert by experience

#### **Good practice examples**

The Prison Reform Trust and Rethink produced an information pack<sup>18</sup> on mental health and learning disabilities for the criminal courts and the Prison Reform Trust followed it up with training for magistrates.

KeyRing produced a range of easy read information for the criminal justice system to use and are offering awareness training (funded by Comic Relief.)<sup>19</sup>

#### **Good practice example**

As a partner in the London pilot of liaison and diversion, the Central and North West London Mental Health NHS Trust employs a learning disability practitioner who is developing a programme so that every police station and magistrate’s court in the area has access to a screening process for learning disability and a liaison role that can seek the appropriate support for individuals as well as advising on reasonable adjustments to the criminal justice pathway.

<sup>18</sup> <http://www.mhldcc.org.uk/>

<sup>19</sup> <http://www.keyring.org/cjs>

### **Promising practice example**

Following consultation with service users and partner agencies, Essex County Council has gone out to tender for an 'all vulnerabilities' criminal justice case management/care navigation service that will work with a range of individuals, including those with learning disabilities. The service will specifically target individuals identified in police custody and prison, but will also accept referrals from other criminal justice agencies, including the courts and defence solicitors. The aim is to provide the individual concerned with a named support worker who will help to address any underlying issues that may be problematic for the individual (e.g. housing, debt, health care, employment), thereby reducing the risk of re-offending.

If it is decided that a suspect with learning disabilities should not proceed further through the criminal justice system (e.g. at police custody or court stages) for any reason, they may be 'diverted'. The Government has been piloting liaison and diversion services. The model was originally developed to divert people with mental health problems from the criminal justice pathway to receive treatment. The service specification does now include people with learning disabilities and other support needs; this offers the scope for identification earlier in the criminal justice pathway, but the options for diversion remain limited.

People with learning disabilities may also have mental ill health that has a bearing on their behaviour and treatment may be appropriate. However:

- mental health services and treatment programmes for substance misuse and other problems are often not available in adapted forms<sup>20</sup>
- mental health and substance misuse programmes do not always make reasonable adjustments for a person's learning disabilities (for example, help to understand appointments or to participate)
- people with learning disabilities often need to have underpinning support in order to participate effectively in programmes (for example, support to maintain a tenancy, pay bills, attend appointments, gain meaningful occupation). It is not clear which organisation should be responsible for this.

Furthermore, people with learning disabilities may engage in behaviour that gets them into trouble with the law for other reasons, such as difficulty in managing emotions or understanding relationships, or exploitation by other people. Women with learning disabilities need specific consideration in relation to sexual exploitation. Diversion to mental health services may not be what people need.

*"The probation service saw my alcohol problems and took it as mental health and not learning disability. There was too much focus on mental health reports and a lack of learning disability awareness"*

Expert by experience

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<sup>20</sup> For example, accessible materials, very simple language, repetition and increased opportunities to practise skills

Yet most diversion options rely on the Mental Health Act and people with learning disabilities can be admitted to hospital as a result. Liaison and diversion services are not expected to provide support services themselves, so they rely on the range of local services available. People with learning disabilities whose behaviour has got them into trouble with the law may fall between a number of services: 'too able' for learning disability services, not seen as eligible for general social care services, not included effectively by mental health services, and not offered adequate reasonable adjustments by services that work with offenders. Sometimes learning disability services do not want to work with an offender because they do not think they have the skills to do so; mental health forensic teams may say this too. There are only a few examples of learning disability or combined forensic services. We have heard that there is a need for more disposal orders to be available for people with learning disabilities, through collaboration between the partner agencies.

#### **Promising practice example**

The Forensic Support Services in Cheshire and Wirral have been running for some years, but have now come together as a single mental health and learning disabilities team. The aim is to operate a needs-led rather than diagnosis-based service, preventing people from slipping through the net.

#### **Good practice example**

In Bristol a collaborative agreement between the courts, probation and the learning disability forensic service mean that people with learning disabilities can be sentenced to a rehabilitation activity requirement. This means that they can be required to attend a programme delivered by the forensic service, with sanctions for non-compliance. The forensic service has developed adapted programmes, such as the 'Good Thinking!' course, to help offenders with learning disabilities to learn – in the community - how to change their behaviour.

#### **Good practice examples**

Some community learning disability teams have engaged actively with people who get into trouble with the law, offering both adapted programmes (e.g. anger management, thinking skills, cognitive and/or dialectical behaviour therapy) and proactive, assertive, long term commitment. Some teams have done specific work on drug and alcohol misuse, in collaboration with substance misuse teams and criminal justice agencies. The Sex Offender Treatment Services Collaborative (SOTSEC-ID)<sup>21</sup> supports the delivery of an adapted treatment programme in some areas.

#### **Good practice examples**

Manchester have explored a 'whole systems' partnership approach to offenders with communication needs, including people with learning disabilities, to join up systems and support across criminal justice, health and social care. A screening tool is being piloted.

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<sup>21</sup> <https://www.kent.ac.uk/tizard/sotsec/>

In Essex the partnership working to develop the 'all vulnerabilities' approach described earlier involved:

- Essex County Council Substance Misuse, Mental Health and Learning Disabilities commissioners
- Essex Police and Crime Commissioner
- Essex Police
- NHS England Health and Justice Commissioner
- HMP Chelmsford
- Essex Clinical Commissioning Groups
- Essex Community Rehabilitation Company.

### **Good practice example**

Voluntary organisation Respond in London offers adapted Circles of Support and Accountability to work with young people and adults with learning disabilities who display sexually harmful behaviour.

'Making the Difference'<sup>22</sup> highlighted the valuable role that social care can play in prevention and desistance from offending. While the Care Act requires health, social care and housing authorities to co-operate and undertake prevention work, it is too early to tell whether these provisions will make a difference to the availability of preventive types of support, but the financial pressures on councils raised grave doubts about this in the minds of participants in the meeting in June 2015.

### **Promising practice**

The Making Every Adult Matter partnership commissioned evaluation of three approaches to supporting offenders with multiple and complex needs. Link worker schemes, wraparound support and multi-systemic therapy were all seen as promising.

We know that sending people to prison or hospital is very expensive. People who go to prison often get into trouble again very quickly after release. People who go to hospital can stay there for a long time because planning for their resettlement is seen as risky. We believe that public money would often be better spent on community-based alternatives and we know there are good examples.

**We would like to hear about more examples of positive practice and any examples of cost comparisons.**

### **Key questions:**

- **what else is needed to make good practice more widely available?**
- **is there a need for any new legal instruments to support diversion from custody?**
- **is there a need for research into comparative costs?**

<sup>22</sup> <http://www.prisonreformtrust.org.uk/Publications/vw/1/ItemID/182>

### 3.3 Successful resettlement

The success of resettlement from prison or hospital can be affected by two factors that are of particular relevance to people with learning disabilities:

- what work is done with the person while they are a prisoner or inpatient to help them understand what they have done wrong, understand what they can do to change their behaviour and prepare for life back in the community
- the support that is provided 'through the gate' and in the community – both for the person and for their family.

The idea that people with learning disabilities can learn new ways of behaving in detention (whether hospital or prison) and then simply apply the learning successfully in a community environment is itself problematic. While valuable work can be done with the person on understanding and on beginning to learn new tactics, 'refreshers' and continuing support (of varying degrees, depending on the individual) are likely to be needed both in prison and as a person moves back into the community.

#### **Good practice example**

HMP/YOI Parc was commended in the thematic criminal justice joint inspection report (2015)<sup>23</sup> for their peer support scheme, which was described as 'particularly well developed' with support mentors assigned to all prisoners with learning disabilities. The inspectors judged them to be effective in supporting prisoners with learning disabilities through acting as advisers, advocates and intermediaries and importantly helping prisoners to improve their skills, education and social functioning.

The reports cited on p.5 describe the experiences of prisoners with learning disabilities and the paucity of support in prison. Dennis Gill's case<sup>24</sup> highlighted the lack of adapted programmes.

*"Release programmes are required for you to take part in to get early release, but people with learning disabilities often can't read or write and can't take part, so they have to stay in prison longer"*

Expert by experience

While the National Offender Management Service continues to develop a few adapted programmes, these are not universally available. Furthermore, the financial pressures on the prison service have resulted in significant reductions in staffing; this inevitably results in less time being available to support individual prisoners. Perversely, an understaffed service may prefer not to identify people with additional needs because it does not then feel an obligation to meet those needs. There is still no agreement on a consistent way of identifying prisoners who may have learning disabilities. This will continue to hamper the provision of reasonable adjustments (such as easy read) and appropriate support, even if the recent reorganisation to establish resettlement prisons is effective for other prisoners.

<sup>23</sup> <https://www.justiceinspectorates.gov.uk/cjji/inspections/learningdisabilitiesphase2/>

<sup>24</sup> A prisoner excluded from an offending behaviour programme in prison on grounds of low IQ successfully challenged his treatment on the grounds of disability discrimination:  
<http://www.bailii.org/ew/cases/EWHC/Admin/2010/364.html>

### **Good practice examples**

Some prisons have a learning disability liaison nurse (usually as part of the prison healthcare team or mental health inreach team). Such posts can advise on system development and the provision of reasonable adjustments, as well as organising screening and working with individuals who are identified. Delivery of such roles is being included in some new specifications from NHS England for prison healthcare. In Essex the new criminal justice case management service will support these types of activity.

Participants in the meeting in June 2015 said that prisoners with learning disabilities need more support to prepare for release: housing, things to do, ways to meet the right sort of people (and stay away from the 'wrong' sort), support and planning to reduce risks. While there are concerns about stigmatising a person by attaching a label of learning disability, participants said,

*“Not being diagnosed can be lonely because you know you’re different from other people”*

Expert by experience

*“In the criminal justice system diagnosis is the only way to [secure reasonable adjustments such as] counselling etc”*

Manager of prison healthcare service

Under the Government’s ‘Transforming Rehabilitation’ reforms, every prisoner should have involvement from either the National Probation Service or a local community rehabilitation company before they leave prison and supervision for at least 12 months after release. In addition the Care Act gives local authorities responsibility for social care for prisoners. In some areas the local safeguarding arrangements are being used to co-ordinate responses to offenders identified as vulnerable. Taken together with liaison and diversion, these new arrangements offer the potential for much improved and earlier identification of prisoners with learning disabilities and their needs for support and for improved planning and organisation of resettlement. The changes are too recent to assess the impact, but once again there are concerns about lack of currently available local services to supplement the probation supervision.

*“You’re left to your own devices when it’s over. Transition can be very difficult”*

Expert by experience

There is often very little specific support for families of people with learning disabilities within the prison system or within secure hospital services. Families can be very isolated and indeed frightened, particularly the relatives of sex offenders. Family members may need support themselves to understand what has happened and what they can do to support a change in their relative’s behaviour, and to support successful resettlement from prison or hospital.

As noted earlier, some people with learning disabilities who are diverted to hospital or transferred there from prison end up staying for a very long time. While appropriate

therapeutic interventions should be available in hospital, the issue of difficulty in transferring learning from one setting to another remains. Furthermore, some people exhaust all the interventions available, but are still seen as ‘too risky’ to discharge. Sometimes this is a focus of disagreement between the Ministry of Justice, different parts of the NHS and social care. Recent legal cases<sup>25</sup> have raised questions about the powers to discharge people from hospital under conditions that may amount to deprivation of liberty. There is also ample room for disagreements about which body (or bodies) should lead on planning resettlement and should fund support.

*“Different teams, for example learning disability support and forensic services, approach risk differently instead of working together”*  
Clinical Commissioning Group commissioner

#### **Good practice example**

*“We designed a sustainable programme to encompass freedom and consequences for actions. We planned and prepared and have been able to support people in the community. There are barriers, such as housing, but where there’s a will there’s a way”*  
Supporting living service manager

The new service model for people with learning disabilities or autism and challenging behaviour, piloted by NHS England, the Local Government Association (LGA) and the Association of Directors of Adult Social Services (ADASS), aims to improve the provision of support in community settings as well as the arrangements for discharge from hospital.

**We would like to hear about more examples of positive practice.**

#### **Key questions:**

- **what else is needed to make good practice more widely available?**
- **what else is needed to support effective resettlement from prison or hospital?**
- **is there a need for any new legal instruments to support resettlement from hospital?**

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<sup>25</sup> [http://www.mentalhealthlaw.co.uk/SSJ\\_v\\_RB\\_%282011%29\\_EWCA\\_Civ\\_1608](http://www.mentalhealthlaw.co.uk/SSJ_v_RB_%282011%29_EWCA_Civ_1608) and [http://www.39essex.com/cop\\_cases/secretary-of-state-for-justice-v-kc-and-c-partnership-nhs-foundation-trust/](http://www.39essex.com/cop_cases/secretary-of-state-for-justice-v-kc-and-c-partnership-nhs-foundation-trust/)



## 4. Ideas for improvements in local systems and services

We think there is a set of actions that, taken together, could potentially:

- reduce the number of people with learning disabilities whose behaviour gets them into trouble with the law
- help people who have committed offences to stay out of trouble in future
- reduce the high costs to individuals, families and the public purse of locking up people with learning disabilities in prison or hospital.

Some of the actions needed are included in the new 'service model' developed by NHS England, the Local Government Association and the Association of Directors of Adult Social Services<sup>26</sup> for people with learning disabilities and/or autism who display behaviour that challenges. More detail is given there about the roles of specialist services. Here we set out the overall picture of what we think is needed:

- early identification of children and young people with learning disabilities whose behaviour may cause them to break the law, and co-ordinated support to them and their families to change this behaviour (public health, NHS, education and social care in partnership with the youth justice sector)
- consistent approaches across the youth and criminal justice systems, agreed with local education, health and social care partners, to identifying people who may have learning disabilities, with agreed pathways for people identified (to include identification of people already in custody and co-ordinated planning to support their release)
- awareness and understanding in the youth and criminal justice and community safety sectors about learning disability and its implications for their practice, including how to make reasonable adjustments (both anticipatory and individual)
- routine provision across the youth and criminal justice systems of easy read information
- further development of advisory roles (sometimes called liaison) to offer learning disability expertise to other services (including youth and criminal justice, community safety, forensic services and mental health services for children, young people and adults)
- awareness and understanding across education, health and social care services about offending behaviour in people with learning disabilities
- commitment across NHS, public health, social care and community safety partners to a co-ordinated approach that prevents people with learning disabilities who break the law (or are at risk of doing so) from 'falling between the stools' of eligibility for different services and ensures that local services, taken as a whole, are competent to work with this group. This will need to include access to education and employment and attention to safeguarding responsibilities

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<sup>26</sup> <https://www.england.nhs.uk/ourwork/qual-clin-lead/ld/transform-care/>

- further development and roll-out of adapted programmes (in both community and custodial settings)
- development of the market for support providers that are competent to work with people with learning disabilities who have committed offences or are at risk of doing so.

We are sure there are more examples of good practice and would love to hear about them. We would also like to hear about other ideas for improving systems and services. Our aim is to use any further information we receive to publish an update with recommendations early in 2016.

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The Ideas Collective  
November 2015



## **Citizenship and equality for all people with learning disabilities**

The Ideas Collective is a group who want to make sure that the values and ideas that were in policies like Valuing People carry on.

We want people with learning disabilities to be able to:

- Live as equal citizens in communities that welcome them
- Get their human and legal rights
- Get the same chances in life like education, paid work, a decent and safe place to live
- Have good relationships, including with their families who get good support too.

We work together to share ideas on how these things can happen even though policies and how money is organised are changing.

The Ideas Collective is a network of people and organisations. We have started talking and working together because we want to share our skills and experiences to make a difference. We want to come up with ways for how policy, society and services can change so that all people with learning disabilities have the same rights and choices as other people

The Network will work on what people with learning disabilities tell us are most important to them.

We aim to learn what works well so we can share ideas, but also 'how to do it.' We want to influence how government, local services and communities think about and treat people with learning disabilities.

We are not a network that campaigns against things. If we campaign it will be about good ways to change things that people and families say are important. We are not an organisation – we are a network of people and representatives from organisations who want to share what they know, and give time to make a difference together.

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