Personal Information

The processes set out in these briefing papers entail the collection, collation and disclosure of personal information.

Personal information about health or wellbeing, or criminal activity or propensity to crime, is sensitive and confidential.

It can only be recorded or shared with the explicit informed consent of the individual it is about, or someone with parental responsibility for them. If the individual lacks capacity under the Mental Capacity Act 2005, information can be recorded and shared when that is assessed to be in their best interests applying the Act and its Code of Practice.

However, confidential information can be recorded and shared in the public interest to help a child or young person who is or may be at risk of harm, or anyone who is or may be at risk of offending or of suffering harm or loss from offending. It can also be recorded and shared in the public interest of preventing or investigating a crime.

The information recorded or shared should be in proportion to the risk and there should be a pressing need to record or share it. Each case must be assessed on its own facts.

Equalities and health inequalities

The reduction of inequalities in access and outcomes is central to the L&D work programme. Local commissioners and practitioners are reminded that they should make explicit how they have taken into account the duties placed on them under the Equality Act 2010 and with regard to reducing health inequalities, duties under the Health and Social Care Act 2012. Service design and communications should be appropriate and accessible to meet the needs of diverse communities.
This particular resource paper focuses on working with people with a known or suspected learning disability. This paper includes background information about people with learning disabilities, along with case studies, advice on how to meet their needs, and signposting to other resources.

WHY PROVISION FOR LEARNING DISABILITIES MATTERS

The Equality Act (2010) places a requirement on public services to anticipate and prevent discrimination against people with disabilities, and this includes people with learning disabilities. Many people with learning disabilities have support needs which, if left unmet, will put them at a significant disadvantage when trying to navigate the youth or criminal justice system, making it less likely that a fair, just and appropriate outcome will be achieved.

Disproportionately higher numbers of children and adults with learning disabilities enter the criminal justice system. Learning disabilities are often not identified in police custody or in court. In such instances, this can compromise both prosecution and the individual’s right to a fair trial. The 2014 joint inspection of the treatment of offenders with learning disabilities within the criminal justice system from arrest to sentence revealed that the needs of people with learning disabilities were not being adequately addressed whilst in police and court settings.

WHO WE ARE


The Offender Health Collaborative (OHC) is a partnership between specialist organisations which has been set up to develop an operating model to meet the needs of all those who are in contact with the criminal justice system with mental health problems and/or a learning disability. It advances and promotes better thinking, practice and outcomes in offender health and criminal justice.
With the advent of L&D services, and the introduction of effective screening procedures, people with learning disabilities should be identified and their particular support needs met. With the necessary support, people with learning disabilities can be held to account for their alleged offending and have access to justice, much in the same way as suspects without learning disabilities. There may be times, however, when diversion away from criminal justice and into treatment and care is the most appropriate disposal.

Like anyone else, people with learning disabilities will have different life experiences, strengths, weaknesses and support needs. Many people with learning disabilities will, however, share common characteristics, which, if left unsupported, might make them especially vulnerable. Various interventions and forms of support can be used.

L&D services are uniquely placed to help ensure early identification and support for individuals with, or suspected of having, a learning disability and who find themselves caught up in the youth or criminal justice system.

**HOW IT WORKS IN PRACTICE**
The following information covers the main areas staff should be aware of to meet the needs of people with learning disabilities.

**WHAT ARE LEARNING DISABILITIES?**
Learning disabilities affect about 1.5 million people in the UK. A learning disability is a lifelong condition; it is not an illness and cannot be cured. The term learning disability is used in relation to individuals who have the following characteristics:

- 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 and has a lasting effect

   Department of Health, 2001

**LEARNING DISABILITY OR LEARNING DIFFICULTY?**
The term learning disability is not to be confused with a learning difficulty which is used to refer to any learning or emotional problem that substantially affects a person’s ability to learn rather than the characteristics outlined in the above definition. However, some services or individuals may use the term learning difficulty in reference to an actual learning disability so it is advisable to seek clarification.

**KEY FACTS**
Many people with learning disabilities have greater health needs than the general population. For example, they are more likely to experience mental ill health and are more prone to chronic health problems, epilepsy, and physical and sensory disabilities.
Many people with learning disabilities will be unknown to learning disability or other social care services. The learning disabilities of those who come into contact with criminal justice services are likely to be mild or moderate. Sometimes people are described as having ‘borderline’ learning disabilities, which means that while they may be unable to access learning disability services, they may have similar support needs.

It is commonly accepted that certain Intelligence Quota (IQ) scores equate to ‘mild’, ‘moderate’ and ‘severe’ learning disabilities. The Royal College of Nursing guidance: Meeting the health needs of people with learning disabilities provides more details about the use of IQ measures.

It is generally acknowledged that 5 to 10% of the adult offender population has a learning disability, and that many more people will have ‘borderline’ learning disabilities. This figure is much higher for children who offend (Harrington and Bailey, 2005).

**THE SUPPORT NEEDS OF PEOPLE WITH LEARNING DISABILITIES**

Many people with learning disabilities experience difficulties in communicating and expressing themselves, and in understanding ordinary social cues; they often need longer to process information and to respond to questions; they can have difficulty recalling information and sequencing events and can be impressionable. They are more vulnerable and more likely to suffer exploitation, bullying and abuse of all kinds (physical, emotional, psychological, sexual, financial etc.).

New situations, such as being in police custody or in court, can be especially unsettling for people with learning disabilities as they struggle to understand what is happening to them and what is expected of them. This can induce feelings of anxiety, depression and anger, and the individual may become agitated or withdrawn.

A person with learning disabilities may require extra support to live independently and to cope with everyday activities such as:

- Concentrating for long periods
- Explaining things
- Filling in forms
- Following instructions or directions
- Keeping appointments
- Managing a home
- Managing money
- Reading and comprehension
- Remembering information
- Telling the time
- Understanding social norms
- Using public transport
- Writing
**ACTION TO TAKE**

L&D services should ensure there are multi-agency pathways to potential community services available to people with learning disabilities depending on their individual need (e.g. housing). These pathways are typically developed by learning disability practitioners, in collaboration with relevant local services.

L&D services should be able to inform criminal justice decision making and advise on what support individuals may need. If relevant, they can also explain how learning disabilities may have contributed to offending behaviour. Local protocols should be in place to ensure timely and appropriate information sharing, including to those writing pre-sentence reports. *Positive Practice, Positive Outcomes: A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities* outlines the extra things that should be considered at the various stages of the criminal justice system.

Any specialist services that a person is referred to, for example drug or alcohol services, must be able to accommodate someone with a learning disability. This also applies to the conditions of any court orders. Courses, programmes and treatments must all be adapted to ensure the person can understand and take part. To deny an individual access to a service, programme or activity because of their learning disability could be discriminatory and illegal.

Where a referral is made to a health or care provider, the relevant information should be passed on to them. Ensuring individuals are registered with their local GP is particularly important.

It is important to ensure a person’s wishes are upheld and respected and that they are involved in all decision making and planning.

**SPECIALIST STAFF AND LOCAL CONTACTS**

Learning disability practitioners should make up part of either the core or extended team of L&D services (see the resource paper in this series on core and extended teams). This will ensure services are meeting the needs of people with learning disabilities and these practitioners can also advise and support colleagues to increase awareness about suitable provision. Ensuring effective engagement with local criminal justice and community services is vital, and learning disability practitioners will often already have good relationships with local services. These should be underpinned by formal written agreements, joint policies and protocols.

People with, or suspected of having, learning disabilities should be supported by an appropriate adult while they are in police custody. Although it is the responsibility of the custody sergeant to recognise the need for, and to call, an appropriate adult, L&D staff should be aware of the need for such safeguarding arrangements.
CASE IDENTIFICATION, SCREENING AND ASSESSMENT

Early identification is integral to ensuring the necessary support and outcomes for people with learning disabilities. It can be difficult to recognise someone with mild learning disabilities. People may also be reluctant to disclose information or unaware they have a learning disability.

Case identification: Routine and systematic identification procedures need to be in place. It is also helpful if police and court staff and members of the judiciary learn to recognise how someone with a learning disability may present, and when to contact L&D services. Some police forces have basic ‘vulnerabilities’ training and identification tools.

Screening: Schemes should select a validated screening tool (see the resource paper in this series on case identification, screening and assessment).

Assessments: Psychosocial assessments should identify useful information relating to the impact of any learning disabilities and highlight the areas in which they need support. It is recommended that, with the individual’s consent, staff contact them or a family member to find out information about any services the individual is using and any issues they may have. In the case of those aged under 18, staff should contact their school. People who screen positive but do not have confirmation of their learning disability should be referred for a formal learning disability assessment.

REASONABLE ADJUSTMENTS

A ‘reasonable adjustment’ is an alteration made to enable a person with a disability to be able to carry out their duties/life without being at a disadvantage. Public sector agencies have a legal duty to anticipate the need for and to make reasonable adjustments to ensure that people with disabilities who use their services are neither discriminated against nor disadvantaged. This applies to L&D services. It is good practice for services to remind all other agencies of their legal obligations and possibly provide advice. A database of reasonable adjustments can be found here. Information about the need for reasonable adjustments, with examples, should be shared appropriately with health and justice agencies.

Reasonable adjustments for someone with learning disabilities might include:

- using memory aids, such as photos
- using ‘Easy Read’ materials
- allowing them to take regular breaks
- being accompanied by an appropriate adult at the police station or an intermediary in court

Easy Read

'Easy Read', or accessible information, refers to information presented with simple words and pictures, making it easier to understand. It can help anyone with reading and comprehension difficulties to access information, including people with learning disabilities or learning difficulties and people for whom English is not their first language. Police and
court staff are often unaware of national and local documents which are available in an Easy Read format for suspects and defendants.

Easy Read versions of all written material should be made available. This includes posters, leaflets, forms, appointment reminders, consent forms and promotional material for L&D services (typically placed within police stations and courts).

Below are examples of Easy Read materials.

**HOW TO COMMUNICATE EFFECTIVELY WITH PEOPLE WITH LEARNING DISABILITIES**

The following list is adapted from Sentence Trouble.
- Give individuals extra time to listen to and understand what is being said
- Ask what would help them to understand things
- Emphasise important words that they should focus on
- Provide them with a brief summary of what you are talking about before giving more detail
- Give positive feedback
- Don’t speak too quickly
- Use short sentences, with pauses, to allow them to process information
- Use uncomplicated language that they are familiar with
- Use visual tools to aid their understanding
- Ask them to explain what has been said to check whether they have fully understood
- Flag up anything they say which you do not understand
The examples below demonstrate the practical impact of effective L&D interventions.

Mr Brown was known to social services. Upon arrest he did not disclose his mild learning disability and was processed by the custody sergeant accordingly. Our L&D service is based at the police station. When I spotted Mr Brown being read his rights I raised my concerns. I carried out a screening and found out more about his previous involvement with relevant services, his difficulties and the fact he felt ‘in a low mood’ which was causing challenging behaviour.

As a result an appropriate adult came to accompany Mr Brown, the officers involved were advised on appropriate means of communication, the court received a background report on him and he was referred to local community services. Mr Brown was supported to attend GP appointments enabling him to start a course of medication and therapy. He received a six-month suspended sentence.

Learning disability nurse, South Essex Partnership University Foundation Trust

Miss Green was making excessive ‘nuisance’ calls to the police who were unsure how to respond. She had a mild learning disability and lived independently with minimal support. Our L&D service advised staff from the police incident control room about how to handle the situation. We organised a multi-agency meeting with the relevant local stakeholders and developed a care plan.

Miss Green took an active role in the planning and negotiations. She gave consent for information concerning her to be shared. Easy Read materials were used throughout to support this process. She avoided prosecution and the nuisance calls became less frequent.

Learning disability nurse, Dorset University NHS Foundation Trust

CHECKLIST

- Ensure frontline staff have a good level of learning disability awareness and the team includes specialist learning disability practitioners.
- Screen individuals for learning disabilities using a validated screening tool and establish procedures for post-screening assessment.
- Work with local police, courts and probation or community rehabilitation companies to facilitate information sharing and encourage referrals. Organise joint training sessions, involving health and criminal justice staff.
- Ensure clear lines of communication and timely information sharing with other agencies.
KEY PARTNERS AND STAKEHOLDERS

Individuals with learning disabilities and their family or carers can offer valuable feedback.

Community learning disabilities teams (CLDTs) are based at the local authority and are comprised of different specialists who can give advice about working with adults with learning disabilities. They accept referrals for assessments and may be able to provide support for people with learning disabilities. L&D services should establish close links with their local CLDT, social care and social workers working with people with learning disabilities and their Learning Disability Partnership Board.

Independent and third sector organisations can offer information, resources and local signposting. Many also offer services, such as accommodation and housing-related support, support with education, training and employment, and drop-in sessions. They may be able to help with service user involvement and consultation (see the resource paper in this series on service user involvement).

Appropriate adult schemes: If a suspect has a learning disability or is vulnerable (or is a child) they should be supported by an appropriate adult. Where these schemes exist the custody sergeant will have contact details. For more information go to www.appropriateadult.org.uk.

Intermediaries: If there is doubt about a defendant’s ability to communicate and participate effectively in court then an intermediary should be engaged to support them and advise the court. For more information go to www.intermediaries-for-justice.org.

Schools special educational needs (SEN) teams: People with learning disabilities typically received extra support at school or attended a school specifically for those with learning disabilities. They may have a SEN certificate (these will soon be replaced by Education, Health and Care plans). SEN teams will be able to provide background information on a person’s learning disability.

Housing: Many people with learning disabilities require supported accommodation. Arranging accommodation will involve working with the local authority’s housing department and social services.

Local safeguarding boards: Local child or adult safeguarding boards can offer advice about protecting vulnerable people. Some areas also have Multi-Agency Safeguarding Hubs.

Community disability advisers: Community services such as employment or benefits organisations (e.g. Citizens Advice Bureaux, Jobcentre Plus) often have specific disability advisers. A pre-arranged appointment is usually required. There are also various helplines which offer disability advice. These are listed at www.disabilityrightsuk.org/getting-advice.
FIND OUT MORE

A joint inspection of the treatment of offenders with learning disabilities within the criminal justice system – phase 1 from arrest to sentence

Harrington R and Bailey S (2005) Mental Health Needs and Effectiveness of Provision for Young Offenders in Custody and in the Community London: Youth Justice Board

KeyRing - for lists of Easy Read documents, how to access free Easy Read images, details of free learning disability awareness training materials

Meeting the health needs of people with learning disabilities

Mental Health and Learning Disabilities in the Criminal Courts: Information for magistrates, district judges and court staff

Positive Practice, Positive Outcomes: A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities

Reasonable Adjustments Database

Sentence Trouble - for those working with young people with communication difficulties in the youth justice system

Valuing People Now

Valuing People: A New Strategy for Learning Disability for the 21st Century
ABOUT THE L&D PROGRAMME
The national L&D programme was originally established in response to *The Bradley Report*. *The Bradley Report* made 82 recommendations to tackle the over-representation of people with mental health problems in prisons in England, including a recommendation to divert offenders with mental health problems from custodial settings. In response, a number of L&D pilots were established in England in 2011/12 with plans for full coverage to be achieved across the country.

L&D services aim to improve access to healthcare and support services for vulnerable individuals, reduce health inequalities, divert individuals, where appropriate, out of the youth and criminal justice systems into health, social care or other supportive services, deliver efficiencies within the youth and criminal justice systems and reduce reoffending or escalation of offending behaviours.

THE CORE OPERATING MODEL
A revised national core operating model has been developed, which will include:

- **An all-age service** across all sites available at all points of intervention
- **Early intervention** including identification, assessment and referral
- An integrated model for children, youths and adults
- Targeting a range of vulnerabilities, including learning disabilities, substance misuse, housing and education
- Provision at police custody and courts
- **Hours to suit** operational requirements
- A range of referral pathways to suit identified issues

AIM OF L&D MANAGER AND PRACTITIONER RESOURCES
Many of the challenges around developing L&D services will require a joint partnership response, with criminal justice, mental health, substance misuse, housing, welfare and other support services working together to support individuals with complex needs. In some local areas, the development of L&D services may require significant changes in culture and working practices at every level, while maintaining and improving existing services at the same time. However, each local area is unique and local stakeholders and partners are best placed to determine the progression of their services and to plan according to local needs.

This series of resources will comprise of eight practical guides on the key elements of L&D provision. The purpose of these resources is to provide a toolkit to help practitioners understand how to develop effective L&D services in their local area.