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Focus on Disability

The care and support of prisoners with a disability:

An Inspectorate review

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Introduction

The Disability Discrimination Act (DDA) was amended in 2005 to include all the activities of the public sector. Therefore, NOMS, like other public sector services, acquired duties under the DDA (2005) in December 2006. The DDA requires NOMS to promote disability equality and eliminate unlawful discrimination against people with disabilities.

Under the Act, a person with a disability is defined as having 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. This definition covers a range of impairments including:

- Physical and motor impairments
- Progressive conditions
- Visual impairments
- Mental impairments
- Deafness and hearing impairments
- Learning disabilities and difficulties
- Speech and language impairments
- Disfigurement

In the general population it is estimated that 20 per cent of the adult population are disabled¹. Prisoners are well documented as having poorer mental and physical health than the general population² which would potentially suggest a higher proportion of people with a disability within the prison population. The Office for National Statistics (1998) survey reported that 90 per cent of prisoners had at least one psychiatric diagnosis, although this figure is inflated as it includes substance use³. A review of research findings by the Prison Reform Trust estimated that for a prison population of 80,000 there are likely to be more than 5,500 prisoners with an IQ of less than 70 and between

16-20,000 with IQs between 70 and 79⁴. Older prisoners are the fastest growing age group within the prison population⁵. Although not exclusive to older people, some disabilities, such as mobility, visual or hearing impairments are more prevalent in this age group.

In 2009 HMI Prisons published a thematic review 'Disabled prisoners' on the care and support of adult prisoners with a disability⁶. The findings came from three sources⁷:

- A survey of all disability liaison officers (DLOs) at adult prisons. Eighty-two surveys were returned, a response rate of 64 per cent.
- Findings from 44 full inspection reports.
- Responses from 5,793 prisoners surveyed at 68 prisons. The responses of prisoners who said they considered themselves to have a disability were compared with the responses from those who said they did not⁸.

Although the review found pockets of good practice across the prison estate, often due to the commitment of individual staff, overall the findings were not encouraging and identified a number of issues in meeting the needs of prisoners with a disability. Recent inspection reports have likewise reported some positive work and show a development in the consideration of disability and work to try meet the needs of prisoners with a disability. However, across the estate many of the concerns outlined below and the recommendations made in the report still hold true.

Identification

The accurate identification of prisoners with a disability is an important first step to ensure that their needs are met while in custody. In our prisoner survey, 15 per cent of prisoners said that they considered

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1. Prime Minister's Strategy Unit (2005). Improving the life chances of disabled people.
 2. For example: Social Exclusion Unit. (2002). Reducing re-offending by ex-prisoners.
 3. Singleton, N., Meltzer, H., Gatward, R., Coid, J., & Deasy, D. (1998). Psychiatric Morbidity among Prisoners in England and Wales.
 4. Talbot, J. (2007). No One Knows. Identifying and supporting prisoners with learning difficulties and learning disabilities: The views of prison staff.
 5. Prison Reform Trust. (2008). Doing time, the experiences and needs of older people in prison.
 6. HM Inspectorate of Prisons. (2009). Disabled prisoners: a short thematic review on the care and support of prisoners with a disability.
 7. Inspection reports and prisoner survey analysis covered the period September 2006 to April 2008. The DLO survey was conducted in August 2008.
 8. Only statistically significant differences are cited in the article.

themselves to have a disability. As prisoner surveys are representative of the prison population sampled, this can be seen as an estimate of the proportion of prisoners with a disability across the estate, although this varied by functional type (see Table 1) and by individual prisons. However, as this is self-report data and therefore reliant on prisoners knowing that they have a disability and being willing to report it, this figure is likely to be an underestimation of the true proportion.

**Table 1:
Responses to the question 'Do you consider yourself to have a disability?' by functional type**

Functional type	Yes	No	Overall
Local prisons	302 (17%)	1,522 (83%)	1,824
Training prisons	317 (15%)	1,821 (85%)	2,138
High security prisons	59 (23%)	193 (77%)	252
Open prisons	31 (10%)	290 (90%)	321
Young offender institutions	86 (11%)	695 (89%)	781
Women's prisons	69 (14%)	408 (86%)	477
OVERALL	864 (15%)	4,929 (85%)	5,793

In contrast, in August 2008 only 5 per cent of prisoners were recorded on LIDS⁹ as having a disability which was much lower than what our prisoner survey and other research would suggest. Although the data had the caveats that there had been issues extracting data from LIDS and it was also based on self-report, the most concerning part was that for 85 per cent of prisoners there was no entry recorded. This was despite the recording options of 'no disability' and 'refused to disclose', which prisoners are entitled to do. At best this represents poor recording, but it suggested that there were prisoners with a disability who had not been identified and whose needs were not being met.

In the survey, most (98 per cent) DLOs said that prisoners were assessed for a physical, mental and/or sensory disability on arrival to a prison and this was supported by inspection findings. How assessments were conducted varied across prisons and included assessments by health services, reception or induction staff or prisoners self completing a questionnaire. However, inspections raised concerns about the timing and quality of initial assessments to encourage full disclosure. For learning disabilities or difficulties,

although 87 per cent of DLOs reported that prisoners were assessed, usually by health services or education staff, it was not clear whether this involved self disclosure or an actual assessment.

Procedures to disclose a disability after the reception and induction process were far less developed and were often reliant on prisoners or staff knowing who to contact. This is an issue for prisoners who wish to disclose a disability at a later point, or those who learn of, or develop a disability after entering custody. In the 2007 HMP Maidstone inspection report¹⁰ it was noted that the DLO had conducted a survey with the prison population to identify 'hidden' disabilities, as well as developing a reception questionnaire, and this had increased the number of prisoners identified as having a disability from 12 to 113.

Induction and prison information

Induction is an important process for prisoners on first arrival to custody or to a new prison. Fewer prisoners who considered themselves to have a disability said that they had attended induction in their first week at their current prison and of those who had, less than half felt that it had covered everything they needed to know. Although some DLOs reported that induction material was provided in a range of formats such as Braille, in audio form, using British Sign Language, or that induction talks had been adapted for those with learning disabilities or difficulties, this was not widespread.

Positively, at some prisons DLOs said they attended induction to introduce themselves and to explain their role and the support available for those with disabilities. Disappointingly no DLOs mentioned in their survey responses the information book for prisoners with a disability produced by the Prison Reform Trust. This provides important information for disabled prisoners, including information on their rights and entitlements, general information about prison life and the contact details of useful organisations, and is also available in audio form.

In addition to the induction process, it is important that prison information and notices are in a format that can be understood by, and that meets the needs of, prisoners with a disability. Again, this was underdeveloped across the prison estate. At the HMP 2007 Maidstone inspection¹¹ the DLO and diversity manager were looking at exchanging words for symbols on a range of signs around the prison to

9. The electronic prisoner record system in place at that time.
 10. HM Inspectorate of Prisons. (2007). Report on an announced inspection of HMP Maidstone 19-23 February 2007 by HM Chief Inspector of Prisons.
 11. HM Inspectorate of Prisons. (2007). Report on an announced inspection of HMP Maidstone 19-23 February 2007 by HM Chief Inspector of Prisons.

support those with learning or literacy difficulties. There was also an audio CD that provided information about the complaints system.

Support

Prisoners who considered themselves to have a disability were less likely to report feeling safe on their first night than those who said they did not — 70 per cent compared with 81 per cent. They were also more likely to report problems on arrival to prison in a range of areas including health needs and feeling depressed, although, perhaps reflecting this, they were more likely to report having been offered help by staff. However, DLOS reported limited tailored support for those with disabilities during their first few days in custody. Instead support matched that offered to all prisoners and included wing or peer support and the induction process.

It is important that staff who are involved in the day to day care of a prisoner know if they have a disability so that they are aware of a prisoner's specific needs. Only half of DLOs said that there were procedures for them to pass information on to appropriate staff and only two thirds said that there were formal procedures for staff to pass on appropriate information to them.

Although rare, there were still examples where health services would not share information with relevant staff despite the guidance in Prison Service Instruction 25/2002 *'The protection and use of confidential health information in prisons and inter-agency information sharing'*.

Almost two-thirds of DLOs reported that prisoners with a disability had a care plan, although this was sometimes only for severe or complex cases or referred to plans used by health services staff that only covered their health needs. The Inspectorate expects all prisoners identified as having a disability to have a care plan that sets out how their individual needs will be met, which should be created with the individual's involvement.

Funding of social care in prison can be a barrier to meeting the needs of prisoners with a disability and promoting independent living. Often the PCT or prison were having to meet the cost rather than the responsible commissioner. Half of DLOs reported links

with outside agencies to provide aids or seek advice. Although DLOs reported the use of a range of aids to help meet individual needs, several felt that greater availability of aids and links with outside agencies would improve provision for those with a disability.

Inspections have raised concerns about other prisoners acting as unofficial carers. This review, as well as the *'Older prisoners in England and Wales'*¹² follow-up review recommended that there should be formal prisoner carer schemes with training, support and pay for the carer. This would ensure that the necessary safeguards were in place. Without a formal scheme carers are susceptible to injury and those cared for are open to poor care or bullying. There has been some debate about the appropriateness of an official prisoner carer scheme with a training qualification. This is similar to the difficulties faced in the development of the Listener scheme, which were overcome. DLOs reported that there were official carers at 17 prisons and at 12 carers were paid for their role.

At HMP Wakefield the DLO reported a good assessment and support process for prisoners with a disability. All prisoners who declared a disability had an initial assessment. Information was shared with relevant staff and entered in their wing history sheet, wing disability folder and disability/elderly team care files.

An offender carer was allocated if necessary and outside agencies, including social services, were contacted to provide aids and advice.

It is also important that release plans ensure continuity of support and care for prisoners with a disability on release, including any social care needs. In the prisoner survey, those who considered themselves to have a disability were more likely to report potential problems on release than those who did not and were less likely to know who to contact for help with these. This included finding accommodation, continuing education or finding employment and accessing health services.

Accommodation and access to regime

Even with reasonable adjustments, not all prisons are able to accommodate prisoners with all types of disability or enable full access to the regime. PSI 31/2008 *'Allocation of prisoners with disabilities'*

It is important that staff who are involved in the day to day care of a prisoner know if they have a disability so that they are aware of a prisoner's specific needs.

12. HM Inspectorate of Prisons. (2008). *Older prisoners in England and Wales: A follow-up to the 2004 thematic review.*

provides guidance on what actions should be taken to ensure that prisoners with a disability are suitably accommodated, have full access to the regime and can progress throughout their sentence in the same way they would if they did not have a disability. However, inspection reports noted instances of overly restrictive medical exemption criteria at some prisons. Our *'Women in prison'*¹³ review highlighted that neither of the two open women's prisons, Askham Grange and East Sutton Park, could accommodate women with severe mobility impairments.

Two-thirds of DLOs reported that there were dedicated cells for those with disabilities at their prison. This matched findings from a 2008 survey of NOMS accommodation by the Safer Custody and Offender Policy Group that reported no adapted cells at a third of prisons. The NOMS survey found that there were 431 fully adapted cells and 108 partially adapted cells across the prison estate although half of these were located in healthcare centres. The Inspectorate expects prisoners only to be held in healthcare if they have a clinical need and not solely because they have a disability.

All prisoners who require assistance to evacuate in an emergency should have a personal emergency and evacuation plan (PEEP). However, some inspections raised concerns about the implementation of the plan, particularly in ensuring that staff who did not normally work on a wing were able to identify those who would need help in an emergency.

Inspection reports highlighted that some prisons struggled to provide suitable access to showers for those with mobility or physical impairments either because there were no adaptations in shower areas or showers were located upstairs. Although not included in the thematic review, the 2008 HMP Parkhurst inspection report¹⁴ contained two extremely concerning examples of prisoners being unable to access showers. One prisoner with a longstanding health problem and mobility needs told us he had not had a shower in over a year as he was extremely unsteady on his feet and the showers were on an upper floor. Another prisoner in a

wheelchair said he had not had a bath since he was discharged from hospital almost six months previously.

Prisoners who considered themselves to have a disability reported less access to activities than those who did not. This included access to work, education, vocational skills training, the library, gym, outside exercise and association. Inspection report findings supported this, with prisons struggling to provide full access to the prison regime. In the survey, several DLOs felt that the age and structure of some prisons impacted on their ability to meet the needs of prisoners with motor, physical or visual impairments.

However, there were some positive examples of tailored activities being run: at some prisons gym staff offered tailored gym sessions for older prisoners or those with mobility or physical impairments. At HMP Swaleside the DLO reported that a deaf prisoner had been able to complete a sentence plan course with the aid of a signing assistant.

Management

All DLOs reported that there was a disability policy or a diversity policy that included disability at their prison but less than half were based on a recent needs assessment of the population. Three quarters of DLOs said that disability was routinely discussed at a dedicated meeting. A policy and committee meeting are important in order to

provide strategic direction, guidance and management of work to meet the needs of prisoners with a disability.

All prisons should have a designated DLO who will work towards ensuring that the prison complies with the DDA to meet the needs of prisoners with a disability. However, only 12 per cent of DLOs felt that they had enough time to 'completely' fulfil their role whereas two fifths (41 per cent) said 'not at all'. For those in a full-time post this had made a positive difference to their ability to fulfil their role. Likewise inspection reports also frequently recommended the need for DLOs to be given more or profiled time for their role and a clear job description. Less than half (46 per cent) of DLOs reported that there were prisoner representatives to support them in their work.

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13. HM Inspectorate of Prisons. (2010). *Women in prison: a short thematic review*.

14. HM Inspectorate of Prisons. (2009). Report on an unannounced full follow-up inspection of HMP Parkhurst 8-12 December 2008 by HM Chief Inspector of Prisons.

Table 2 shows the extent to which DLOs felt able to meet the needs of prisoners with different types of disabilities. Although about two thirds of DLOs felt able to 'somewhat' meet the needs of prisoners with different disabilities, about a fifth felt unable to. Concerns raised by DLOs varied by the type of disability but included a lack of aids, the age and structure of buildings and the need for greater involvement of community agencies. In terms of mental health, some DLOs had marked 'not at all' as a reflection of the scale of the problem. The main concern in meeting the needs of those with learning disabilities or difficulties was their initial identification. These types of disability were primarily viewed as the responsibility of health services and education respectively.

**Table 2:
DLO ratings for how capable they felt of meeting the needs of prisoners with disabilities**

Type of disability	Not at all	Somewhat	Completely
Physical or motor impairment	20% (16)	64% (51)	16% (13)
Visual impairment	23% (18)	63% (50)	15% (12)
Hearing impairment	11% (9)	70% (56)	19% (15)
Mental impairment	26% (20)	63% (49)	12% (9)
Learning disabilities/difficulties	16% (13)	63% (50)	21% (17)

DLOs were asked what the main frustrations in fulfilling their role were. The top four mentioned were the need for more training, allocated time, funding and support. These were also the top improvements DLOs felt were required to enable the needs of prisoners with a disability. Although the role covers legislation, only 11 per cent of DLOs said that they had received formal training for their role. This was also an issue for all prison staff with only two thirds (63 per cent) of DLOs reporting that disability awareness training was available for staff, although the extensiveness of the training and how specific it was to disability varied. At the time of the review there were plans to roll out awareness training on learning disabilities and difficulties, with training initially focused on the DLO, a member of the health services team and a member of the induction team.

Monitoring

There should be monitoring to ensure that prisoners with a disability have equivalent treatment

and are not victimised, with action taken to address any inequalities. However, monitoring was limited or non-existent. Access to activities, complaints and victimisation were only monitored in a few prisons.

As discussed above, prisoners who considered themselves to have a disability were less likely to report access to activities than those who did not. They also reported a worse experience with the applications and complaints process and were more likely to report safety concerns. Half said they had felt unsafe at some point, around a third reported having been victimised by other prisoners and/or staff and more reported having been physically restrained by staff, particularly at Young Offender institutions. Despite this only a few DLOs reported links to violence reduction or safer custody meetings and only a third said that there were diversity incident reporting forms which included reporting of victimisation due to disability.

Recent Developments and Future Prospects

There has been a recent change in legislation. The Equality Act 2010 came into effect in October 2010 and replaced the DDA 1995 and 2005. It collated all anti-discrimination laws into a single Act but also included some changes to how discrimination should be prevented and addressed. For disability it included a change to the definition so that a person no longer needs to show that it affects a particular capacity such as hearing or mobility. It also included an extension and changes to the types of discrimination covered. It legislated that reasonable adjustments were to be made when there would be '*substantial disadvantage*'¹⁵ to a person with a disability. Previously reasonable adjustments were required when it would be '*impossible or unreasonably difficult*'¹⁶ for a disabled person to use the service, so this change is likely to mean that more reasonable adjustments will need to be made.

Although it is almost two years since the publication of '*Disabled prisoners*' recent inspection findings, despite a shift in the right direction, paint a similar picture. As the review found, there are examples of positive practice across the estate due to dedicated and enthusiastic staff. Positively there is a greater focus on disability and work to meet the needs of prisoners with a disability is gradually improving. However, looking across the prison estate the findings and recommendations made in the review are still reflective of current practice and there is still some way to go to ensure that the needs of prisoners with a disability are met. The Inspectorate's review and other relevant publications can help

15. Government Equalities Office and Equality and Diversity Forum. (2010). Equality Act 2010: What do I need to know? Disability quick start guide. Pp. 7.

16. Ibid. Pp. 7.

provide some guidance and direction, but it is prison staff that will be undertaking and developing this work and need to be given the time, training and support to do so. However, in the current financial

climate there are fears that even current levels of dedicated staff and time will not be maintained, both of which are vital to ensure that work in this area can be continued and improved.

Other publications

It is hoped that the Inspectorate's review helped provide some direction for DLOs, through its findings and the 26 recommendations made. There have also been several other publications which make recommendations or provide useful guidance for staff involved in meeting the needs of prisoners with disabilities. These include:

- ❑ The Nacro research report *'Meeting the needs of women with disabilities'*¹⁷ conducted for the Women and Young People's Group. The key findings supported those of the Inspectorate's review. It highlighted DLOs who required training and support, the need for staff awareness training, problems meeting the needs of women with disabilities due to the physical environment and the need for a formal buddies/carer scheme with training and support.
- ❑ *'Lord Bradley's review of people with mental health needs or learning disabilities in the Criminal Justice System'*¹⁸. This made several recommendations which included the need to include screening for learning disabilities in reception screens, improved primary mental health services and mental health and learning disability awareness training for all prison officers.
- ❑ The Care Services Improvement Partnership guidance *'Positive Practice Positive Outcomes: A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities'*¹⁹. This provides information for staff including what a learning disability is and current legislation, as well as practical advice, such as how to communicate with people with a learning disability.
- ❑ The *'Prisoners Voices'*²⁰ report by the PRT, as part of their No One Knows report series, looked at the experiences of those with learning disabilities or difficulties within the CJS and included several recommendations. Check lists for action, including one specifically for prisons, were provided in the appendices to help staff ensure that those with learning disabilities are identified and their needs met.
- ❑ Within NOMS, PSO 2855 *'Prisoners with disabilities'* and PSI *'Allocation of prisoners with disabilities'* both provide guidance to prisons on how the requirements of the DDA can be met. Since the Inspectorate's review the NOMS Single Equality Scheme 2009-12²¹ has been published which includes disability. Action points include ensuring the involvement of disabled prisoners and other stakeholders and the introduction of screening for learning disabilities. In 2010 NOMS produced further helpful guidance on reasonable adjustments. This sets out what is meant by a reasonable adjustment, covers issues of location and access and provides examples of reasonable adjustments by types of disability. It also gives information on the most frequently encountered disabilities and conditions and contacts of organisations that can provide advice and support.

17. Ford, J. (2009). Meeting the needs of women with disabilities: A short research project undertaken by Nacro for Women and Young People's Group.

18. Lord Bradley. (2009). The Bradley Report: Lord Bradley's review of people with mental health needs or learning disabilities in the Criminal Justice System.

19. Care Services Improvement Partnership. (2007). Positive practice positive outcomes: A handbook for professionals in the Criminal Justice System working with offenders with learning disabilities.

20. Talbot, J. (2008). No One Knows. Prisoners voices: Experiences of the Criminal Justice System by prisoners with learning disabilities and difficulties.

21. National Offender Management Service. (2009). Promoting equality in prisons and probation: The National Offender Management Service Single Equality Scheme 2009-2012.

There have also been some publications and initiatives to help meet the needs of older prisoners. Although not specifically about disabled prisoners due to the higher prevalence of some types of disability within this age group there is some overlap. These include:

- ❑ The Nacro resource and workshop pack, funded by the Department of Health. The resource pack includes information on common illnesses among older prisoners, good practice ideas and information and advice. The workshop pack provides advice on how to use the resource pack and also materials for staff to run awareness workshop sessions in their prison. Age Concern²² has also produced a staff resource pack for the high secure estate.
- ❑ The PRT '*Doing Time*'²³ publication which reports on the experiences of older people in

prison. There is also a good practice guide²⁴ which reports on findings from a prison staff survey.

- ❑ The Older People in Prison Forum, set up by Age Concern and the Prison Reform Trust, aims to increase the understanding of older prisoners' issues. Membership includes third sector organisations, academics and government departments.
- ❑ The Older Prisoners Action Group, led by offender health with third sector and government department membership has an ongoing work programme to address the health and social care issues for older prisoners. As part of this work, it has collated the recommendations from various reports, including the Inspectorate's reviews, and will be looking at how to take the health and social care recommendations forward.

22. Age Concern and Help the Aged are now Age UK.

23. Prison Reform Trust. (2008). *Doing time, the experiences and needs of older people in prison*.

24. Prison Reform Trust. (2010). *Doing time. Good practice with older people in prison — the views of prison staff*.