

Session two: taking account of communication difficulty *setting the scene*

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What I will cover

- Prevalence of people with learning disabilities, and learning and communication difficulties in the justice system
- How much attention has been given to these individuals?
- What are some of the problems?
- How are we doing?
- Summary.

How many people?

- A quarter of children who offend have very low IQs of less than 70 (Bailey et al, 2005)
- 60% of children who offend have communication difficulties (Bryan et al, 2007)
- 7% of prisoners have an IQ of less than 70; and a further 25% have an IQ between 70 and 80 (Mottram, 2007)
- 20-30% of offenders have learning difficulties or learning disabilities that interfere with their ability to cope within the criminal justice system (Loucks, 2007)
- Generally acknowledged that 5 – 10% of adult offenders have learning disabilities (Department of Health).

How much attention?

- Home Office Findings 233/2004
- Prison Reform Trust: *No One Knows* programme (2006/09)
- Positive Practice, Positive Outcomes (DH, 2007)
- A life like any other? Human Rights of adults with learning disabilities (Joint Committee on Human Rights, 2008)
- Valuing People Now: a new three year strategy for people with learning disabilities (DH, 2009)
- The Bradley Report (DH, 2009)
- Equality Act 2010 (before that the Disability Discrimination Act)
- Prison Service Instruction 32/2011, Ensuring Equality
- Positive Practice, Positive Outcomes (revised, 2011)
- Access to Justice (Welsh Government, 2013).

Learning disabilities – so what?

- Limited language ability, comprehension and communication skills:
 - Difficulty understanding certain words
 - Difficulty understanding and responding to questions
 - Difficulty reading body language and following social cues
- Limited memory capacity:
 - Difficulty recalling information
 - Take longer to process information
 - Difficulty ordering and sequencing
- Can be acquiescent and suggestible; under pressure, might try to appease others
- Frequently unable to read and write very well, or at all.

Some of the problems

- Two thirds of prisoners with LDD had problems reading prison information, which rose to four fifths for prisoners with a learning disability
- Two thirds of prisoners with LDD had problems filling in prison forms, which rose to three quarters for prisoners with a learning disability
- Two thirds of prisoners with LDD experienced problems with verbal comprehension skills, including difficulties understanding certain words and in expressing themselves
- Half said they had difficulties making themselves understood in prison, which rose to two thirds for prisoners with learning disabilities (Talbot, 2008)

Some of the problems

- **Reading:** *I take a guess, or I just get on the best I can. They got me to sign something the other day, I didn't know what it said, I just signed it.*
- **Writing:** *I can't understand some of the forms, or there are words that I don't know and I just get mad again.*
- **Understanding:** *I wouldn't do anything [if I didn't understand]; I would be too scared to ask, so I'd do nothing.*
- **Being understood:** *I get depressed when people don't understand me... they say I should explain properly; well, if they gave me more time I would.*

Some of the problems

- *We are concerned that the problems highlighted by this evidence could have potentially very serious implications for the rights of people with learning disabilities to a fair hearing, as protected by the common law and by Article 6 ECHR. Some of this evidence also suggests that there are serious failings in the criminal justice system, which gives rise to the discriminatory treatment of people with learning disabilities (Paragraph 212, Joint Committee on Human Rights, March 2008).*

Fast forward... 2014/15

- A joint inspection by HMI Probation and HMI Prisons of the treatment of offenders with learning disabilities within the criminal justice system, **PHASE 1 – from arrest to sentence:**

For someone with a learning disability, the court environment and process is confusing and possibly frightening. The court environment could very easily, and with little extra cost, be made less intimidating... We found, however, that little attention had been paid to the needs of those with LD, for example through the availability of 'easy read' posters and leaflets to explain the court process (HMI Probation, 2014).

Fast forward... 2014/15

- A joint inspection by HMI Probation and HMI Prisons of the treatment of offenders with learning disabilities within the criminal justice system, **PHASE 2 – in custody and the community:**

Within probation, identification of those offenders with learning disabilities remained a problem because screening tools were not used routinely at the pre-sentence report or induction stage. There was also an over-reliance on disclosure of the existence of learning disabilities by the offender/prisoner or their family. This problem was even more significant in prisons (HMI Probation, 2015).

Summary of common problems and support needs

- Not understanding what is happening or what might happen next
- Not understanding what the implications of certain actions or decisions might be
- Not understanding jargon or words that criminal justice staff routinely use
- Not being able to read information or to understand what it means
- Not being able to fill in forms
- Being too embarrassed to ask for help
- Feeling scared.

Recognising support needs

- Criminal justice staff are not very good at recognising support needs; they don't receive much training
- No routine screening or assessment
- Liaison and diversion is a new service that can help; staff will work in police custody suites and criminal courts to help identify people with support needs, and relevant information from their assessments will be shared with criminal justice staff
- Amy: towards effective engagement in supervision...