

N O O N E K N O W S

*offenders with learning difficulties and learning disabilities
- review of prevalence and associated needs*

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The work of the Prison Reform Trust is aimed at creating a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing parliament, government and officials towards reform.

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Foreword

The number of people with learning difficulties and learning disabilities caught up in the criminal justice system is a matter which has long troubled those who manage criminal justice services. In 1999, a prison governor writing in the Prison Service Journal noted:

We... have a young offender who is due for release shortly... Everyone working with this woman accepts that she should not be in prison. She is severely learning disabled as a result of a physical abnormality of the brain... We know that regardless of court diversion schemes, many like her slip through the net.... Perhaps the courts think such people are insolent when they don't reply. In fact, when we had one of these women assessed we discovered that she had a mental age of between seven and eight. Governor, HMP Styal

Responding to such concerns the Prison Reform Trust has launched a new programme, No One Knows.

This literature review brings together authoritative research on the prevalence and associated needs of offenders with learning difficulties and learning disabilities. It demonstrates for the first time the vast hidden problem of high numbers of men, women and children trapped within the criminal justice system.

However, even within strict definition of learning disabilities or specific learning difficulties agreed levels of prevalence are not evident. There is currently no routine screening or assessment of offenders for learning difficulties or learning disabilities and where screening or assessment does take place, different tools are used which yield differing results.

Recent research has helped in this regard. This review shows that between 20-30% of offenders have learning difficulties or learning disabilities that interfere with their ability to cope within the criminal justice system. They are at risk of re-offending because of unidentified needs and consequent lack of support and services; are unlikely to benefit from conventional programmes designed to address their offending behaviour; are targeted by other prisoners when in custody and present numerous difficulties for the staff who work with them, especially when these staff often lack specialist training or are unfamiliar with the challenges of working with this group of people.

This programme of work is not one that can be carried out by the Prison Reform Trust on its own. I am therefore very grateful to the number of people and organisations across the criminal justice system, education, health and social care that are providing help, guidance and support, in particular Mencap, which is a partner organisation of No One Knows.



Joyce Quin
chair of the advisory group

Executive Summary

Background

In 2005, the Prison Reform Trust received funding from The Diana, Princess of Wales Memorial Fund to examine learning disability and learning difficulties amongst offenders. The programme, *No One Knows*, seeks to gain a better understanding of the experiences of this group within the criminal justice system and to identify how their needs can be addressed. This summary outlines the review of prevalence and associated needs compiled to provide background information for the programme.

No One Knows examines both learning disabilities, as defined in the Valuing People White Paper (Department of Health 2001), and learning difficulties, which include a wider range of issues such as dyslexia and Asperger's syndrome. The focus is less on intellectual functioning as on adaptive issues that impact upon a person's experience in the criminal justice system. Most research in the UK and internationally, on the other hand, follows a relatively strict definition of learning disability based on IQ measures of 70 or below, or focuses on dyslexia with relatively limited reference to other learning difficulties.

Prevalence

The evidence in the literature internationally is far from clear whether people with intellectual impairments or learning difficulties commit any more offences than those without such impairments. Both social and biological factors appear relevant, particularly for people with 'borderline' intellectual functioning.

Even within strict definitions of learning disability and learning difficulty, no agreed levels of prevalence are evident. While the Department of Health in England and Wales (1998) estimates that 2% of people in the general population have an intellectual disability, researchers disagree whether this rate is any higher in populations of offenders. Estimates of prevalence amongst offenders range from 0% - 85%, depending on the assessment tools used, the stage in the criminal justice process at which learning disability is assessed, whether assessments are conducted individually or in groups, the level of training of the people administering the assessments, and variations in policies for diversion. Average estimates of prevalence of learning disability amongst offenders in the UK range from 1 – 10%.

The main methods of collecting information on learning disabilities and offending include assessments of offending behaviour amongst people known to learning disability services; assessing learning disability amongst known offenders; and self-report studies. Research into people known to specialist services can be problematic both because not everyone with a learning disability will be in contact with such services (for example because their disability has not been identified or because of varying criteria for eligibility) and because workers in these services may underestimate or indeed deliberately under-report criminal activity amongst their clients. Conversely, assessments of learning disability amongst known offenders varies at each stage of the criminal justice process as people are diverted from the system. Assessments are not conducted routinely and may rely on information collected prior to reception into custody, for example, which vary in their accuracy and may never reach the relevant prison or young offender institution. Finally, self-report methods are unreliable because of poor accuracy in recall; hesitance to disclose difficulties or disabilities; underestimates of significance of behaviour; and a tendency for some people to self-identify as learning disabled when clinical assessments suggest they fail to meet the formal criteria for this.

Research into learning difficulties amongst offenders reveals a similar lack of consensus, though figures appear slightly more consistent. With regard to dyslexia, for example, estimates of prevalence amongst offenders range from 4%-56%. However, the general agreement in prison-based studies is a rate of about 30% dyslexia, though with rates of serious deficits in literacy and numeracy in general reaching up to 60%.

For both learning disabilities and learning difficulties, precise information about prevalence amongst black and minority ethnic groups is virtually non-existent, and very limited information is available regarding women offenders. Differences between adults and young people in custody have been fairly well-documented though again reflect the same lack of consensus evident in the research overall.

Despite the lack of agreement in prevalence and methods of assessing this, a number of prison-based tools have been developed that may assist in ascertaining how many people are in need of additional support in the criminal justice system. Methods of assessment of need may not reach a consensus, but some form of identification is nevertheless important if needs are to be addressed.

Difficulties in the criminal justice system

People with learning disabilities or learning difficulties experience a number of problems once they enter the criminal justice system. First, without routine assessments, and with limited communication with community-based services, they are unlikely to be identified unless their behaviour gives cause for concern. Second, the general health of people with learning disabilities is often poorer than for the general population, particularly with regard to mental health. Third, without being identified, they are likely to struggle with police questioning and cautions, with the result that they may incriminate themselves even if they are innocent.

People with learning disabilities or learning difficulties often have trouble complying with community-based orders. Research into anti-social behaviour orders, for example (BIBIC 2005), found that people with learning disabilities or autistic spectrum disorders often did not understand the terms of the order or why the order had been imposed. This makes compliance with such community-based penalties highly unlikely, which in turn increases the likelihood of eventual custody.

Once people with learning disabilities or learning difficulties reach custody, they are likely to have difficulty understanding and adjusting to complex rules and regimes. They end up being targeted by other prisoners and barred from available programmes, including offending behaviour programmes, due to their impairments. They respond either by lashing out at others or by isolating themselves – or being isolated by prison staff for their own protection – thereby increasing their vulnerability to problems such as mental distress and suicide.

One question is whether diversion from the criminal justice system offers a better alternative to support offenders with learning disabilities or learning difficulties. The evidence suggests that this is not necessarily the case, at least when a custodial disposal is considered necessary. While more supports and appropriate activities are available in specialist health service facilities for learning disabilities, offenders diverted into the health care system tended to remain in custody longer than they would have in the criminal justice system. Due process considerations may be sidelined in favour of 'treatment', with the risk that learning disabled offenders become 'lost' in the health care system.

Problems in provision

Difficulties in the provision of support for people in the criminal justice system with learning difficulties and learning disabilities again centre around whether these issues are identified. Even where vulnerability is evident, provision of support does not apply equally to defendants under law (Seden 2006). Further, cross-over between services for learning disabilities and learning difficulties and programmes for offenders is patchy at best and non-existent at worst. Strict definitions of learning disabilities mean that people assessed as 'borderline' may not be eligible for the community-based support they need.

Equally problematic is the identification of needs without having the facilities to address them. Prison staff expressed a need for training and for defined policies about how to address the needs of people with learning disabilities or learning difficulties. In prisons, the length of stay in an establishment is crucial in determining what support prisoners may receive and what links can be established with community-based services. Informal approaches to throughcare and after-care for people serving shorter sentences mean they are not likely to receive follow-up support in the community. Even where services exist, these may not be located near prisons, nor will prisoners necessarily be released to local communities. Variation in provision, both in terms of existence and quality, repeatedly stands out in the literature as a problem. Custody may be the only opportunity some people have of benefiting from some services.

Examples of good practice

Assessment of offenders for learning disability and learning difficulties is inconsistent at best. Elements of good practice are evident despite this. The use of speech and language therapists in prisons and young offender institutions stands out as an example in which assessment and constructive support benefited both staff and prisoners. Research on such initiatives gave repeated examples of reductions in violence and overall improvements in behaviour. Offending behaviour programmes adapted specifically for people with learning difficulties or learning disabilities also existed in some establishments.

Conclusions

This summary highlights the fact that, regardless of precise numbers, many offenders have learning difficulties or learning disabilities that interfere with their ability to cope within the criminal justice system. They are at risk of continued offending because of unidentified needs and consequent lack of support and services. They are unlikely to benefit from conventional programmes designed to address offending behaviour, are targeted by other prisoners when in custody, and present numerous difficulties for the staff who work with them, especially when these staff are often untrained and unfamiliar with the challenges of working with this group of people.

A number of ways forward have been identified, including staff training and joint training for people in different areas of criminal justice; better use of supports for vulnerable defendants; and assessment of offenders for learning disabilities at the earliest possible stage so the police, courts, probation and social work teams, and prisons will be able to work with them appropriately. Initiatives such as the use of speech and language therapists show the benefits of focusing on "choice, control, and participation" rather than "vulnerability, risk, and dependency", as the Disability Rights Commission emphasises (2005: 34), for people with learning difficulties or learning disabilities.

1 Introduction

1.1 In 2005, the Prison Reform Trust received funding from The Diana, Princess of Wales Memorial Fund for three years to examine learning disability and learning difficulties amongst offenders. The programme, *No One Knows*, seeks to gain a better understanding of the experiences of this group within the criminal justice system and to identify how their needs can be addressed. This paper reviews prevalence and associated needs to provide background information for the programme. It summarises the research regarding prevalence and policy throughout the UK, drawing international comparisons where appropriate. While not a comprehensive review, it highlights main themes and identified needs common in much of the recent work in this field.

1.2 The information used in this review was gathered largely from published and unpublished material already known to the members of the programme team and advisory group, many of whom are actively involved in research in this field. Additional material was collected from internet searches and specialist databases such as Ingenta. Finally, twelve interviews and one group discussion were conducted either personally or over the telephone with professionals in both health and criminal justice throughout the UK.

2 Background

Definitions

2.1 Across the UK, the term 'learning disability' is currently the most accepted terminology and has largely replaced the term 'mental handicap' (though the latter is still used in the Mental Health (Northern Ireland) Order 1986). The term 'intellectual disability' is also used, though the British Psychological Society (2000) comments that this risks misconstruing the concept as purely an intellectual impairment rather than one that takes into account difficulties with adaptive or social functioning. 'Mental retardation' remains the term most commonly used for learning disability in North America.

2.2 The British Psychological Society (2000) cites three core criteria for learning disabilities, namely significant impairment of intellectual functioning; significant impairment of adaptive/social functioning; and age of onset before adulthood. All three of these must apply for a person to meet the formal definition of learning disabled. The American Psychiatric Association (1994) definition is largely similar, defining learning disability as "(i) significantly subaverage intellectual functioning: an IQ of approximately 70 or below on an individually administered IQ test; (ii) concurrent deficits or impairments in present adaptive functioning... [and] (iii) onset is before age 18 years."

2.3 In England and Wales, one of the most widely accepted definitions of learning disability comes from the Valuing People White Paper (Department of Health 2001). The White Paper defines learning disability as the presence of "a significantly reduced ability to understand new or complex information, to learn new skills (impaired intelligence), with a reduced ability to cope independently (impaired social functioning)" (para. 1.5). This definition includes people with a broad range of disabilities and, in contrast to many other definitions of learning disability, cannot be assessed primarily on the basis of IQ:

The presence of a low intelligence quotient, for example an IQ below 70, is not, of itself, a sufficient reason for deciding whether an individual should be provided with additional health and social care support. An assessment of social functioning and communication skills should also be taken into account when determining need. (para. 1.6)

Valuing People goes on to explain that many people with learning disabilities also have physical or sensory impairments and will include some (but not all) autistic spectrum disorders. Finally, the report draws a distinction between learning disability and the wider issue of learning difficulties, which encompasses a different range of issues.

2.4 The Mental Health Act (1983) in England and Wales defines mental impairment as "incomplete or arrested development of mind and impairment in intelligence and social functioning and conduct disorder", breaking this into two categories of 'significant' and 'severe'. Definitions in the Mental Health (Scotland) Act 1984 and the Mental Health (N. Ireland) Order 1986 are virtually identical to this. The American Association on Mental Retardation (1992) adds "substantial limitations in present functioning" to the UK definitions. The International Classification of Diseases is slightly more detailed (WHO 1992), describing "mental retardation" as "a condition of arrested or incomplete development of the mind, which is especially characterized by impairment of skills... i.e. cognitive, language, motor and social abilities." The WHO definition gives bands of learning disabilities as follows: mild IQ 50-69; moderate 35-49; severe 20-34; and profound <20.

2.5 The formal definition of learning disability for diagnostic purposes is generally accepted as an IQ below 70 (though in the United States and Australia, confusingly, the preferred term is “developmental and intellectual disabilities”, as “learning disability” includes specific learning difficulties such as dyslexia; Murphy et al. 2000). However many people who have IQs higher than this may experience difficulties with cognition, comprehension, and communication. People with learning difficulties (but not necessarily disability; Holland 2006) therefore include people with dyslexia or dyspraxia; people with speech, language, and communication difficulties; people with sensory impairments such as visual or auditory problems; people with attention deficit disorders; and those with autistic spectrum disorders such as autism and Asperger’s syndrome. These conditions may not always exist from an early age but can begin for example with brain injury or illness (BIBIC 2005).

2.6 Definitions of learning difficulty and learning disability for research purposes vary widely throughout the literature, taking into account both strict definitions based on IQ and wider definitions that include other types of impairment. McBrien criticised much UK research both for “... a narrow consideration of the arbitrary IQ under 70 cut-off point” (2003: 101) and for having used “...less than adequate classification of intellectual disability, which renders resulting prevalence rates unreliable” (ibid.: 99; also McAfee and Gural 1988). Importantly for this programme, the Prison Service in England and Wales does not currently differentiate between learning disability and learning difficulty, so the (few) official figures available (such as the 19% of the prison population described as having a learning difficulty in HM Prison Service 2005) do not adequately identify need (Freer et al., n. d.).

2.7 The current programme, *No One Knows*, adopts the wider definition of the Valuing People report as well as learning difficulties that go beyond that definition. Its investigations therefore incorporate both learning difficulties and learning disabilities, as many people who do not meet the formal criteria for learning disabilities will have difficulty with ‘adaptive functioning’ (Whittaker 2004; Mercer 1973; Freer et al., n. d.) and therefore experience difficulties in their contact with the criminal justice system.

Links between learning disability/learning difficulties and offending

2.8 Some research raises questions about the existence of links between intellectual impairment and offending. West and Farrington (1973), Farrington (1995 and 2000), and Hodgins (1992), among others, identified that having an intellectual disability (or at least ‘intellectual disadvantage’) is one of many risk factors for crime. Clegg and colleagues’ (1999) longitudinal study added that children with developmental language disorders tended to develop mental health problems that in some cases resulted in criminal activity. Davidson et al. (1995), in contrast, show in their research in Scotland that prisoners tend to have poor literacy and poor educational attainment but an average IQ. Van Brunschot and Brannigan (1995) note that although a considerable amount of data support the idea of a link between IQ and crime in men (namely that male offenders appear to have a lower IQ than male non-offenders), this is not the case for women. Balthazar and Cook (1984) have found not only a lack of relationship between violent crime in females and IQ, but also no relationship per se between imprisonment and IQ in women. Van Brunschot and Brannigan state that either a different theory is required to explain women’s offending or that IQ is not a causal factor. This contrasts, however, with Hodgins’ longitudinal research (op cit.) that reported higher rates of developmental disabilities amongst women who had a criminal conviction by the age of 30, especially for women convicted of violent offences.

2.9 In the United States, MacEachron (1979) compared offenders with intellectual disabilities to those with borderline abilities in two prisons and found no significant differences across a number of variables including severity of the most recent offence, length

of sentence, recidivism, participation in rehabilitation programmes, recommendations for and revocation of parole, and the use of probation as a juvenile. The only significant distinction MacEachron found was that people with intellectual disabilities were involved in fewer violent incidents in prison. MacEachron concluded that the intellectual differences between the two groups were largely immaterial, with social and legal variables more relevant to offending than intelligence and little empirical support for a conceptual link between mental impairment and criminality.

2.10 McBrien and colleagues (2003) noted that offences by people with intellectual disabilities generally show the same range as the general population. They did however find significant differences between people with learning disabilities who had been in contact with the criminal justice system and those who had not, and differences between those in the criminal justice system who had and had not been convicted. Those who had entered the criminal justice system were more likely than those who had simply shown 'risky' behaviour to offend against children, solicit for sex, misuse substances, and associate with known offenders. Those who had been convicted were more likely to have set fires and to have offended against children than those who were not convicted. These differences were not apparent, however, when behaviours were collapsed into more general categories of offences. A higher rate of psychiatric disorder (and consequent use of the Mental Health Act) was evident amongst people with intellectual disabilities who committed offences, particularly for those with convictions. Holland (2004) adds that intellectually disabled offenders do not commit large amounts of crime (or at least not those that lead to arrest and conviction), nor do they commit certain types of offences, such as fraud, motor offences, and 'white collar' crime. Vaughan and colleagues (2000) added that drugs and alcohol were highly relevant to the behaviour of all groups of mentally disordered offenders they studied except those with learning disabilities.

2.11 Herrington et al. (2005) suggested that crimes of violence, arson, and sexual offences may be more prevalent amongst people with learning disabilities. Einat and Einat (2006) found significant differences amongst prisoners in Israel that suggested that offenders with learning disabilities who leave school early are more likely to begin offending at an early age compared to people, with or without learning disabilities, who stay in school. Murphy et al. (2000) also found this amongst prisoners in the Republic of Ireland, but interestingly found no differences between those with IQs above and below 70 regarding suspensions or expulsions from school or repeating a year while at school. School exclusions are common for young offenders generally, though exclusion may reduce the likelihood of any learning difficulties being identified. Mottram and Lancaster's research in three prisons (2006) found that 85% of the young offenders in their sample had been excluded from school at some point, with 30% excluded more than ten times.

2.12 Murphy and Mason (2005) note that poverty and social deprivation are often associated both with a raised prevalence of offending and with intellectual disability. They explain that social deprivation often characterises the background of people with intellectual disabilities who have offended, along with high incidence of family breakdown and disorder in childhood (Day 1988; Winter et al. 1997; Barron et al. 2004), long histories of anti-social or 'challenging behaviour' (Day 1988; Winter et al. 1997; Murphy 2005), high rates of adult unemployment (Murphy et al. 1995; Barron et al. 2004), and a raised incidence of abuse in their own histories (Lindsay et al. 2001 and 2004; Barron et al. 2004). Holland (2004) comments that both biological and subcultural influences, as well as the involvement (or not) of the criminal justice or health care systems, are likely to determine whether people with intellectual impairments will be classified as offenders. He further suggests that these varying influences show that they are a group with complex needs and may therefore be difficult to engage in services. Indeed, Holland notes that people who do not meet the

full criteria for learning disabilities but who nevertheless show evidence of emotional and behavioural disorders may be particularly difficult to engage.

2.13 Relatively few studies have included comparison groups of offenders without learning disabilities. One exception is a self-report study of offending in adolescents which found that those with intellectual disabilities were no more likely to have offended than other adolescents, once poverty and social deprivation were taken into account (Dickson et al. 2005). McBrien and colleagues (2003) state that, amongst people with intellectual disabilities, behaviour amounting to offending occurs mainly, but not exclusively, amongst those with mild disabilities. They assert that the distinction between 'challenging behaviour' and offending can be very fine. Arguably this makes recognition of learning disabilities amongst offenders even more difficult, as they are more likely to be 'borderline' cases.

2.14 In sum, these studies, along with larger reviews of the literature on the relationship between offending and developmental disabilities (Murphy and Holland 1993; Murphy and Mason 1999; Holland et al. 2002) are far from clear whether people with intellectual impairments commit any more offences than those without such impairments (Holland 2004).

2.15 Arguments about links between learning difficulties such as dyslexia have been equally mixed, not least because of the variation in assessments of prevalence of such difficulties in offender populations (see below). The British Dyslexia Association (BDA) suggests that dyslexia may be part of a 'causal chain' that increases the likelihood of criminal behaviour (i.e. by causing educational failure, making satisfactory employment more difficult to find) rather than being a direct cause in itself (BDA and HMYOI Wetherby 2005; BDA 2004). Research by Kirk and Reid (2001; also NIPS 2000) into dyslexia amongst young offenders in custody supports this theory. The BDA's research into young offenders in Bradford (2004) showed that problem behaviour amongst young people with dyslexia was evident early and was often identified before (or indeed instead of) the dyslexia. In their sample, over a third (37%) of the young people they identified as dyslexic had a statement of special educational need – all of which were for behavioural problems rather than for dyslexia.

2.16 Ideally learning difficulties such as dyslexia should be identified as early as possible to ensure appropriate support is available and to reduce the risk of such difficulties being part of a 'causal chain' of offending. The reality is that dyslexia amongst many young people is not recognised or assessed. The BDA therefore argues for vigorous efforts to identify dyslexia amongst young offenders, prisoners, and people serving community-based penalties in order to provide appropriate support and improve occupational opportunities, thereby reducing the likelihood of reoffending (BDA and HMYOI Wetherby 2005). The authors go so far as to assert that "To neglect dyslexia as a potential causal factor in offending or to ignore the educational needs of dyslexic offenders would be to squander significant opportunities for reducing reoffending" (ibid.: 11). Tomblin et al. (2000) and Humber and Snow (2001) extend this link to include difficulties with speech and literacy and low levels of education as increasing the risk of behavioural problems and offending.

3 Prevalence

3.1 The Department of Health in England and Wales (1998) estimates that 2% of people in the general population have an intellectual disability. About 17% of the general population have IQs below 85, but this proportion increases amongst offenders (Barak 1998; Beinart et al. 2002; Sheldrick 1995; Snowling et al. 2000); the proportion of prisoners in Rack's (2005) research with IQs in this range was about 60%.

3.2 None of the prison services in the UK collect data centrally on the number of prisoners with disabilities, including learning difficulties and learning disabilities, nor are these collected centrally for community-based criminal justice services (Williams and Atthill 2005). The Adult Learning Inspectorate in England and Wales has no national plan for the diagnostic assessment of prisoners with learning disability or learning difficulties, nor, as far as can be ascertained, is this currently planned in Scotland or Northern Ireland. Screening of prisoners on reception and basic skills assessments in education departments may highlight problems, but such testing is not systematic (Murphy et al. 2000), nor are these tools specific enough to identify learning disabilities or learning difficulties (Williams and Atthill 2005). Psychological assessments tend to focus on forensic need or on levels of motivation for offending behaviour programmes (ibid.). Some establishments, such as Hydebank Wood young offender centre in Northern Ireland, conduct assessments of all entrants to prison where possible, but at present these tests focus solely on dyslexia. Undue weight may be placed on dyslexia in such circumstances (ibid.). Myers (2004) concluded that much scope is evident for greater coordination of information and assessment, particularly within prisons.

3.3 The most consistent information about the number of offenders with learning difficulties or learning disabilities is that no one agrees on how many exist. Table I summarises the studies mentioned in this review. A number of studies internationally have suggested that people with intellectual disabilities are over-represented in prisons (Hayes 1997; Coid 1984). The agreed figure in US-based research estimates about a 10% prevalence of intellectual disability in prisons (Allen 1970; Reichard et al. 1980; Denkowski et al. 1983), probably because of Brown and Courtless' (1971) findings that 9.5% of people in prison had IQ below 70.

3.4 Others have been equally adamant that this is not the case (Murphy et al. 1995). Critics of the methodology in Brown and Courtless' research in the US, for example, believe that MacEachron's (1979) estimate of about 3% is more reliable (Murphy et al. 1995; Noble and Conley 1992). Holland (2004) notes that no studies in the UK have reported rates of more than 2% in prison with an IQ below 70. In the UK, Coid (1988) found that only 34 of 10,000 remands admitted to HMP Winchester were considered 'subnormal', though 5.1% of those on remand for psychiatric reports were known to services for people with developmental disabilities. Gunn et al. (1991) found only 7 of 1,769 sentenced prisoners who were described as having 'mental retardation'. A 'snapshot' of prisoners received into HMP Perth in Scotland identified only 1 of 91 adult male prisoners who met the formal definition of a learning disability, using the Hayes Ability Screening Index (HASI; Hayes 2000; Robinson 2005; Lundie 2006). Two-thirds of the sample, however, had IQs that placed them within the 'borderline' range of intellectual functioning (Robinson 2005).

3.5 Menolascino's (1974) early review of research into prevalence in the US confirmed the wide variation of opinions, citing rates of 0.5 - 55% frequency of criminal behaviour amongst "mentally retarded" individuals. A more recent comparison of prevalence (Herrington et al. 2004) showed rates of learning disability amongst offenders from 0% - 36%, while a review of rates internationally reported high frequencies in Sweden, Norway, Israel, North America,

Table 1: Estimates of prevalence of learning disability (LD) amongst offenders

Author	Subjects	Prevalence
United Kingdom		
Department of Health (1998)	general population	2% IQ <70
		17% IQ <85
Rack (2005)	prisoners	60% IQ <85
Coid (1998)	remand prisoners	34 of 10,000 'subnormal'
Gunn et al. (1991)	sentenced prisoners	7 of 1,769 'mental retardation'
Robinson (Scotland; 2005)	prisoner receptions	1 of 9 IQ<70
		2/3 'borderline'
Myers (Scotland; 2004)	secure settings	19 prisoners across 16 prisons known with LD or ASD
Herrington et al 2003	review; male young offenders	0-36% LD
	opinions of 'key professionals'	up to 85% LD
Murphy et al (1995)	review of US assessments of prisoners	2% LD
Lyall et al. (1995)	London police stations	5% LD
	In contact with LD services (excl adult males)	2% offend in previous year
Gudjonsson et al. (1993)	police stations (excluding adolescent males)	9% LD
McBrien et al. (2003)	1,326 known to LD services	9.7% likely contact with CJS for offending
		26% offended or 'risky behaviour'
		11% convicted
McNulty et al. (1995)	known to LD services (excl adolescent males)	5% LD
Oliver et al. (2003)	known to LD services	4-14% challenging behaviour at some time
Seaward & Rees (2001)	known to LD services	1.24% with LD may have offended
Mason (1998)	subject to probation orders	6% LD
Singleton et al. (1998)	male remand prisoners	11% LD
	male sentenced prisoners	5% LD; 17% IQ 70-75
	female sentenced prisoners	20% IQ 70-75
	male and female remands	21% IQ 70-75
Lader, Singleton & Meltzer (2000)	young offenders	average IQ <80
Harrington & Bailey (2005)	young offenders in custody	approx 25% IQ <70
		approx 33% IQ 70-80
Mottram & Lancaster (2006)	prisoners	6.7% LD
		25.4% IQ 70-79
	female prisoners	40% LD or borderline
	male prisoners	30% LD or borderline
	male young offenders in custody	27% LD or borderline
United States		
Brown & Courtless (1971)	prisoners (surveys from warders)	9.5% IQ <70
Menolascino (1974)	review	0.5-55% criminal behaviour amongst the 'mentally retarded'
Other international		
Einat & Einat (international 1971)	review	30-76% LD for prisoners
		25-63% LD for non-incarcerated offenders
Hayes (Australia 1993-1996)	court population	14% LD
	Aboriginal court population	36% LD
Hayes & McIlwain (Australia 1988)	prisoners	2% IQ <70
Hayes (Australia 1999)	prisoners	22% LD
Murphy et al (Rol; 2000)	prisoners	28.8% IQ <70

Australia, and the UK, ranging from 30 – 76% for prisoners and 25 – 63% for non-incarcerated offenders (see Einat and Einat 2006). In Herrington and colleagues' research, "key professionals" estimated up to 85% prevalence of learning disabilities amongst male young offenders when borderline abilities were included (IQ up to 75), though no formal assessments were conducted.

3.6 Even within agreed definitions such as IQ scores of less than 70, disagreements about the most appropriate methods for assessing prevalence makes finding a consensus difficult. The stage at which tests are administered, administration in groups or as individuals, and training of those administering the tests all have a measurable impact in the scores obtained. The next section examines some of the research into prevalence that has been conducted.

Methodological issues

3.7 A number of methodological problems are evident in the research to date on prevalence of learning difficulties and learning disabilities – problems which Casey and Keilitz (1990) argue account for 26% of variance in prevalence rates. In the United States, for example, Brown and Courtless (1971) sampled over 80% of the penal and correctional institutions in the USA, including more than 90,000 prisoners. As mentioned above, they found that an average of 9.5% of reported IQ scores fell below 70. However, most of their data came from surveys completed by prison governors rather than from psychological test reports. In addition, the criteria used to determine learning disability varied considerably between states (Murphy et al. 2000). Hayes (1997) reported that one Danish study found a prevalence rate of 10% in the general prison population, but inspection of the original study revealed that the data was collected in the 1920s.

3.8 Noble and Conley (1992) found that IQ scores tend to be lower when people are tested shortly after entering prison, when tests are administered in groups rather than individually, and when tests other than the WAIS-R are used. Murphy and colleagues (1995) report that tests using the WAIS-R administered on an individual basis in the United States produced the lowest and (they argue) the most valid prevalence rates of roughly 2% - equivalent to the rate in the general population. Individual rather than group testing generally appears to produce more accurate results (Murphy et al. 2000).

3.9 Differences are also apparent depending upon who asks the screening questions, such as custody officers (e.g. Lyall et al. 1995) or researchers (e.g. Winter et al. 1997). Rates of prevalence are likely to be higher at earlier stages of the criminal justice process, such as at arrest compared to prison (Hayes 1999). Rates of learning disability have been assessed as higher amongst people detained in police stations (5% in Lyall et al. 1995 and 9% in Gudjonsson et al. 1993) than amongst people in prison, for example. This may depend on the effectiveness of policies for diversion of people with intellectual disabilities from the criminal justice system (McBrien 2003; Murphy et al. 1995) or upon initial stress interfering with the validity of the measures (Murphy et al. 1995). In England and Wales, the Reed Committee (1992) and the Mansell Committee (1993) each recommended that people with intellectual disabilities should not generally be sent to prison. In theory, then, the numbers reaching prison should be low.

Studies of people known to services for learning disabilities

3.10 One method of surveying offenders with learning disabilities is to contact services that work with people with intellectual impairments to assess how many have been involved in offending. Based on their research into 1,326 adults known to services for people with intellectual disabilities, McBrien et al. (2003) suggest that 9.7% of the people in touch with these services will have had contact with the criminal justice system for offending at some time in their lives – higher than the rates McNulty et al. (1995) and Lyall et al. (1995) reported in their research (see below). McBrien and colleagues reported that a quarter (26%) of people with intellectual disabilities known to services had committed offences or displayed 'risky behaviours' that could be construed as offences, while 11% of the sample had been convicted at some time. Eleven people (0.83%) were serving a sentence at the time of the study. Vaughan and colleagues (2000), in a study of mentally disordered

offenders and community teams in Wessex, found that 13% of the people known to intellectual disability teams fitting a definition of a 'mentally disordered offender'. A larger percentage in that research showed 'challenging behaviour', though Oliver et al. (2003) reported rates of 4-14% "challenging behaviour at some time" (Herrington 2005: 29) amongst people known to learning disability services.

3.11 Similar studies show equally varying proportions. Based on people known to health care professionals in one NHS Trust, Seaward and Rees (2001) estimated that 1.24% of people with learning disabilities may have committed an offence. McNulty et al. (1995) found that 17 people in contact with services for learning disabilities (5%) had police involvement in the previous year. Of the adults with intellectual disabilities in research by Lyall et al. (1995), only seven (2%) had ever been in contact with the police as a defendant, none of whom had been prosecuted. However Holland (2004) criticises both McNulty and colleagues and Lyall et al. for failing to include adolescent males – those at most risk of offending - in their samples.

3.12 One of the problems with this method is that not everyone with learning disabilities is known to relevant services. Research for the Department of Health in England and Wales (1998) noted that social services had a database of all such adults currently in receipt of services, but not those who may have accessed services in the past. Many adults with mild learning disabilities lose touch with services when they leave school (Richardson and Koller 1985; Murphy 2005). This assumes, of course, that they received services at an earlier stage, which may not necessarily be the case. Lyall et al. (1995) estimated that they found only half of the people who might be expected to have an intellectual disability in the geographical area studied, most likely missing people with mild intellectual disabilities who were not receiving services.

3.13 Further, carers may hesitate to report offences committed by people with learning disabilities, nor are such offences always prosecuted (even though they may be more easily detected; Brown and Stein 1997; Murphy 2000). Holland (2004) explains that cases may not proceed due to lack of criminal intent; carers may not report offences for fear of what might happen both to person and to carer (Lyall, Holland, and Collins 1995); and victims may also have a developmental disability, which can reduce the likelihood of reporting even further (Thompson 1997; Seden 2006). McBrien, Hodgins, and Gregory (2003) found a lack of knowledge amongst carers about the forensic backgrounds of those in their care. For example, the carers of 11 people said to have previous convictions and of five people with current convictions did not know the nature of the offending – information the authors note might be essential to guard against recidivism. Lyall, Holland, and Collins (1995) concluded that staff in intellectual disability services have difficulty recognising what constitutes an offence and judging what action to take, even when the incidents are serious. McBrien (2001) found that care staff in residential homes were reluctant to report even serious crimes such as rape and assault by people with intellectual disabilities. This means that assessments of prevalence of offending amongst people with learning disabilities are likely to underestimate the extent of criminal behaviour (Ashman and Duggan 2004; Holland et al. 2002).

Studies of offenders

3.14 The opposite approach to assessing prevalence is to measure levels of learning disabilities amongst known offenders. McBrien and colleagues (2003) argue that people with intellectual disabilities are not over-represented in the prisons in the UK (Birmingham et al. 1996; Brooke et al. 1996; Murphy et al. 1995), but concede that they are over-represented at various stages of the criminal justice system. For example, people with

intellectual disabilities make up 5 - 9% of those detained at police stations (Gudjonsson et al. 1993; Lyall et al. 1995) and 6% of those on probation orders (Mason 1998).

3.15 A large-scale national survey of prisoners in England and Wales (Singleton et al. 1998) used the Quick Test (Ammons and Ammons 1962) to assess intellectual functioning. They found that 11% of men on remand and 5% of sentenced men had IQs of 70 or less, with 21% of male and female remands, 17% of male sentenced prisoners and 20% of female sentenced prisoners having IQs from 70 - 75. Further evaluation of the data (Lader, Singleton, and Meltzer 2000) showed even lower scores for young offenders, with average scores equivalent to an IQ less than 80. Unlike the adult population, no differences were evident between males and females or between remanded and sentenced young offenders.

3.16 McBrien (2003) cast doubt on these, saying that results from the Quick Test do not agree with those of the full WAIS-R assessment (French, Brigden, and Noble 1995; Wechsler 1981). Her review of the literature suggests that individually administered Wechsler-based IQ tests, including the abbreviated WASI test (Wechsler 1999), seem most appropriate. Harrington and Bailey (2005) used the WASI test on 301 young offenders in custody and in the community, finding that almost a quarter had IQs under 70 and a further third had borderline IQs of 70 - 80. However, the authors comment that commonly used measures of intellectual functioning, including the WASI, cannot easily differentiate between people with intrinsic learning disabilities or learning difficulties and those with low scores due to lack of education.

3.17 Research conducted by the University of Liverpool in three prisons in England (Mottram and Lancaster 2006; Mottram 2007) compared assessments of prevalence of learning disabilities using the WAIS (Wechsler Adult Intelligence Scale), the VABS (Vineland Adaptive Behavioural Scale), and the HASI (Hayes Ability Screening Index) screening tools in a local prison, a women's prison, and a young offender institution. Using these tools, the researchers found significant differences in IQ scores between the prisoners and standardised norms.

3.18 Mottram and Lancaster explain that about 8% of the general population scores within the learning disabled or 'borderline' group. In their research, the overall average for prisoners assessed either as learning disabled or borderline learning disabled for the three sites was 32%, with 6.7% assessed as learning disabled and a further 25.4% as 'borderline' (defined here as IQ from 70 - 79). Based on a prison population in England and Wales of about 80,000, these figures equate to over 5,000 people with learning disabilities in prison on a given day. An additional 19,500 prisoners would be either learning disabled or borderline learning disabled, including 6,800 (7.6%) with an IQ between 70 and 74 who would be considered by services for people with learning disabilities (Mottram 2007). Mottram and Lancaster (2006) also reported differences between female prisoners compared to both adult and young male prisoners. The women's prison held a higher proportion of women assessed either as learning disabled or borderline learning disabled (with 40% of prisoners scoring within this range) than either of the other prisons (with 30% and 27% within this range).

3.19 Myers' (2004) research into learning disability amongst people in secure settings in Scotland found that only 19 people across 16 prisons in Scotland had been formally assessed or diagnosed as having a learning disability or autistic spectrum disorder (ASD). The fact that routine assessments for these conditions were not conducted, however, led prison staff and managers to believe that many more people with learning disabilities or ASD were in custody. Identifying this group in secure settings relied upon information made available at reception; through routine assessments such as reception interviews (which, in

prisons, do not routinely include questions that would identify learning disability or ASD); or through assessments conducted in response to concerns about the individual. Myers noted that identifying people with learning disabilities or ASD through routine assessments in secure settings required an awareness of these conditions in order to recognise them as the reason for someone's behaviour or responses. For this reason she suggests that assessment tools may be less important than enhanced awareness of the possibility of learning disabilities and learning difficulties as well as access to professionals with an expertise in these issues.

3.20 Cultural variations in prevalence of learning disabilities have also been evident (Herrington 2005), though such comparisons in offender populations are few and far between. Hayes (1993 and 1996) reported IQs under 70 amongst 14% of the court populations in Australia, though this increased to 36% for Aboriginals. Again, this may be a problem with the validity of the measure for different ethnic populations and levels of education rather than any intrinsic intellectual differences.

3.21 McBrien (2003) criticises the lack of attention to measures of adaptive behaviours in most studies of intellectual disability, despite the importance of this for accurate diagnosis. One Australian study found that 2% of prisoners had IQs of less than 70, but an analysis of the adaptive behaviours of those with 'borderline' IQs of 70 to 79 increased the proportion of those considered to have an intellectual disability to 12.5% (Hayes and McIlwain 1988). Technically, however, people with intellectual disabilities should have both an IQ of under 70 and difficulty with adaptive behaviours. Murphy et al. (1995) therefore assert that assessments of social functioning would reduce the proportion of people considered to have an intellectual disability, since not everyone with an IQ under 70 may have difficulty with adaptive functioning. Hayes and McIlwain's research, however, suggests that people who are not technically learning disabled may still have problems with adaptive functioning that make their ability to cope similar to people whose IQs meet the formal criteria for intellectual disability.

3.22 In McBrien's view, the most robust method of assessing prevalence of learning disabilities is to assess both intellectual functioning and adaptive behaviour, though such a method is both time-consuming and intrusive. In the UK, only Mason and Murphy (2002, for people on probation) have done this. The difficulty, McBrien notes, is the importance for measures of adaptive behaviours to be conducted by someone who knows the person well, which is not possible in larger-scale assessments of prevalence.

3.23 In the Republic of Ireland, Murphy et al. (2000) used the Kaufman brief intelligence test (KBIT), the wide range achievement test (WRAT), the vocabulary sub test from the Weschler adult intelligence scale revised (WAIS-R), and the national adult prisoner survey (NAPS) on 10% of prisoners across 14 prisons. Over a quarter of the sample (28.8%) scored below 70 on the KBIT, which they said suggested a significant degree of intellectual disability in the prison population there. Results from the other tests confirmed this, though whether use of the full WAIS-R or WAIS-III would produce similar results is less clear. Differences in policies for diversion may also account for some of this difference in prevalence, as noted elsewhere.

3.24 Regardless of actual prevalence, some researchers have raised concerns over increasing proportions of people with intellectual disabilities in the criminal justice system. Murphy et al. (1995) noted that policies of 'deinstitutionalisation' mean that people with intellectual disabilities who show 'challenging behaviour' may end up in the criminal justice system, where their disability may not be identified, rather than in the health care system.

This has been evident in New South Wales, Australia: Hayes and McIlwain (1988) reported a 12% rate of intellectual disability in prisons, but this had increased to 22% by 1999 (Hayes 1999). Policies for diversion may account for some of this; however, the proportion of people with a learning disability in the criminal justice system but not actually in custody was even greater.

Self-report studies

3.25 Another method of measuring the prevalence of learning disabilities is asking offenders whether they have ever been diagnosed with such problems or whether they had attended a special school. Clare and Gudjonsson (1992) found that 80% of people who fit the definition of a learning disability based on the WASI-R also had self-reported difficulties based on the screening questions. However, asking people about attendance at a special school has not been a reliable method of identification, both because respondents may not say or do not remember, and because the current trend in the UK at least is to keep children in mainstream schools where possible (McBrien 2003; see also Murphy et al. 2000 and Hayes 1998 regarding the lack of receipt of remedial services amongst learning disabled offenders while still in school). Murphy and colleagues (1995) found that very few people who said they had attended a special school could remember the name or location of school, making verification impossible. Lyall et al. (1995) and Winter et al. (1997) also found this to be the case and similarly reported problems in the accuracy of self-reports for difficulties in reading and writing.

3.26 Murphy et al. (1995) noted that none of the people in their prison sample who self-reported an intellectual disability had an IQ score under 70. About a quarter (5 of 21) of the self-report group had an IQ under 75, but so did a fifth of the control group (4 of 21). In saying this, mean verbal IQ, mean full scale IQ (which combines scores on the verbal and performance measures of the Wechsler intelligence scale), mean reading age, and mean numeracy age were all significantly lower for the self-reported group. Scores for the sample group were also higher on the general health questionnaire (indicating worse mental health), and they often had a recent history of poor mental health or admission to a psychiatric hospital. Their findings suggest that self-reporting tended to include people with borderline abilities, resulting in a higher number of false positives based on the strict definition of intellectual disability.

3.27 The authors also assert that intellectual disabilities were probably not being missed due to people being reluctant to admit to them (cf Bryan 2004), as no one in the comparison group had an IQ below 70. They claim that this suggests that fewer people with intellectual disabilities reach prison in England than do in the United States or Australia, where similar research had been conducted. Murphy and colleagues conclude that "... men with intellectual disabilities were not over-represented in prison but... there were a number of men close to the disability range who were psychologically very vulnerable" (1995: 81). McBrien notes that self-reporting therefore appears to identify a group "who are, nevertheless, substantially more disabled than offenders who do not self-report such difficulties" (2003: 99).

3.28 One problem is that people with mild learning disabilities or learning difficulties often lack awareness of the significance of their symptoms (Thornton 1997). Self-reported data had less predictive value for conduct and hyperactivity disorders (Capelin 2002), for example, and tended to over-estimate incidence of dyslexia (BDA and HMYOI Wetherby 2005; Rice 1999 and 2001). Capelin (2002) noted that some pupils were seen manifesting angry, disruptive behaviour in the classroom setting, yet indicated in the questionnaire for the research that they had no problems in these areas. In contrast, Bryan (2004) found that young offenders who self-reported learning difficulties did indeed have some of the most

wide-ranging difficulties in speech, language and communication. They did not, however, account exclusively for the most impaired group.

Learning difficulties

3.29 Another branch of research extends the definition of learning disability to include learning difficulties – arguably an even more ‘hidden’ problem. Dyslexia, one of the most common developmental disorders implicated in educational underachievement, affects 3 – 10% of both men and women, but is not reflective of IQ (Henderson 2004). About one in five adults (seven million) in England have difficulties with basic literacy and numeracy (Bryan, Freer, and Furlong 2004). Dyslexia can include a number of difficulties such as problems with reading and writing, memory deficits, organisational impairment, confusion with left/right orientation, difficulty with sequential information and concepts of time. poor physical co-ordination, delayed word retrieval, problems with visual perception, and low self esteem (NIPS 2000).

3.30 Research for the Dyslexia Action (formerly Dyslexia Institute) (Rack 2005) estimated that 20% of the 357 male, female, and young prisoners they assessed had a ‘hidden’ disability such as dyslexia and related learning difficulties such as dyspraxia and dyscalculia or those with more of an emotional or behavioural component such as attention deficit/hyperactivity disorder (ADHD) and certain forms of autism. An additional 32% of the sample had literacy difficulties unrelated to specific learning difficulties. The research concluded that IQ should not be used to determine educational provision “because hidden disabilities can occur at any level of ability” (ibid.: 24).

3.31 Assessments of dyslexia in prisons populations vary considerably. Bradley and Holroyd (2005) say that the Basic Skills Agency and the British Dyslexic Association note a higher incidence of dyslexia in prisoners (and indeed serious problems with reading in general; NIPS 2000) than in the general population. However assessments of dyslexia range from 50% amongst young offenders in custody in Scotland (Kirk and Reid 2001; Reid and Kirk 2002, using the QuickScan computerised self-assessment) and 56% for young offenders in Bradford (British Dyslexia Association 2004) to 4% in a random selection of prisoners from seven establishments in England (Rice et al. 2002; Black et al. 1990). The DYSPEL project in the London area (Klein 1998) reported rates of 40-50% dyslexia amongst offenders, while Morgan (1997) found strong indicators of dyslexia in 52% of probationers.

3.32 Prisoners in Henderson’s (2004) research showed varying levels of dyslexia. While 57% of the 70 prisoners she assessed had reading levels below average (indeed, the Basic Skills Agency initial assessment recorded 60% of prisoners with a reading age at age five or less; Herrington 2005), levels of dyslexia ranged from 11 – 50% depending on the definition used. Ethnic background (in Henderson’s research, many prisoners spoke in Jamaican patois) can also compromise the accuracy of assessments of literacy. Similarly, Alm and Andersson (1997; see also Svensson et al. 2001) reported that literacy difficulties significantly impaired 64% of Swedish prisoners in their sample, while 31% were assessed as having dyslexia. Research by the British Dyslexia Association and HMYOI Wetherby (which found rates of 31% dyslexia amongst young offenders, equal to findings in Davies and Byatt 1998, and a further 32% with borderline symptoms) explained that results depend on how dyslexia is defined and assessed and can be complicated by social and educational characteristics and generally lower levels of literacy and verbal intelligence. The correlation between literacy and intelligence is much lower amongst offenders than in the general population (BDA and HMYOI Wetherby 2005).

3.33 Research for the Dyslexia Action (formerly Dyslexia Institute) (Rack 2005) assessed prisoners for dyslexia in eight prisons in Yorkshire and Humberside. Rack's research found that simple interview and screening procedures tend to over-estimate rates of dyslexia, while excluding people with low IQs resulted in under-identification. Rack found that 40 – 50% of prisoners were at or below the level of literacy and numeracy expected of an 11-year old (Level 1), 40% of whom required specialist support for dyslexia. He concluded that dyslexia is three to four times more common amongst offenders than amongst the general population, with an incidence of 14 – 31%. Probationers too have shown lower reading levels than the general population: the Stop Project (Shropshire Probation Service 1998) reported that 12% of offenders on probation were virtually unable to read, 29% had reading skills poor enough to affect seriously any employment opportunities, nearly a quarter (24%) could not complete their name, address, or personal details on a simple form, and a further 46% could not write simple text to a level acceptable to employers. Just under a third (31%) showed positive indicators of dyslexia.

3.34 Dyslexia may be more prevalent amongst younger offenders (BDA and HMYOI Wetherby 2005). Little information is available on dyslexia amongst female offenders (*ibid.*), though the differential effects of education-related variables on the risk of delinquency for boys and girls (Farrington and Painter 2003) suggest that the relationship between dyslexia and offending may differ between males and females (BDA and HMYOI Wetherby 2005).

3.35 Bryan (2004) surveyed 10% of inmates in a young offender institution in England and found high levels of difficulties with speech, language, and communication ranging from 23% significant difficulties with language comprehension to 73% on grammatical competency. This compares to a rate of difficulties on these measures of 1% for the general population (Enderby and Davies 1989) – possibly an underestimate (Bryan et al. 1989) but still the only systematic estimate of these difficulties in the UK (Bryan 2004). Self-report data from young offenders in custody for three months or more at HMYOI Polmont in Scotland showed rates of at least 10% having difficulties with speech, language, and communication (Hamilton 1999). A smaller-scale study of 11 consecutive entrants into a young offender institution in England (Pryor 1998) reported rates of 60% difficulties with speech and language, particularly with expressive language, compared to other people of the same age.

3.36 Research into the use of speech and language therapy in two young offender institutions in England (Bryan et al. 2004) revealed a high proportion of young people who did not meet the formal criteria of learning disability in terms of IQ, but who nevertheless experienced considerable difficulty in intellectual functioning. Comments from the Independent Monitoring Board gave an example in which the speech and language therapist was working with a young person who was unable to understand moderately complex sentences or to structure a narrative but seemed unaware of this inability. The young person's tendency was to talk 'at' people rather than 'with' them, indicating that full communication was not really taking place: "The young man's lack of narrative sequencing skills indicates, potentially, how underdeveloped his communication skills are. A lack of development that, on a casual meeting, doesn't show up at all." (2004: 38, *emphasis original*).

3.37 Bradley and Holroyd (2005) screened a small number of people at a young offender institution in England. They reported that, of 16 learners screened, 44% had at least borderline probability of dyslexia, and 31% moderate to high probability; in total 16 out of 56 on one wing had learning difficulties as a result of dyslexia (29%), which they assert is likely to be similar for the rest of the prison. In addition, they identified 25 of last 197 receptions to the establishment from 2003 – 2005 (13%) as having "such severe mental health problems that they would be severely educationally disadvantaged" (p. 14), with average IQs of 70 or less. This is equivalent to 8% of the total population in the establishment.

Ways forward?

3.38 Arguably the most widely accepted tools for assessment of learning disabilities are the WAIS-III (Kaufman and Lichtenberger 1999) and the Vineland adaptive behavior scale (VABS; Sparrow, Balla, and Cicchetti 1984) or Adaptive Behavior Assessment System (ABAS; Harrison and Oakland 2000). Despite this, no 'gold standard' has been found for determining prevalence of learning difficulties and learning disabilities quickly and efficiently amongst offenders (Holland 2004), such as for routine screenings in prisons. Some scales have however shown promise. The learning disabilities in the Probation Service scale (LIPS; see Mason and Murphy 2002), for example, may be good for screening people for intelligence and borderline disabilities and requires no specialist skills to administer (McBrien 2003; Herrington et al. 2004). Murphy and colleagues (2000) in the Republic of Ireland designed a questionnaire called the national adult prison survey that incorporated the vocabulary sub-test of the WAIS-R (scores of which typically correlate with full scale IQ scores) and included indicators of social functioning.

3.39 The Hayes ability screening index (HASI; Hayes 2000) is another such tool that at first showed 100% reliability in identifying learning disability amongst young offenders (Hayes 2002). It is also "... in practical terms ... a quick, easily administered test for use in a forensic setting" (Robinson 2005: 2). Subsequent use of the scale suggests it does not discriminate adequately between learning disabled and non-learning disabled inpatients and may be too sensitive and non-specific a tool for use in general assessments of prevalence (Andrews 2006; Ford et al. 2006). Further pilots of the HASI are underway. Full screening can be resource-intensive, so Herrington (2005) suggests the use of a more general screening tool in the first instance (see for example the first night assessment form at HMYOI Brinsford; Bryan et al. 2004) with referral for fuller assessment where appropriate.

3.40 In terms of measuring learning difficulties (rather than disability), Bradley and Holroyd (2005) used a relatively short computer-based test of learning difficulty called lucid adult dyslexia screening (LADS). The LADS test was validated on populations of adult students and showed over a 90% rate of accuracy. Offenders comprise a completely different type of population: using an assessment tool (i.e. spelling measures) that failed to take into account overall low levels of reading ability and verbal intellectual skills and lack of educational opportunities would over-identify dyslexia in an offender population (BDA and HMYOI Wetherby 2005). Lucid Research Ltd. therefore adapted the test accordingly to create the LADS Plus assessment tool (ibid.; McCaughan 2005). Such an assessment should in theory make assessment of learning difficulty in prisons much more straightforward and less resource-intensive (ibid.). The Adult Dyslexic Organisation has also developed a screening checklist for use in prisons, piloted at Lancaster Farms young offender institution (NIPS 2000).

3.41 The NIPS report emphasised that dyslexia is a specific learning difficulty, meaning that assessment and tuition should ideally be delivered by tutors specially trained in dyslexia, though non-specialised teachers can help in many ways. Bryan (2004) suggested that hearing tests offer another useful means of screening people, as undiagnosed hearing difficulties can often be the cause of problems with speech and education.

3.42 The disagreement in the literature regarding prevalence is highly confusing and indeed arguably detracts from the main message, namely that a notable proportion of offenders struggle with standard methods of communication and are likely to require additional support. Many of these will not meet strict definitions of learning disability but will nevertheless experience difficulties coping in the criminal justice forum (Rickford and Edgar 2005; McBrien 2003; Murphy, Harnett, and Holland 1995). McBrien (2003: 103) notes that "One of the most prevalent vulnerable groups amongst offenders comprises those who

do not have an intellectual disability as formally defined but who have much lower cognitive and adaptive abilities than do either the general population or the offending population” (also Bryan 2004).

3.43 In sum, the literature on prevalence ‘muddies the waters’ in terms of identifying how many offenders experience learning difficulties and learning disabilities. Herrington (2005) comments that “The inconsistency in prevalence data makes it impossible to provide any general estimate of learning disability among offenders and this is likely to remain the case until large-scale methodologically sound surveys can be conducted (Lindsay et al. 2002; McBrien 2003).” Herrington et al. (2004) summarise the patterns in the literature, saying that estimates of prevalence depend upon the method used and upon the stage at which assessments are conducted (also Herrington 2005); that people who work with individuals with learning disabilities hesitate to label behaviour as criminal; and that rates of recidivism are similar to those for offenders without learning disabilities. Differing policies for diversion are also important to take into account for international comparisons.

3.44 Herrington and colleagues go on to say that no systematic screening of learning disability took place in the establishment they studied, nor was information from pre-sentence reports (where they existed) routinely passed to the establishment. This was also the case for records of previous needs assessments (the ‘statementing’ process in the school system) for juveniles (Williams and Atthill 2005). Identification of learning disability was unlikely unless an inmate had additional problems such as other mental health issues. Transfer of prisoners with learning disabilities to services in the community was limited to those who met the formal definition (IQ under 70; see above), while “those falling in the borderline LD group were expected to ‘survive’ normal prison life” (2004: 30).

3.45 The necessity of assessment persists, however, especially for directing people towards the appropriate services and supports (Murphy et al. 2000). The Office of Standards in Education, in their review of education for girls in custody, found that over half (“too many”) of the people they interviewed had not received adequate assessment at the start of their custodial sentence, so subsequent planning failed to take account of their specific skill levels:

Initial education assessments bore little, if any, relationship to the course of study the learners followed in all establishments. Young women were generally informed of the range of educational/purposeful activity programmes, but often found themselves placed on courses that had space rather than steered to the options chosen by them and appropriate to specific learning needs. (2004: 13-14)

Methods of assessment of need may not reach a consensus, but some form of identification is nevertheless important if needs are to be addressed. The next sections examine the types of problems offenders may face and the gaps in ensuring the availability of appropriate support.

4 Problems in the criminal justice system

Identification

4.1 When learning disabilities or difficulties are not identified as people enter the criminal justice system, it is likely that their particular needs will be neglected. Bradley and Holroyd note that learning difficulties amongst schoolchildren are not always thoroughly investigated and remedied because of the cost: “As a result, many learner[s] who enter prison education and training courses... would have hidden disabilities such as attention deficit and hyperactivity disorder (ADHD), dyslexia, dyspraxia or other factors that could influence the acquisition of new skills” (2005: 13). Individuals with a learning disability can be particularly vulnerable when in contact with the criminal justice system (McClelland Committee 2006b).

4.2 The McClelland Committee (2006a) in Northern Ireland also highlighted the needs of people with autistic spectrum disorder (ASD), saying that some receive support through learning disability services, some through mental health services, some within other programmes, and some not at all. The Committee identified timely and accurate assessment and diagnosis as a vital first step in addressing the needs of this group, while delay in diagnosis often led to fragmentation and poor coordination of services. Expertise in adults with Asperger’s syndrome/high functioning autism in particular was identified as lacking and needing to be developed, with training delivered by professionals with a recognised expertise in ASD. The committee highlighted periods of transition as particularly difficult for people with ASD and their families; the ‘transition’ into the criminal justice system, and prison in particular, is therefore likely to be particularly stressful for them. Whittaker (2004), too, highlighted that life changes reduce people’s coping strategies and that contact with the criminal justice system is a prime example of this.

General health

4.3 People with learning disabilities often have additional health problems. These include epilepsy and thyroid conditions (Emerson et al. 2001; Mencap 2004; Richards et al. 2001); a higher rate of coronary heart disease and some forms of cancer (Duff et al. 2001; Mencap 2004; DRC 2005a); diabetes (DRC 2005a); and weight problems (Mencap 2004). People with learning disabilities are three times more likely to die from respiratory disease (Hollins et al. 1998; DRC 2005a). Health problems in this group are exacerbated by their reduced use of GP surgeries, preventive health screenings, and health promotion measures (Davies and Duff 2001; Wilson and Haire 1990; DRC 2004), so such problems with physical and mental health in this group may go unrecognised (Richards et al. 2001).

4.4 Mental health problems are particularly prevalent amongst this group (dementia and schizophrenia in particular, as well as chronic depression; Cooper 1997; Iverson and Fox 1989; Reid 1994; Deb et al. 2001a and b; McClelland Committee 2006b). Noble and Conley (1992) and McGee and Menolascino (1992), among others, note a high prevalence of mental health needs amongst offenders with learning disabilities. Further, Hodgins et al. (1996) and Murphy and Mason (1999) suggest that people with intellectual disabilities who offend are even more likely to have psychiatric disorders. Interestingly, Myers (2004) found that mental health problems amongst offenders diagnosed with learning disabilities or autistic spectrum disorders varied between secure settings: those in prison tended to suffer from depression,

while those in learning disability units tended to be diagnosed with psychotic illnesses. Substance misuse and problems associated with homelessness are also prevalent amongst people with intellectual disabilities who offend (Winter, Holland, and Collins 1997).

4.5 In Northern Ireland, the McClelland Committee's (2006b) review of mental health and learning disability emphasised that promotion of mental health is particularly important for people with a learning disability. They assert that a mental health problem combined with a learning disability makes coping independently and making balanced decisions about life and care even more difficult, especially if substance misuse is involved. The committee highlighted the further difficulty of recognising that a person with a learning disability has a specific mental illness, with the resulting problem of underreporting of mental health problems. It identified that access by people with a learning disability to mainstream mental health services is extremely limited.

4.6 The McClelland Committee also highlighted the higher prevalence of what they describe as 'challenging behaviours' amongst people with learning disabilities. The committee noted that behavioural management was the third most frequently reported role of community nurses for people with a learning disability. People who display challenging behaviours may suffer severe harm due to self-inflicted behaviours and are more likely to be socially rejected and excluded. Social exclusion is particularly common for those with communication difficulties for whom social integration is further reduced. The families of people with a learning disability and challenging behaviours undergo high levels of personal stress and increased social isolation. The committee goes on to say that "...staff in [community and hospital] services in Northern Ireland have cited issues related to challenging behaviour as a key unmet training need and have highlighted their disquiet at the lack of clear guidance on appropriate methods of working with people whose behaviour is challenging" (2006b: 8.11).

Entering the criminal justice system

4.7 Murphy and Mason (2005) explain that, once they enter the criminal justice system, defendants with learning difficulties or learning disabilities face a number of hurdles. In England and Wales, Clare and Gudjonsson (1991) demonstrated that many people with intellectual disabilities did not fully understand the older (simpler) caution upon arrest. Murphy and Mason (2005) argue that the chances of this group understanding the new version of the caution are slim. Indeed, research has demonstrated that even the general population (Clare et al. 1998) and non-disabled suspects (Fenner et al. 2002) frequently struggle to understand the new version. Clare and colleagues noted that the middle sentence of the current caution is so complex that some police were unable to give a full account of its meaning.

4.8 When suspects arrive at a police station in England, they receive a written 'notice to detained persons', which reiterates the caution and tells them that they have a right to have someone informed of their arrest, to have a legal representative, and to consult the Codes of Practice (Home Office 1995 and 2004). However, Gudjonsson's (1991) analysis shows that the Notice requires a reading age which people with learning disabilities or difficulties are very unlikely to have. Further, it contains such complex wording that many people in this group cannot understand it even if they have it read to them, which the police are not obliged to do. As a result, Clare and Gudjonsson (1992) developed an experimental version of the Notice with simplified wording and demonstrated that the revised version was far easier to understand. Murphy and Mason (2005) note that the Home Office nevertheless declined to adopt the experimental version.

4.9 Early research in the United States by Brown and Courtless (1971) found that 8% of such defendants received no legal representation, despite their vulnerability. People with intellectual disabilities may be able to recount events accurately (Perlman et al. 1994; Kebbel and Hatton, 1999), but on average they tend to be more suggestible and acquiescent than people without such disabilities, under questioning (Heal and Sigelman 1995; Finlay and Lyons 2001). The tendency to false confessions in this group (Gudjonsson 1990) may be exacerbated by the fact that many people with mental impairments misunderstand basic legal terms: in South Carolina, Smith (1993) found that about 20% of the people referred for pre-trial competency assessments did not understand the terms 'guilty' and 'not guilty' and that some actually reversed the meanings of the words.

4.10 In England and Wales, the Youth Justice and Criminal Evidence Act (YJCEA) 1999 Part II Chapter I sets out 'special measures' of support for witnesses to encourage best quality evidence to the police and courts, for example the use of screens, the option to give evidence through a television link, and removal of wigs and gowns. Such measures are ultimately at the judge's discretion, yet interestingly section 16(1) of the Act specifies that these measures are for people other than the accused (Seden 2006). Section 29 of the Act allows for the use of intermediaries to support vulnerable witnesses in their contact with the courts and with defence and prosecution teams. This system is currently being piloted in England and Wales, but again applies only to witnesses for the prosecution and defence – not to the defendant (Seden 2006; Freer et al., n. d.; Criminal Justice System 2005).

4.11 Seden (2006), along with Burton et al. (2006), argues that vulnerable defendants should have the same supports available as vulnerable witnesses do. This reiterates earlier calls in the literature in the U.S. for better pre-trial and courtroom services and for better community-based alternatives to custody for people with learning disabilities (Reichard et al. 1980; Denkowski et al. 1983; McAfee and Gural 1988). Vulnerable suspects in England and Wales are entitled to an 'appropriate adult' (see 'Problems in provision', below), but this role is markedly different from that of an intermediary: an appropriate adult must be present when the police interview or caution a vulnerable adult and ensure a suspect's rights are respected and that they understand the procedures. An intermediary, in contrast, acts as a 'go-between' for witnesses and the courts and legal teams as a case proceeds. People with learning disabilities, whether witnesses or defendants, are likely to find the process of questioning even more traumatic than the general population does, regardless of the stage in the criminal justice process in which it takes place (Seden 2006). As most police and legal teams will not have had training in learning disabilities or be aware of the need to alter their techniques for interviewing and communication accordingly, vulnerable people in the criminal justice system – whether witnesses or defendants – need appropriate support (ibid.; Hayes 1998).

Experience of community-based orders

4.12 Many offenders with intellectual disability and mental illness remain in the community rather than in custody (McBrien et al. 2003). While this means they avoid the stress of imprisonment, at least at that stage, intellectual impairments or learning difficulties substantially impact upon their ability to understand and consequently to comply with community-based penalties.

4.13 The British Institute for Brain Injured Children (BIBIC 2005) conducted a review of people with learning disabilities or learning difficulties who were subject to anti-social behaviour orders (Asbos). Upon asking the Home Office how many children and young people with learning difficulties had received Asbos, no figures were available, as such information is not collated centrally. The BIBIC consequently surveyed youth offending

teams (YOTs) regarding numbers of known cases of learning difficulties (likely to be an underestimate since only information on diagnosed cases was requested). This revealed that 35% of children under age 17 with Asbos had a diagnosed mental health disorder or learning difficulty. Of these, 3% had an autistic spectrum disorder such as Asperger syndrome; 42% had diagnosed attention deficit hyperactivity disorder; and 46% had been diagnosed with some other form of mental health disorder or learning difficulty including Tourette syndrome, conduct disorders, emotional behavioural difficulties, or depression. Of these cases, 81% had previously agreed an acceptable behaviour contract (ABC) as part of the Asbo, and 74% failed to maintain its conditions. Seden (2006) therefore queried whether the behaviour of people with learning difficulties was being misinterpreted as 'anti-social' behaviour and expressed concern that Asbos may be imposed inappropriately on this group (also Disability Rights Commission 2005; Capability Scotland 2004).

4.14 Regardless of age of the person involved, Asbos fall under civil law so are heard in adult courts. The first hearing, for an interim Asbo, can take place without the person being present. The BIBIC found that families of children with learning and communication difficulties had no opportunity to address areas of concern directly. Despite their learning difficulties, very few children or young people with Asbos were being supported with individual support orders (ISOs): at the time of their research, only seven such orders had been put in place across the UK, despite the fact that guidance for such orders is in place.

4.15 Young people with learning and communication difficulties experience immense problems in understanding the terms of anti-social behaviour orders (ibid.). The BIBIC found that they do not remember what they have signed and are easily confused over the finer details. They gave an example of one young person who interpreted the instructions in his order extremely rigidly to the extent that he believed if he ran down the streets he was banned from he did not breach his order because he was not stopping. Another could not read the terms of his order so relied on his memory and consequently got most of the terms and conditions wrong when tested. One young man who had been taken into custody on a number of occasions for breaching his order had breached it solely by breaking his 9pm curfew; unfortunately he could not tell time (also Clare 2006), nor did he understand the Asbo or why it had been issued. The BIBIC found that up to this point the court had not been made aware of any of his learning difficulties. On having these explained, the court ordered the removal of his electronic tag and greater support for him.

4.16 A review of educational provision in the Northern Ireland Prison Service highlighted problems that people with dyslexia can suffer in the criminal justice system, saying:

... They avoid tasks they can't cope with and become increasingly more disruptive and destructive.... They get dates and days wrong, fail to turn up for important bail hearings in court, mistake office addresses. When dyslexics are interviewed by the police, their inability to sequence, coupled with poor short-term memory, often leads them to incriminate themselves – even when they are innocent. (2000: 9.9)

These types of problems mean that people with learning difficulties such as dyslexia may end up in custody when this is not necessarily appropriate or necessary.

4.17 The availability of support for people with learning difficulties varies tremendously, including for those with Asbos. The BIBIC described a case in which one mother moved her son to another county to live with his grandmother rather than have him sign an acceptable behaviour contract (ABC) as she knew he would not be able to keep to its terms. The BIBIC expressed concern that the number of Asbos being imposed on young

people in certain areas (i.e. 66 Asbos on young people in one day in Leeds in 2004) overloads the youth offending teams responsible for ensuring that young people fully understand the terms of the order. Some YOTs expressed concern that they do not know how to communicate the necessary details to some of the young people as they are unsure how much certain individuals comprehend.

4.18 Mencap (2006) found that government documents were the most difficult both for people with learning disabilities and for the general population to understand. Over half of people with a learning disability in their research (55%) said they or someone they knew had missed appointments or lost out financially because of unclear documents. This problem clearly applies in the criminal justice system as well, with potentially serious repercussions for both offenders and the wider public.

Experience in custody

4.19 The vulnerability of offenders who reach the stage of prison is equally important. People with autistic spectrum disorders, for example, tend to be resistant to changes in routine, so the transition from community to custodial life is likely to be particularly disruptive for them. Most of the case studies cited in Bryan and colleagues' (2004) research into the use of speech and language therapy in two young offender institutions described people who had limited skills in reading and writing but who had been to mainstream schools, had IQs within normal range, had achieved GCSEs, attended college, and earned qualifications. One such person nevertheless was assessed with comprehension equivalent to age 11 and speaking and listening skills well below average for his age (9th percentile). He had limited non-verbal communication skills and had difficulty interpreting non-verbal cues. The result was that he had difficulty coping with psychological interventions aimed at his offending and was aggressive and confrontational with both staff and other inmates.

4.20 An example of 'classic' prisoner behaviour offers valuable insight into how learning difficulties can impact on a prison. A young offender in Bryan, Freer, and Furlong's (2004) research frequently misused his cell bell and repetitively kicked his door. Earlier assessment by the speech and language therapist (SLT) had identified this young man as having Asperger's syndrome. He had difficulties reading large amounts of information and differentiating between objects, which are characteristics of deficits in sentence processing and auditory memory. The inmate chose not to work with the SLT on this, but the SLT was still able to give information to staff about Asperger's syndrome, which acted as mitigating circumstances in two adjudications regarding damage to prison property. The SLT was also able to work with the inmate about his behaviour in cell, explaining that things that annoy him (like shouting) will also annoy other people and that he should try a different approach. The Principal Officer on the hall commented that the SLT's advice had been very useful in managing the inmate's behaviour.

4.21 Bryan and colleagues' research highlights the problems both offenders and the people that work with them may experience when learning difficulties go unrecognised and unidentified. A prison governor in their research noted that services from a speech and language therapist helped prison staff address concerns "...that in the past have been masked because a lad was simply badly behaved; our ability to refer a lad who appears not to understand what he is told can have a very positive effect in moderating his future behaviour... [previously] we did not have the ability to recognise many communication difficulties experienced by some lads and so were unable to address their mounting frustrations" (2004: 35).

4.22 The Office of Standards in Education (2004) commented on such a case in which a group of young people was regularly suspended from prison education because of poor concentration span and frequently disruptive behaviour. The question is to what extent such behaviour and consequent exclusion stems from undiagnosed learning difficulties. Myers highlighted this in her research in Scotland, saying that people with learning disabilities or learning difficulties who remain undiagnosed are arguably of most concern:

... it may mean not having access to the same range of 'in-house' resources as others because they are not tailored to their needs. It may mean not having access to appropriate after care, with implications for re-offending and re-admission.... [It] may mean being disciplined for breaching rules they do not comprehend, or losing out on privileges such as a tobacco allowance because they are unable to complete the required form. An individual may also be exposed to bullying or manipulation by peers: not just in the prisons, but also in the secure accommodation units for children and in forensic psychiatric inpatient units. As managers in one prison commented: 'Because only 2 have been identified they don't pose a management problem for the prison. But there may be problems that the prison doesn't know about'. (2004: 3.67)

4.23 The general prison regime (i.e. reception, induction, transfer, release) does not cater for the needs of prisoners with learning difficulties or learning disabilities (Williams and Atthill 2005). Prison terminology and complex rules and regimes mean that people with learning disabilities or learning difficulties, including difficulties with speech, language, or communication, will have difficulty coping with the demands of the prison environment (Freer et al., n. d.). Murphy et al. (1995) commented that, while their assessment of learning disability recorded no one who met the formal definition, the group of men who self-reported intellectual impairments were nevertheless a very vulnerable group. Men in the sample group showed significantly more distress, based on their scores on the general health questionnaire but particularly in terms of suicidal ideation. Regardless of technical definitions, then, "there were men being admitted [to prison] who appeared to have been to special schools, who had relatively poor reading, numeracy and cognitive skills and who were very vulnerable to psychological distress" (2005: 95-96).

4.24 Bryan and colleagues (2004) gave an example of one young offender who had a stammer and was being targeted by other prisoners because of his difficulty communicating with others. Another was illiterate, did not take part in education or other programmes, had no job in the prison and often declined from association, gym, and even showering. This meant he spent most of his time in his cell. Putting this information together, the research highlights a group already vulnerable to psychological distress and suicidal thoughts who are being targeted by other prisoners (see also Myers 2004; Holland 2004; Davison et al. 1994) and isolated from the activities available because of their difficulties with learning and communication. Similarly, research in Scotland (Myers 2004) found that prisoners with learning disabilities or autistic spectrum disorders may have to be locked in their cells for their own protection where staff are unable to provide them with appropriate activities. This practice is particularly relevant in view of the fact that social care appears to be key in preventing people with learning disabilities from reoffending Clare (2006). Further, Liebling (1992) identified prisoners who spent most of their time in their cells 'doing nothing' as being at most risk of suicide while in custody, so people with learning difficulties or learning disabilities appear to be at the highest risk for this.

4.25 People with dyslexia are more able to learn if they have access to appropriate, individualised, support, but they often have difficulty making progress with more generic support. Research by the Dyslexia Action (formerly Dyslexia Institute) suggests that 20% of the prison population may require this kind of individualised approach: “These individuals have hidden disabilities which are likely to result in barriers to full participation in learning, work and social activities, unless appropriate support is provided” (Rack 2005: 2). Seden (2006) notes that this may pose particular problems for offenders who are required to take part in offending behaviour programmes (i.e. people convicted of sexual offences) but are barred from such courses because of their learning disability or learning difficulty (also Duggan 2002). Rickford and Edgar (2005) claim this risks abusing the human rights of learning disabled prisoners, who may end up in custody for longer than their original tariff due to their lack of access to appropriate offending behaviour programmes.

4.26 Bryan’s research on speech, language, and communication difficulties amongst young offenders in England emphasised the need for both identification and (consequently) appropriate support if prison-based offending behaviour programmes are to have any impact:

The results indicate that around 40% of young offenders might have difficulty in benefiting from verbally mediated interventions such as anger management and drug rehabilitation courses. This would imply they might be more likely to leave prison with unresolved problems known to contribute to re-offending. A young offender leaving prison who finds it hard to talk to others and who has difficulty in understanding others is likely to experience added difficulties in reintegrating into society. (2004: 399)

Freer and colleagues (n. d.: 2) agree that “... identifying hidden or undiagnosed learning disability and communication difficulties... may impact upon interventions aimed at reducing re-offending, engaging with appropriate services and meeting ongoing needs upon resettlement into the community.” Myers (2004) too noted that, in the absence of appropriate resources, prisoners with learning disabilities or learning difficulties may not have an opportunity to address their offending behaviour, or indeed to function effectively in society (Freer et al., n. d.).

Diversion from the criminal justice system

4.27 Policies for diversion of people with learning disabilities vary between countries (Herrington 2005; McBrien 2003; Mason and Murphy 2002). The general consensus amongst prison-based professionals is that prison is not an appropriate environment for people with learning disabilities or ASD, as prisons do not have the resources or the expertise to meet the needs of such prisoners (Myers 2004). Murphy et al. (2000) note that most detained British offenders with a learning disability are in secure hospitals rather than in prisons (cf Lowe et al. 1998). One question, then, is whether diversion from the criminal justice system offers a better alternative to support offenders with learning disabilities or learning difficulties.

4.28 Research in Scotland (Myers 2004) found that offenders in specialist learning disability units usually had care plans in place designed to encourage both work on immediate needs as well as longer-term planning. People in high security placements, for example, had access to psychiatric, psychological, nursing, and social work expertise in learning disabilities, along with specially designed activities and recreation and adapted programmes for psychological intervention. In contrast, Myers found little evidence of

direct input from specialists in learning disabilities or ASD into meeting the needs of children and young people in custody (though they did show evidence of proactive planning for throughcare as well as multi-disciplinary and multi-agency working). The perception, perhaps justifiably, is that appropriate resources for offenders with learning disabilities and learning difficulties are limited, and access for this group can be difficult, outside of secure health settings (ibid.). This in turn encourages staff in secure hospitals to retain patients as long as possible and for community-based workers to be reluctant to take responsibility for people moving on from secure placements (ibid.).

4.29 Myers' finding in Scotland that offenders with learning disabilities or autistic spectrum disorders (ASD) in prison tended to suffer from depression, compared to psychotic illnesses amongst those in learning disability units, raises the question as to whether people with learning disabilities are more likely to be diverted from the criminal justice system if they have more clearly recognisable mental health problems. Also evident from Myers' research is that prisoners with learning disabilities or ASD tended to remain in custody for shorter periods than did similar groups of offenders in health care settings.

4.30 Information about how people with learning disabilities end up in the health care system rather than the criminal justice system or vice versa, though very important (McBrien 2003), falls outside the scope of this programme. However, a large-scale study of care pathways for this group is underway in four regions in England, due to conclude in 2007 (National Development Team 2006). This research, called the Tough Times Project, has already identified a shift of nearly 20% in the care pathway into one secure hospital (Rampton) from psychiatric hospitals to criminal justice services. Based on the patient case register at Rampton from 1991-2000, well over half of admissions (60.5%) came from courts, prisons, or young offender institutions. Of those discharged during the same period, 43.2% had been admitted from the courts, prisons, or police. This suggests that offenders with learning disabilities may be diverted from the criminal justice system, then end up 'stuck' in secure care.

4.31 Some experts question whether offenders with learning disabilities or learning difficulties who are diverted from the criminal justice system benefit from the same due process considerations as they would if they remained in it (Clare 2006; see also Holland 2004). The question here is not only the risk of extended periods of custody, as Myers found, but also a relative lack of emphasis on whether the person involved has been proved guilty under law (ibid.). Clare advocates for adequate separation of supervision from treatment for offenders with learning disabilities so that those diverted from the criminal justice system do not then get 'lost' in the health care system.

Gaps in information

4.32 A full understanding of the experiences of people with learning disabilities or learning difficulties in the criminal justice system is lacking, not least because of the difficulties in identifying this group in order to examine their experiences. Williams and Atthill (2005: 22) note that no comprehensive study of the "fine line" between learning disabilities, learning difficulties, and mental health needs within the prison population has been conducted. Myers (2004) further identified a gap in research that compares the experiences of and routes to secure settings for males and females with learning disabilities or learning difficulties and for black and minority ethnic people in these groups

5 Problems in provision

Services outside prisons

5.1 In recognition of some of the vulnerabilities of people with intellectual disabilities, Murphy and Mason (2005) note that special provisions were introduced in England and Wales under the Police and Criminal Evidence Act 1984, in particular the audio-taping of police interviews (so that the manner of police questioning could be analysed) and the provision of an 'appropriate adult' for vulnerable suspects, including (but not exclusively; Clare 2006) those with developmental disabilities. Similar provisions are available in Australia (Baroff et al. 2004). The appropriate adult scheme has not been without its problems, however. First, both police and lawyers have difficulty judging whether someone has a developmental disability, so many people are not provided with an appropriate adult even when they are entitled to one (Bean and Nemitz 1994; Medford et al. 2000; Palmer and Hart 1996). Second, Pearse and Gudjonsson (1996) found that appropriate adults (usually parents, carers, or social workers who may or may not have met the individual in question) often did not speak during the police interview and seemed unclear about their role.

5.2 In Scotland, people assessed as having a learning disability under the Adults with Incapacity (Scotland) Act 2000 are entitled to an independent advocate. Myers (2004) found that independent advocacy appeared to be available to most of the people in her sample who were in healthcare settings and secure accommodation, though not everyone had an advocate. However, none of the people from the prison sample had an independent advocate.

5.3 Few community-based services for learning disabilities in the UK are set up specifically to address offending, though pressure is increasing for practitioners to accept such referrals (McBrien 2003). The cross-over between mainstream provision of services and services for people with learning disabilities does not always exist. Mencap (2004) highlighted a lack of understanding amongst health professionals of people with learning disabilities and learning difficulties. In Scotland, Myers (2004) noted the risk of offenders with learning disabilities or autistic spectrum disorders falling between service and policy responsibilities.

5.4 Research for the McClelland Committee in Northern Ireland (Taggart et al. 2004) gives an example of this. Taggart and colleagues found that programmes for education and prevention of substance misuse were available in most mainstream schools, but that far fewer schools for people with learning disabilities had such programmes. Further, people who worked in mainstream addiction services were unsure how to work with people with learning disabilities, and conversely professionals in mainstream learning disability services did not know how to address substance misuse. Provision for the two services to work together was done on an ad hoc basis, with no policies or guidance to promote joint working (ibid.).

5.5 The question of definition of learning disability can be a problem for people in accessing appropriate services. As mentioned above, the McClelland Committee in Northern Ireland (2006b) found that IQ often acted as a barrier to access; people who need additional support may not necessarily meet the formal criteria of people in need of learning disability services (Capelin 2002). The committee noted that, historically in

Northern Ireland, individuals with mild or borderline IQ levels could access mainstream services, but that in recent years this practice has been diminishing. Simply having a learning disability has been enough to exclude people from accessing services. Murphy and colleagues (2000) found this to be the case in particular for people with learning disabilities who show challenging behaviours. Hayes (1998) suggests that the lack of appropriate community-based supports is a primary contributor to the number of people with learning disabilities in the criminal justice system.

5.6 This is a problem elsewhere in the UK as well: in England, Bryan et al. (2004) found that one of the problems with continuing with services from a speech and language therapist upon release from prison was the difficulty accessing what were technically learning disability services without a diagnosis of a formal learning disability. This was a problem even where people had previously accessed the service (Freer et al., n. d.). In Scotland, Myers (2004) noted that people of all ages with learning disabilities or autistic spectrum disorders (ASD) find themselves 'on the borderline' not only in terms of capacity and ability but also in terms of policy and services, failing to fit in with the core business of the various types of secure care. This is particularly the case for women and for people with ASD (ibid.).

5.7 Thornton (1997) reported that difficulties with comprehension means that people even with mild learning disabilities often have difficulty describing symptoms, giving the answers required, or cooperating. They also have a lack of awareness of the significance of their symptoms. Consequently "... these people do not fit well into a care system that relies upon people coming forward to request appropriate help" (Capelin 2002: 13).

5.8 As noted above, the Reed review and the Mansell report emphasised the need to treat offenders with mental impairments in the least restricted environment, in community rather than institutional settings whenever possible and supported as near as possible to their homes and families. Both reports recommended that local services must be sufficiently comprehensive to meet the needs of offenders with learning disabilities, but local capacity has not been sufficiently robust in developing specialist health or social care provision and expertise to meet the needs of this group or others who present a challenge to traditional services (National Development Team 2006).

Custodial provision

5.9 Screening or assessments for learning disabilities or learning difficulties are not conducted routinely in most prisons or in most community-based facilities for offenders. Research in prisons in England and Wales found that no routine assessments of mental health were conducted, with reliance instead on assessments made prior to custody such as ASSET forms (for juveniles) and OASys forms (for adults), which frequently did not reach the establishment (Harrington and Bailey 2005; Herrington et al. 2004). Herrington (2005) explained that authors of pre-sentence reports, for example, have access to official documents and are able to examine physical and mental health needs, plus make assessments and offer an opportunity to identify learning disabilities. The extent to which such information is then collated and passed on to prisons, however, is unclear, but the evidence suggests it is unreliable at best. Harrington and Bailey (2005) found that the ASSET forms that were available appeared to under-record mental health needs of juveniles by about half: only 15% of forms for 600 young offenders recorded mental health needs, compared to 31% identified as having such needs during the research. Myers (2004) emphasised that the value of pre-admission information depends upon whether relevant assessments have been conducted prior to referral and whether this information is then passed to the secure setting.

5.10 Equally problematic is the identification of needs without having the facilities to address them (Williams and Atthill 2005; Herrington 2005). With this in mind, the Northern Ireland Prison Service (2000) noted that assessment by a diagnostic tutor that focuses on an evaluation of needs would be of more practical benefit than formal assessment for its own sake. Prison staff in Scotland expressed a need for defined policies about how to address the needs of people with learning disabilities or autistic spectrum disorders (Myers 2004), both to increase awareness and to ensure appropriate resources were available. Another suggestion was for specialist input through clinics or direct links with professionals in the field. Indeed, Herrington (2005) comments that work with people with learning disabilities in prison is a missed opportunity for primary care trusts to engage a group that is both difficult to reach and needs to be recognised as a hidden population. More radical proposals in Myers' research were for separate halls with specialised regimes; to some extent these are already available in some prisons in Scotland, (such as halls for Vulnerable Prisoners in HMYOI Polmont or HMP Barlinnie), though these do not specifically address the needs of people with learning disabilities or ASDs.

5.11 The length of stay in an establishment is crucial in determining what support prisoners may receive (Bradley and Holroyd 2005) and what links can be established with community-based services. In Scotland, Myers (2004) noted that most people with learning disabilities or autistic spectrum disorders in secure care in her sample had some form of care plan in place. In prisons, however, the focus in these care plans tended to be more on immediate needs rather than on longer-term planning and reintegration. Informal approaches to throughcare and after-care for people who are not under license when they are released (those sentenced to four years or less in custody) means they are not likely to receive follow-up support in the community. Myers argues that this lack of support increases the likelihood of reoffending amongst prisoners with learning disabilities or ASDs even further. Lack of community-based resources also increases the risk of admission or re-admission of this group to inpatient units (ibid.).

5.12 Custody may be the only opportunity some people have of benefiting from some services: Bryan and colleagues (2004) gave an example of one young person who rejected the opportunity for referral to speech and language therapy outside, saying he knew he would fail to keep his appointments. They explain that "... for a number of young people... life outside prison is difficult, complex or insufficiently supported for services such as SLT to be accessed" (2004: 21). Arranging access to SLT services upon release can also be difficult when an ex-prisoner's housing situation is uncertain and when the availability of community-based SLT services varies. Community-based SLT services are almost exclusively for people with learning disabilities or for people of school age, so services for people who fall outside these criteria may not be an option.

5.13 Even where services exist, these may not be located near prisons, nor will prisoners necessarily be released to local communities. This is a particular problem for women and young people, who tend to be located in establishments far from their home towns. In 2002, over 11,000 prisoners in England and Wales were held in prisons more than 100 miles from home (Katz 2003). The patchiness of provision and distances involved makes continuity of services for offenders problematic. This problem applies equally in community-based services for learning disabilities, in which people with learning disabilities may end up being cared for miles away from home (National Development Team 2006).

5.14 Variation in provision, both in terms of existence and quality, repeatedly stands out in the literature as a problem. Research by Harrington and Bailey (2005) into services for

young offenders with mental health problems in England found that mental health services in many establishments were provided on a sessional basis by mental health professionals who had a personal interest in the area. Continuity of provision was therefore vulnerable to changes in personnel and priorities, and a multi-disciplinary approach was not common. The Adult Learning Inspectorate (2006) in England found these problems to be equally evident in the provision of services and supports for people with learning disabilities and learning difficulties, including in prisons.

5.15 A thematic inspection of education within the juvenile estate in England and Wales noted that basic skills courses were the least satisfactory of those inspected (HMIP and OSE 2002). Reports from the prisons inspectorate generally in England and Wales, which includes education inspectors, indicate weak provision overall, though this varies enormously from prison to prison. Generally prison education focuses on the delivery of basic skills and meeting key performance targets (Williams and Atthill 2005). Education tends to be a higher priority in the juvenile estate, including one-to-one support and a recognition of the need for continuous staff training and development. For prisoners over the age of 18, however, "It would be a matter of luck whether [they] would receive anything like the support or consideration given to juveniles" (ibid.: 26). Problems with access to mental health services were also apparent for this group: Harrington and Bailey (2005) noted gaps in services in most secure and community sites for young people who were no longer in full-time education.

Provision for offenders outside the criminal justice system

5.16 McBrien and colleagues (2003) found an increased use of the Mental Health Act for people with intellectual disabilities who had been in contact with the criminal justice system. They also found, however, that few secure psychiatric services were available for people with intellectual disabilities in general and none were available in that region specifically for those who had offended. Clare and Murphy (1998) similarly noted variation between agencies in terms of attitudes, protocols and skills. McBrien and colleagues highlighted the lack of adequate guidance and research-based evidence as well as regional variation in NHS forensic intellectual disability services. They comment that the response to alleged offending remains arbitrary in such circumstances, often forcing a resort to expensive placements outside the district (also Lyall et al. 1995). Criminal justice agencies often have difficulty gaining access to specialist assessment and treatment for those charged with or convicted of an offence (McBrien et al. 2003).

5.17 Most people in in-patient units for learning disabilities in Scotland appear to be there appropriately, with a small number who would probably benefit instead from community-based placements (Myers 2004). In saying this, over half of the State Hospital's learning disabled population has been assessed as not requiring high security placements (Forensic Mental Health Services 2006; Myers 2004). This was also the case both for women in general and particularly for women with learning disabilities and/or autistic spectrum disorders (Myers 2004). Despite the statement in the Clinical Psychology Workforce Planning Report (2002) that no hospital provision for people with learning disabilities would be available in Scotland after 2005, secure placements for this group continue to be available (Douds 2006). The number of low security placements for people with learning disabilities appears appropriate, but sufficient places for medium security patients do not currently exist, creating difficulties for people who need to move on from high security care. Planning in Scotland is for two medium secure units of eight beds each

to be completed by 2009, reducing the number of high-security beds in the State Hospital from 26 to 12. Low security provision is done on a local and regional basis (*ibid.*), but appropriate community-based facilities to move people on to remain limited (Myers 2004).

5.18 Medical officers at the Orchard Clinic in Scotland indicated that between 25% and 45% of the Lothian population of the Orchard Clinic might be managed at a lower level of security. Forensic low secure accommodation is not currently available in Lothian (Forensic Mental Health Services 2006). Provision for the small number of women with learning disabilities who have forensic needs has been recommended but is not currently available within learning disability services in Scotland (*ibid.*). Regional differences in availability of low security beds for people with learning disabilities are equally striking in England where, for example, no placements are available at all in Greater Manchester; Northumberland, Tyne and Wear; Cheshire and Mersey; and County Durham and Tees Valley (*ibid.*).

5.19 Medium secure placements for people with mental illness (including learning disabilities) to be transferred out of the criminal justice system have been recommended in Northern Ireland as well (DHSS (NI) 1996). Until recently, however, if a person in Northern Ireland needed to be detained in a more secure environment than a local psychiatric intensive care unit (usually a locked ward in a psychiatric hospital), they had to be transferred to the State Hospital in Scotland (Davidson et al. 2003). Those who require a high security placement still have to be so, though this is very unusual.

5.20 In Scotland, assessment of offenders for diversion from the criminal justice system varies from region to region, depending on the level of inter-agency working at local levels. Only defendants accused of murder are required to have a psychiatric assessment (Douds 2006). Further, just over half of services for learning disabilities in Scotland see clients who do not have a learning disability, such as those with Asperger's syndrome. Such clients are mainly seen for assessment or to provide psychological input in collaboration with other services (Clinical Psychology Workforce Planning Report 2002).

5.21 The McClelland Committee in Northern Ireland (2006b) identified the lack of consistency and coordination of learning disability services as a particular problem there. The committee noted that people with a learning disability need particular support to assist them to engage in services when their capacity to make informed life choices is impaired. It consequently recommended collaboration between learning disability services and mainstream services as well as the development of protocols through which the skills of learning disability specialists can be shared across services, such as between learning disability services and mainstream mental health services. The sharing of services, they argue, would reduce the need for admission to specialist hospitals solely for the treatment of learning disabilities.

6 Examples of good practice

6.1 Assessment of offenders for learning disability and learning difficulties is patchy at best. Elements of good practice are evident despite this. For assessment for diversion from custody, the model of inter-agency working that exists in Fife in Scotland has been highlighted as an example of good practice, not least because Scotland's only forensic community disability team is based there (Douds 2006). In Northern Ireland, HMYOC Hydebank assesses all prisoners (including those on remand where possible) for learning difficulties (Scott 2006b), as mentioned above. While this assessment is for dyslexia, it shows that wider-scale assessments of prisoners to identify needs and avenues for support is possible in a criminal justice setting.

6.2 Bryan, Freer, and Furlong (2004; also Freer et al., n. d.) report on an initiative at HMYOIs Werrington and Brinsford in which full-time speech and language therapists (SLTs) work in the establishments. The SLTs have a number of responsibilities including assessments of young people and delivery of services to them, staff training, participation in reviews and team meetings, and liaison with community-based services and agencies. The SLT at Werrington receives an average of 15 – 19 referrals per month, with 78 referrals generating 125 outcomes and interventions by the date of the report. The authors noted that 60% of young people screened by the SLT at induction were identified as having specific difficulties with speech, language, or communication. They believe these findings highlight induction as an effective means of identifying young people in need of input at the earliest point possible. In the project, people could also access the SLT service via referrals from any other member of staff or through self-referral.

6.3 At HMYOI Brinsford, three basic questions regarding speech, language, and communication are incorporated into the first night assessment form. Referrals have come from that and from a range of other staff across the establishment, which Bryan and colleagues say suggests an increasing awareness of such difficulties amongst staff. Referrals for service are prioritised by date of referral, date of release, and the extent of need. At Brinsford, referrals resulted in 191 outcomes and interventions for 24 juveniles and 76 for 13 young offenders. The authors note that a large proportion of young people generated five or more outcomes, reflecting complex needs of this group, and that the sheer number and variation in interventions highlights how SLT can support people in custody.

6.4 Young people can access more than one care pathway at a time, with training in receptive and expressive language and social skills accessed most frequently. Other options in both Werrington and Brinsford include speech, hearing impairment, fluency, voice, visual impairment, listening and attention skills, and identification of and onward referral for swallowing impairment. The most frequent interventions include assessment of speech, language, and communication needs; explanation of assessment findings to the young person; advice to wing staff; feedback to the referring agent; and liaison with other specialists and departments within the establishment.

6.5 The role of the SLT often extended beyond this to include liaison with family members, support during interviews, and advice to local courts. Staff training was an important focus of the role as well including full staff briefings, briefings for education staff, presentations for senior managers, and individual ad hoc training for members of staff working with an inmate accessing SLT services. Staff commented that training enhanced the delivery of programmes overall and gave them greater insight into the frustration and

difficulties many inmates face and “why the lads do some of the things they do” (Bryan et al. 2004: 43; see also Myers 2004 regarding the scope for staff training). A competition for inmates to redesign posters to make them easier to understand and training of peer support workers also raised awareness of speech, language, and communication difficulties, ideally with the ‘knock-on’ effect of reducing the bullying of inmates with such difficulties.

6.6 A senior psychologist at one of the establishments in Bryan et al’s research noted that they have used the SLT’s services to select people for offending behaviour programmes to ensure members will be able to understand and cope with the programmes. The service is also useful in providing the psychology team with advice on the best way of conveying information to people who struggle to understand questions and larger pieces of information. Importantly, the SLT has been able to identify “... some cases where a person’s low level of participation could have been viewed as a low level of motivation rather than attributable to communication difficulties” (Bryan et al. 2004: 37; also Freer et al., n. d.). A principal officer commented that the benefits for resettlement of intervention from the SLT had been “immeasurable” as it addressed “deep rooted problems that could prevent someone moving on from offending behaviour patterns” (ibid.: 35).

6.7 The researchers mentioned one case in which an inmate with difficulties in conversation and especially comprehension was nevertheless “chatty and adept at using his social skills to hide his difficulties” (ibid.: 24). The SLT found him to have dyslexia, with a vocabulary equivalent to a child of age 10 and difficulty understanding information, especially if too much was given at once. The inmate had never received a statement of special educational needs, despite difficulties in reading and writing, so prior to assessment by the SLT no one knew the extent of his impairment. One senior officer commented that problems in communication for some prisoners is obvious, such as a stammer; “... but with others it is much more subtle.... Many difficulties in prison arise because of poor communication.” (ibid.: 36-37).

6.8 Behaviour changed noticeably for a number of young men described in Bryan and colleagues’ research. Aggressive and confrontational behaviour decreased when inmates were better able to read non-verbal cues and to communicate more effectively with others, for example. One case study commented that: “During his time in custody and engagement with SLT and forensic psychology, he noticeably changed from being someone who had difficulty engaging with the regime and difficulty interacting with other people to being settled in the regime and establishing relationships with both staff and other young people” (2004: 23). The research identified difficulties in communication as a causative factor in behavioural difficulties and, while not the sole cause, the frustration people with such difficulties experienced exacerbated other anger management issues. Bryan’s research in another young offender institution emphasised this, saying that “Some of the young offenders with difficulties [with communication] reported using violence when they had difficulty making their needs known or in response to teasing from other prisoners about their speech” (2004: 398).

6.9 In Scotland, HMYOI Polmont employs a speech and language therapist on a part-time basis. Polmont also has an active mental health team that includes two specialist nurses trained in learning difficulties and learning disability. While routine assessment of language and communication (i.e. Hamilton 1999) is no longer conducted, referrals to the SLT and mental health team from staff or as self-referrals can be made at any time (Paterson 2006). Practice at Polmont suggests that intervention through speech and language therapy mediates the difficulties inmates have and assists their engagement with education while in custody (Hamilton 1999; Bryan 2004).

6.10 In their background report for this programme, Williams and Atthill (2005) summarise the consensus from specialists in learning disability and learning difficulties about how best to support this group. They advise not to focus on labels and prevalence, but to concentrate instead on the education and training needs of individuals; to aim to develop a better process of assessment as well as a curriculum matched to individual learners and more geared towards their aspirations and experiences; and to make provision more responsive, such as in smaller 'chunks' or units. They recommend staff development as an important part of this, including empowerment of prison officers and teachers about how to adapt their approaches. They also advise exploration of different strategies, comparisons of effectiveness, and the need for holistic approaches including the use of arts and creative activities.

6.11 To some extent this is what the Scottish Prison Service has done with its adapted SOTP programme for the treatment of sex offenders. People sentenced to prison for sexual offences in Scotland are generally required to participate in a sex offender treatment programme. However, the inability of certain prisoners to follow the content of the course, either because of difficulties with literacy or learning, became apparent during delivery of these courses. Psychologists in the SPS consequently designed an adapted programme, relying more on visual aids than text, which can be delivered to groups of people of similar ability (see SPS Psychological Services 2005 and SPS, n. d.). The adapted SOTP programme is also available in most prisons in England.

6.12 The adapted SOTP programme in the Prison Service in England and Wales and in the Scottish Prison Service is the only known example of an offending behaviour programme in the UK that has been adapted entirely for people with learning or literacy problems. Individuals assessed as having learning difficulties in HMYOC Hydebank Wood in Northern Ireland, however, may receive education and offending behaviour programmes on a one-to-one basis where such needs are identified. Offending behaviour programmes can be delivered on an individual basis at HMP Maghaberry in Northern Ireland as well, though assessments of learning disabilities or learning difficulties are not conducted on a routine basis there (McCaughan 2006). Education staff in Hydebank Wood use the computer-based Quick Scan test to assess all male entrants to the prison for dyslexia, which can then be followed up in the education department for more intensive or even one-to-one support. Assessments of 265 young men for literacy and 244 for numeracy over a one-year period identified 38% with at least some level of dyslexia (Scott 2006; Scott and Wright 2006; Hazel 2006). Staff at HMP Magilligan have started conducting similar assessments using the LADS Plus computerised assessment.

6.13 The Inspectorate of Prisons in England and Wales (HMIP and OSE 2002) highlighted the practice at Lancaster Farms young offender institution. There, a number of officers were trained as tutors to support the education programme, working with young people individually in the evening. As often as possible these tutors were matched to young people with particular learning difficulties when personal officer allocations were made.

6.14 The House of Commons Education and Skills Committee report (2005) commented on the value of special educational needs co-ordinators in young offender institutions and of learning support assistants in the juvenile estate. They consequently recommended the provision of special educational needs co-ordinators and learning support assistants in adult prisons as well. As yet, the OLSU does not agree that this is necessarily the right solution (Williams and Atthill 2005). Research for the Scottish Executive (Myers 2004), highlighted

scope for greater involvement of, and integration with, specialists in learning disabilities both as service providers and as advisors in secure settings. This included access to speech and language therapists. The report also suggested identifying a key person responsible for issues relating to learning disability and autistic spectrum disorders, such as including this in the role of mental health nurses in prisons.

6.15 While staff training and prison programmes and regimes will no doubt need to be adapted to accommodate people with learning difficulties, some useful resources are already available. Bryan et al. (2004) outline what they consider to be the ideal service from speech and language therapists for an establishment holding 400 prisoners. The Department for Education and Skills (DfES) and HM Prison Service in England and Wales (2003) have produced a handbook for prison officers and education staff describing inclusive approaches to teaching and learning as well as a useful list of resources (Williams and Atthill 2005). Equally, the Prison Reform Trust produces an information book for disabled prisoners jointly with the Prison Service in England and Wales. The DfES is soon to produce a Learning for Living Pathfinder Project guidance for prisons as well. More generally, organisations such as the National Autistic Society (2002) have produced guidance on working with particular types of difficulties. Further information is available in the Valuing People White Paper (Department of Health 2001), as well as in the subsequent briefing (NIACE 2003), which examines choices in post-school education for people with learning difficulties and the barriers to successful access. Equally the DfES (2000) report, Freedom to Learn, which suggests ways in which access to quality basic skills teaching and learning could be improved for adults with learning difficulties and learning disabilities.

7 Conclusions

7.1 This review highlights what the Disability Rights Commission describes as the “collective failure to recognise the experience of many disabled people for what it is – injustice leading to inequality” (2005: 10). It emphasises the fact that, regardless of precise numbers, many offenders have learning difficulties or learning disabilities that interfere with their ability to cope within the criminal justice system. They are at risk of continued offending because of unidentified needs and consequent lack of support and services. They are unlikely to benefit from conventional programmes designed to address offending behaviour, are targeted by other prisoners when in custody, and present numerous difficulties for the staff who work with them, especially when these staff are often untrained and unfamiliar with the challenges of working with this group of people. Herrington summarises these issues, saying that:

...unusual behaviour on the wing may be interpreted as 'difficult' rather than indicative of learning disability; the closely controlled regime of prison life may mask poor coping skills; and inmates may be adept at hiding their disability.... If learning disability is not identified the prisoner is unlikely to be able to engage effectively and benefit from any rehabilitative effect prison may offer. They may also be increasingly vulnerable and unlikely to gain equal access to in-house services, which contravenes the Disability Discrimination Act (1995). (2005: 30)

7.2 A number of ways forward have been identified in the research, including staff training and joint training for people in different areas of criminal justice; better use of supports for vulnerable defendants such as the appropriate adult scheme; and assessment of offenders for learning disabilities at the earliest possible stage so the police, courts, probation and social work teams, and prisons will be able to work with them appropriately (Murphy 2005). There are examples of good practice, such as the use of speech and language therapists. What these show about work with offenders who have learning disabilities or difficulties can be summed up in words from the Disability Rights Commission (2005: 34). The focus should be less on “vulnerability, risk, and dependency” and more on “choice, control, and participation”.

References

- Adult Learning Inspectorate (2006) *Greater Expectations: Provision for Learners with Disabilities*. Coventry: Adult Learning Inspectorate.
- Allen, R. C. (1970) "The law and the mentally retarded." In F. J. Menolascino, ed., *Psychiatric Approaches to Mental Retardation*. New York: Basic Books.
- Alm, J. and Andersson, J. (1997) "A study of literacy in prisons in Uppsala." *Dyslexia* 3, 245-246.
- American Psychiatric Association (1994) *Diagnostic and Statistical Signs Manual*, 4th edition. Washington DC: APA.
- Ammons, R.B., and Ammons, C.H., (1962) "The Quick Test: Provisional Manual." *Psychological Reports* 11, 111-161.
- Andrews, R. (2006) Personal communication with Dr. Ruth Andrews, Northgate and Prudhoe NHS Trust, August 2006.
- Ashman, L. and Duggan, L. (2004) "Interventions for learning disabled sex offenders" (Cochrane Review). *The Cochrane Library*, Issue 1. Chichester: John Wiley and Sons.
- Balthazar, M. R. and Cook, R.J. (1984) "An analysis of the factors related to the extent of violent crimes committed by incarcerated females." *Journal of Offender Counselling, Services and Rehabilitation* 9(1-2), 103-118.
- Barak, G. (1998) *Integrating Criminologies*. New York: Allyn and Bacon.
- Baroff, G., Gunn, M. and Hayes, S. (2004) "Legal issues." In W. R. Lindsay, J. L. Taylor and P. Sturmey, eds., *Offenders With Developmental Disabilities*. Chichester: John Wiley & Sons.
- Barron, P., Hassiotis, A., and Banes, J. (2004) "Offenders with intellectual disability: a prospective comparative study." *Journal of Intellectual Disability Research* 48, 69-76.
- Bean, P. and Nemitz, T. (1994) *Out of Depth and Out of Sight*. London: Mencap.
- Beinart, S., Anderson, B., Lee, S., and Utting, D. (2002) *Youth at risk? A national survey of risk factors, protective factors and problem behaviour among young people in England, Scotland and Wales*. London: Communities that Care.
- Birmingham, L., Mason, D., and Gubin, D. (1996) "Prevalence of mental disorder in remand prisoners: consecutive case study." *British Medical Journal* 313, 1521-4.
- Black, S. R., Rouse, R., and Wickert, R. (1990) *The Illiteracy Myth: A Comparative Study of Prisoner Literacy Abilities*. Canberra: Australian Department of Employment, Education and Training.
- Bradley, J. and Holroyd, C. (2005) "Learner Needs Analysis 2005." Learning and Skills Unit, HMYOI Deerbolt.
- British Dyslexia Association (2004) *Unrecognised Dyslexia and the Route to Offending*. Report of a project between the British Dyslexia Association and Bradford Youth Offending Team. Reading: British Dyslexia Association.

British Dyslexia Association and HM young offender institution Wetherby (2005) Practical Solutions to Identifying Dyslexia in Juvenile Offenders: Report of a Joint Project of the British Dyslexia Association and HM young offender institution Wetherby, 2004–05. Reading: British Dyslexia Association.

British Institute for Brain Injured Children (2005) “‘Ain’t Misbehavin’: Young People with Learning and Communication Difficulties and Anti-Social Behaviour.” BIBIC Campaign Update. www.bibic.org.uk.

British Psychological Society (2000) Learning Disability: Definitions and Contexts. Paper by the Professional Affairs Board of the BPS. Leicester: British Psychological Society.

Brooke, D., Taylor, C., Gunn, J., and Maden, A. (1996) “Point prevalence of mental disorder in unconvicted male prisoners in England and Wales.” *British Medical Journal* 313, 1524-7.

Brown, B. S. and Courtless, T. F. (1971) *The Mentally Retarded Offender*. Washington DC: U.S. Government Printing Office, Department of Health Education and Welfare Publication No. 72-90-39.

Brown, H. and Stein, J. (1997) “Sexual abuse perpetrated by men with intellectual disabilities: a comparative study.” *Journal of Intellectual Disability Research* 41(3), 215-224.

Bryan, K. (2004) “Preliminary study of the prevalence of speech and language difficulties in young offenders.” *International Journal of Language and Communication Disorders* 39(3), 391-400.

Bryan, K., Freer, J., and Furlong, C. (2004) *speech and language therapy for Young People in Prison Project: Third Project Report, May 2004 – October 2004*. University of Surrey.

Bryan, K., Maxim, J., MacIntosh, J., McClelland, A., Wirz, S., Edmundson, A., and Snowling, S. (1989) “The facts behind the figures: a reply to Enderby and Davies.” *British Journal of Communication* 26, 253-261.

Burton, M., Evans, R., and Sanders, A. (2006) “Are special measures for vulnerable and intimidated witnesses working? Evidence from the Criminal Justice Agencies.” Home Office Online Report 01/06. www.homeoffice.gov.uk.

Capability Scotland (2004) “Concern over anti social behaviour legislation.” Cited in Disability Rights Commission (2005), below.

Capelin, S. (2002) *Mental Health Needs of Young People with Learning Disabilities*. Plymouth: Health Action Zone.

Casey, P. and Keilitz, I. (1990) “Estimating the prevalence of learning disabled and mentally retarded juvenile offenders: a meta-analysis.” In P. E. Leone, ed., *Understanding Troubled and Troubling Youth*. London: Sage, 82-101.

Clare, I. (2006) Personal communication with Dr. Isobel Clare, Clinical and Forensic Psychologist, Department of Psychiatry, University of Cambridge, 7 August 2006.

Clare, I. C. H. and Gudjonsson, G. H. (1991) “Recall and understanding of the caution and

rights in police detention among persons of average intellectual ability and persons with a mental handicap." Proceedings of the First DCLP Annual Conference 1, 34-42. Leicester: British Psychological Society (Issues in Criminological and Legal Psychology Series, No. 17).

Clare, I. C. H. and Gudjonsson, G. H. (1992) Devising and Piloting an Experimental Version of the 'Notice to Detained Persons'. The Royal Commission on Criminal Justice Research Study no. 7. London: HMSO.

Clare, I. C. H., Gudjonsson, G. H., and Harari, P. M. (1998) "Understanding of the current police caution (England and Wales)." *Journal of Community and Applied Social Psychology* 8, 323-329.

Clare, I. C. H. and Murphy, G. (1998) "Working with offenders or alleged offenders with intellectual disabilities." In E. Emerson, C. Hatton, J. Bromley, and A. Caine, eds., *Clinical Psychology and People with Intellectual Disabilities*. Chichester: Wiley, 154-176.

Clegg, J., Hollis, C., and Rutter, M. (1999) "Life sentence." *Royal College of Speech and Language Therapists Bulletin*. November.

Clinical Psychology Workforce Planning Report (2002) Psychological Services to Learning Disabilities. Edinburgh: NHS Scotland.

Coid, J. W. (1984) "How many psychiatric patients in prison?" *British Journal of Psychiatry* 145, 78-86.

Coid, J. W. (1988) "Mentally abnormal prisoners on remand - rejected or accepted by the NHS." *British Medical Journal* 296, 1979-82.

Cooper, S. A. (1997) "High prevalence of dementia among people with learning disabilities not attributable to Down's Syndrome." *Psychological Medicine* 27, 609-616.

Criminal Justice System (2005) *Intermediaries: giving a voice to vulnerable witnesses*. London: Criminal Justice System.

Davidson, G., McCallion, M., and Potter, M. (2003) *Connecting Mental Health and Human Rights*. Belfast: Northern Ireland Human Rights Commission.

Davidson, M., Humphreys, M. S., Johnstone, E. C., and Cunningham Owens, D. G. (1995) "Prevalence of psychiatric morbidity among remand prisoners in Scotland." *British Journal of Psychiatry* 167, 554-548.

Davies, K. and Byatt, J. (1998) *Something Can Be Done! Final report on the Shropshire STOP Project*. Shrewsbury: Shropshire Chamber of Commerce.

Davies, N. and Duff, M. (2001) "Breast cancer screening for older women with intellectual disability living in community group homes." *Journal of Intellectual Disability Research* 45, 253-257.

Davison, F. M., Clare, I. C. H., Georgiades, S., Divall, J., and Holland, A. (1994) "Treatment of a man with a mild learning disability who was sexually assaulted whilst in prison." *Medicine, Sciences and the Law* 34, 346-353.

Day, K. (1988) "A hospital-based treatment programme for male mentally handicapped offenders." *British Journal of Psychiatry* 153, 636-644.

Deb, S., Thomas, M. and Bright, C. (2001a) "Mental disorders in adults with intellectual disability. 1: Prevalence of functional psychiatric illness among community based population aged between 16 and 64 years." *Journal of Intellectual Disability Research* 45, 495-505.

Deb, S., Thomas, M. and Bright, C. (2001b) "Mental disorders in adults with intellectual disability. 2: The rate of behaviour disorders among a community-based population aged between 16 and 64 years." *Journal of Intellectual Disability Research* 45, 506-14.

Denkowski, G. C., Denkowski, K. M. and Mabli, J. (1983) "A 50-State survey of the current status of residential programmes for mentally retarded offenders." *Mental Retardation* 21, 197-203.

Department for Education and Skills (2000) *Freedom to Learn: The report of the working group into basic skills needs for adults with disabilities and/or learning difficulties*. London: DfES.

Department for Education and Skills and HM Prison Service in England and Wales (2003) *Reaching all: inclusive learning handbook for prisons and YOIs Supporting people with learning difficulties and disabilities*. London: DFES/HMPS.
<http://www.adders.org/YO%20Institutes%20Teaching%20ADHD%20Guidelines.pdf>

Department of Health (2001) *Valuing People: A New Strategy for Learning Disability for the 21st Century*. White Paper, Cm 5086. London: Department of Health.

Department of Health (1994) *High security and related psychiatric provision. The Reed Report*. London: HMSO.

Department of Health (1998), cited in McBrien et al. (2003).

Department of Health and Social Services (NI) (1996) *Health and Wellbeing into the Next Millennium: Regional Strategy for Health and Social Wellbeing 1997-2002*. Belfast: DHSS.

Dickson, K., Emerson, E. and Hatton, C. (2005) "Self-reported anti-social behaviour: prevalence and risk factors amongst adolescents with and without intellectual disability." *Journal of Intellectual Disability Research* 49, 820-826.

Disability Rights Commission (2005) *Putting Disability at the Heart of Public Policy in Scotland: Priorities for Action*. Stratford upon Avon: Disability Rights Commission.

Douds, F. (2006) Personal communication with Dr. Fergus Douds, Consultant Psychiatrist, HM State Hospital Carstairs, 7 August 2006.

Duff, M., Hoghton, M., Scheepers, M., Cooper, M. and Baddedley, P. (2001) "Helicobacter pylori: has the killer escaped from the institution? A possible cause of stomach cancer in a population with intellectual disability." *Journal of Intellectual Disability Research* 45, 219-225.

Duggan (2002), cited in Rickford and Edgar (2005), below.

Einat, T. and Einat, A. (2006) "Learning Disabilities, Truancy and Delinquency: A Study of Israeli Prison Inmates." Paper presented at the British Society of Criminology Conference, Glasgow, July 2006.

- Emerson, E., Hatton, C., Felce, D., and Murphy, G. (2001) *Learning Disabilities: The Fundamental Facts*. London: The Foundation for People With Learning Disabilities.
- Enderby, P. and Davies, P. (1989) "Communication disorders: planning a service to meet the needs." *British Journal of Disorders of Communication* 24, 301-331.
- Farrington, D. P. (1995) "The development of offending and anti-social behaviour from childhood: key findings from the Cambridge study in delinquent development." *Journal of Child Psychology and Psychiatry* 36, 929-64.
- Farrington, D. P. (2000) "Psychosocial causes of offending." In M. G. Gelder, J. J. Lopez-Ibor, and N. Andeasen, eds., *New Oxford Textbook of Psychiatry*. Oxford: Oxford University Press, 2029-2036.
- Farrington, D. and Painter, K. A. (2003) *Gender differences in offending: implications for risk-focussed prevention*. Home Office RDS Online Report OLR09/04.
- Fenner, S., Gudjonsson, G. H., and Clare, I. C. H. (2002) "Understanding of the current police caution (England and Wales) among suspects in police detention." *Journal of Community and Applied Social Psychology* 12, 83-93.
- Finlay, W. M. L. and Lyons, E. (2002) "Acquiescence in interviews with people who have mental retardation." *Mental Retardation* 40, 14-29.
- Ford, G., Hardingham, S., Andrews, R., and Kelly, T. (2006) "Screening for learning disability in young people who offend." Paper presented at the 5th International Conference on the Care and Treatment of Offenders with a Learning Disability. Preston: University of Central Lancashire, 9-10 April 2006.
- Forensic Mental Health Services Managed Care Network (2006) *Proposed configuration of services for mentally disordered offenders in Scotland*. Edinburgh: NHS Scotland.
www.forensicnetwork.scot.nhs.uk
- Freer, J., Furlong, C., and Bryan, K. (n. d.) "The Experience of Offenders with Learning Disabilities within the Prison Service." University of Surrey.
- French, A., Brigden, P. and Noble, S. (1995) *Learning Disabled Offenders in Berkshire. Research Report on Mentally Disordered Offenders and Others Requiring Similar Services (the Reed Committee)*. Centrally Assisted Initiatives. East Berkshire NHS Trust.
- Gudjonsson, G. H. (1990) "One hundred alleged false confession cases: Some normative data." *British Journal of Clinical Psychology* 29, 249-50.
- Gudjonsson, G. H. (1991) "The 'Notice to Detained Persons', PACE Codes and reading ease." *Applied Cognitive Psychology* 5, 89-95.
- Gudjonsson, G., Clare, I. C. H., Rutter, S., and Pearse, J. (1993) *Persons at risk during interviews in police custody: the identification of vulnerabilities*. The Royal Commission of Criminal Justice, Research Study No. 12. London: HMSO.
- Gunn, J., Maden, A., and Swinton, M. (1991) "Treatment needs of prisoners with psychiatric disorders." *British Medical Journal* 303, 338-41.

Hamilton, J. (1999) Speech and Language Communication Therapy: A Perspective from HMYOI Polmont. Internal report, Forth valley Primary Care NHS Trust.

Harrington, R. and Bailey, S., with Chitsabesan, P., Kroll, L., Macdonald, W., Sneider, S., Kenning, C., Taylor, G., Byford, S., and Barrett, B. (2005) Mental Health Needs and Effectiveness of Provision for Young Offenders in Custody and in the Community. Youth Justice Board for England and Wales. www.youth-justice-board.gov.uk.

Harrison, P. L. and Oakland, T. (2000) Adaptive Behavior Assessment System. San Antonio: The Psychological Corporation.

Hayes, S. (1993) People with an Intellectual Disability and the Criminal Justice System: Appearances before Local Courts. Sydney, NSW: Law Reform Commission.

Hayes, S. (1996) People with an Intellectual Disability and the Criminal Justice System: Two Rural Courts. Sydney, NSW: Law Reform Commission.

Hayes, S. (1997) "Prevalence of intellectual disability in local courts." *Journal of Intellectual and Developmental Disabilities* 22(2), 71-85.

Hayes, S. (1998) People with an intellectual disability in the criminal justice system. Submission to the Standing Committee on Law and Justice, Department of Behavioural Sciences and Medicine, University of Sydney.

Hayes, S. C. (1999) Good behaviour? A comparison of cognitive and adaptive behaviour impairments in offender populations. Sydney: Australian Society for the Study of Intellectual Disability 35th Annual National Conference.

Hayes, S. (2002) "Early intervention or early incarceration? Using a screening test for intellectual disability in the criminal justice system." *Journal of Applied Research in Intellectual Disabilities* 15, 120-128.

Hayes, S. (2000) Hayes Ability Screening Index (HASI) manual. Sydney: Behavioural Sciences in Medicine, University of Sydney.

Hayes, S. and McIlwain, D. (1988) The Prevalence of Intellectual Disability in the New South Wales Prison Population: An Empirical Study. Canberra: Criminology Research Council.

Hazel, P. (2006) Personal communication with Pamela Hazel, Head of Education, HMYOC Hydebank Wood, 26 July 2006.

Heal, L. W. and Sigelman, C. K. (1995) "Response biases in interviews of individuals with limited mental ability." *Journal of Intellectual Disability Research* 39, 331-340.

Henderson, C. (2004) "Key Findings and Recommendations Arising from a Study into the Prevalence of Dyslexia amongst Inmates at HMP Brixton: A Summary Report." London: The Dyslexia Institute.

Herrington, V. (2005) "Meeting the healthcare needs of offenders with learning disabilities." *Learning Disability Practice* 8(4), 28-32.

Herrington, V., Hunter, G., Curran, K., and Hough, M. (2004) "The feasibility of assessing

learning disabilities among young offenders.” London: King’s College London and Hounslow Primary Care Trust.

HM Inspectorate of Prisons and Office for Standards in Education (2002) *A Second Chance: A Review of Education and Supporting Arrangements within Units for Juveniles managed by HM Prison Service. Thematic Review.* London: Home Office.

HM Prison Service (2005) “Survey of prisoners with disabilities.” *Inside Disability* 13, 1-4.

Hodgins, S. (1992) “Mental disorder, intellectual disability and crime: evidence from a birth cohort.” *Archives of General Psychiatry* 49, 476-83.

Hodgins, S., Mednick, S. A., Brennan, P. A., Schulsinger, R., and Engerg, M. (1996) “Mental disorder and crime.” *Archives of General Psychiatry* 53, 489-496.

Holland, A. J. (2004) “Criminal behaviour and developmental disability: an epidemiological perspective.” In W. R. Lindsay, J. L. Taylor, and P. Sturmey, eds., *Offenders with Developmental Disabilities.* Chichester: Wiley & Sons, Ltd., 23 – 34.

Holland, A. J. (2006) Personal communication with Prof. Anthony Holland, University of Cambridge, 27 July 2006.

Hollins, S., Attard, M. T., von Fraunhofer, N., and Sedgwick, P. (1998) “Mortality in people with learning disability: risks, causes and death certification findings in London.” *Developmental Medicine and Child Neurology* 40, 50-56.

Holland, A. J., Clare, I. C. H. and Mukhopadhyay, T. (2002) “Prevalence of ‘criminal offending’ by men and women with intellectual disability and the characteristics of ‘offenders’: Implications for research and service development.” *Journal of Intellectual Disability Research* 46(10), 6-20.

Home Office (1995) *Police and Criminal Evidence Act 1984. Codes of Practice. Revised Edition.* London: H.M.S.O.

Home Office (2004) [cited in Murphy and Mason, no ref.]

The House of Commons Education and Skills Committee (2005) *Report on Prison Education.* London: House of Commons.

Humber, E. and Snow, P. C. (2001) “The oral skills of young offenders: a pilot investigation.” *Psychiatry, Psychology and Law* 8, 1-11.

Iverson, J. and Fox, R. (1989) “Prevalence of psychopathy among mentally retarded adults.” *Research in Developmental Disabilities* 10, 77-83.

Kaufman, A. S. and Lichtenberger, E. O. (1999) *Essentials of WAIS-III Assessment.* Chichester: John Wiley & Sons.

Katz, A. (2003) “Young lives, lost rights?” *Action for Prisoners’ Families News*, Autumn 2003, 17-18.

Kebbell, M. R. and Hatton, C. (1999) “People with mental retardation as witnesses in court: a review.” *Mental Retardation* 37, 179-187.

- Kirk, J. and Reid, G. (2001) "An Examination of the Relationship between Dyslexia and Offending in Young People and the Implications for the Training System." www.quickscn.com/studyscn/JaneKirk.rtf.
- Klein, C. (1998) *Dyslexia and offending*. London: DYSPEL.
- Lader, D., Singleton, N., and Meltzer, H. (2000) *Psychiatric Morbidity among Young Offenders in England and Wales*. Office of National Statistics Social Survey Division. London: Department of Health.
- Liebling, A. (1992) *Suicides in Prison*. London: Routledge.
- Lindsay, W. R., Law, J., Quinn, K., Smart, N., and Smith, A. H. W. (2001) "A comparison of physical and sexual abuse histories: sexual and non-sexual offenders with intellectual disability." *Child Abuse and Neglect* 25, 989-995.
- Lindsay, W. R., Law, J., and MacLeod, F. (2002) "Intellectual disabilities and crime: Issues in assessment, intervention and management." In A. Needs and G. Towl, eds., *Applying Psychology to Forensic Practice*. Oxford: BPS Books/Blackwell Publishing, 97 - 114.
- Lindsay, W. R., Murphy, L., Smith, G., Murphy, D., Edwards, Z., Chittock, C., Grieve, A., and Young, S. J. (2004) "The dynamic risk assessment and management system: an assessment of immediate risk of violence for individuals with offending and challenging behaviour." *Journal of Applied Research in Intellectual Disabilities* 17, 267-274.
- Lowe, K., Felce, D., Perry, J. Baxter, H., and Jones, E. (1998) "The characteristics and residential situations of people with severe intellectual disability and the most severe challenging behaviour in Wales." *Journal of Intellectual Disability Research* 42(5), 375-98.
- Lundie, E. (2006) Personal communication with Dr. Ewan Lundie, Psychology Unit, Scottish Prison Service, 19 June 2006, regarding unpublished research in the SPS.
- Lyall, I., Holland, A. J., Collins, S. (1995) "Offending by adults with learning disabilities: identifying need in one health district." *Mental Handicap Research* 8, 99-109.
- Lyall, I., Holland, A. J., Collins, S., and Styles, P. (1995) "Incidence of persons with a learning disability detained in police custody: a needs assessment for service development." *Medicine, Science and the Law* 35, 61-71.
- MacEachron, A. E. (1979) "Mentally retarded offenders: prevalence and characteristics." *American Journal of Mental Deficiency* 84, 165-76.
- Mansell Committee (1993) *Services for people with learning disabilities and challenging behaviour or mental health needs: report of a project group*. London: HMSO.
- Mason, J. (1998) Unpublished Ph.D. Thesis. Canterbury: University of Kent.
- Mason, J. and Murphy, G. H. (2002) "Intellectual disability amongst people on probation: prevalence and outcome." *Journal of Intellectual Disability Research* 46(3), 230-238.
- McAfee, J. K. and Gural, M. (1988) "Individuals with mental retardation and the criminal justice system: The view from States' attorneys general." *Mental Retardation* 26, 5-12.
- McBrien, J. (2001) Unpublished thesis, cited in McBrien, Hodgins, and Gregory (2003).

- McBrien, J. (2003) "The Intellectually Disabled Offender: Methodological Problems in Identification." *Journal of Applied Research in Intellectual Disabilities* 16, 95-105.
- McBrien, J., Hodgetts, A., and Gregory, J. (2003) "Offending and risky behaviour in community services for people with intellectual disabilities in one Local Authority." *Journal of Forensic Psychiatry* 14 (2), 280-97.
- McCaughan, A. (2005) "Identifying the Dyslexic in HMP Magilligan." Paper for Hornsby Diploma, September 2005.
- McCaughan, A. (2006) Personal correspondence with Alison McCaughan, Education Department, HMP Magilligan, 28 July 2006.
- McClelland Committee (2006a) "Autistic Spectrum Disorders". Bamford Review of Mental Health and Learning Disability (Northern Ireland). www.rmhdni.gov.uk/asd_report.asp.
- McClelland Committee (2006b) Equal Lives Report on Learning Disability. From Bamford Review of Mental Health and Learning Disability (Northern Ireland). www.rmhdni.gov.uk/learning_disability.asp.
- McGee, J. J. and Menolascino, F. J. (1992) "The evaluation of defendants with mental retardation in the Criminal Justice System." In R. W. Conley, R. Luckasson, and G. N. Bouthilet, eds., *The Criminal Justice System and Mental Retardation*. Baltimore, MD: Paul H. Brookes, 55-77.
- McNulty, C., Kissi-Deborah, R., and Newson-Davies, I. (1995) "Police involvement with clients having intellectual disabilities: a pilot study in South London." *Mental Handicap Research* 8, 129-36.
- Medford, S., Gudjonsson, G., and Pearse, J. (2000) *The Identification of Persons at Risk in Police Custody: The Use of Appropriate Adults by the Metropolitan Police*. London: Metropolitan Police.
- Mencap (2004) *Treat Me Right! Better Healthcare for people with a learning disability*. London: Mencap.
- Mencap (2006) "Benefits or tax offices worst offenders in Mencap's 'Make it clear' poll." Press release, 20 June 2006. www.mencap.org.uk/html/press_office/press_release.asp?ID=2305.
- Menolascino, F. (1974) "The mentally retarded offender." *Mental Retardation* 12(1), 7-11.
- Mercer, J. R. (1973). "The myth of three percent prevalence". In R. K. Eyman, C. E. Meyers, and G. Tarjan, eds., *Sociobehavioural studies in mental retardation*. Washington DC: Monographs of the American Association on Mental Deficiency No. 1, 1-18.
- Morgan, W. (1997) "Dyslexia and crime." *Dyslexia* 3, 247-248.
- Mottram, P. G. (2007) *HMP Liverpool, Styal and Hindley Study Report*. Liverpool: University of Liverpool.
- Mottram, P. and Lancaster, R. (2006) "HMPs Liverpool, Styal and Hindley YO1: Preliminary Results." Cumbria and Lancashire: NHS Specialised Services Commissioning Team.

Murphy, G. (2000) "Policy and service development trends: forensic mental health and social care services." *Tizard Learning Disabilities Review* 5, 32-35.

Murphy, G. (2005) *Breaking the Cycle - Better help for people with learning disabilities at risk of committing offences: A framework for the Northwest*. Regional Task Force. www.nwtdt.com/Breakingthecycle/Breaking%20Cycle%20document.pdf.

Murphy, G. H., Harnett, H., and Holland, A. J. (1995) "A Survey of Intellectual Disabilities Amongst Men on Remand in Prison." *Mental Handicap Research* 8(2), 81-98.

Murphy, G. and Holland, A. (1993) "Challenging behaviour, psychiatric disorders and the law." In R. S. P. Jones and C. B. Eayrs, eds., *Challenging Behaviour and Intellectual Disability: A Psychological Perspective*. Clevedon: BILD Publications, 195-223.

Murphy, G. and Mason, J. (1999) "People with Developmental Disabilities who Offend." In N. Bouras, ed., *Psychiatric and Behavioural Disorders in Developmental Disabilities and Mental Retardation*. New York: Cambridge University Press, 226-45.

Murphy, G., and Mason, J. (2005) "People with Intellectual Disabilities who are At Risk of Offending." In N. Bouras, ed.,???. Cambridge: Cambridge University Press.

Murphy, M., Harrold, M., Carey, S., and Mulrooney, M. (2000) "A Survey of the Level of Learning Disability among the Prison Population in Ireland." Dublin: Department of Justice, Equality and Law Reform.

Myers, F. (2004) *On the Borderline? People with Learning Disabilities and/or Autistic Spectrum Disorders in Secure, Forensic and Other Specialist Settings*. Edinburgh: Scottish Executive Social Research.

National Autistic Society (2002) *Taking Responsibility: Good practice guidelines for services - adults with Asperger Syndrome*. London: NAS.

National Disability Team (2004) *The SEN Disability Act (2001)*. www.natdisteam.ac.uk/resources_knowledge_SEN_intro.html.

National Development Team (2006) "The Tough Times Project from the National Development Team: Raising the Profile of Adults with Learning Disabilities 'Stuck' in the Secure Care System." Ipswich: National Development Team.

National Institute of Adult Continuing Education (2003) *Valuing People: Briefing paper for learning and disability partnerships*. London: NIACE.

Noble, J. H. and Conley, R. W. (1992) "Toward an epidemiology of relevant attributes." In R. W. Conley, R. Luckasson, and G. N. Bouthilet, eds., *The Criminal Justice System and Mental Retardation*. Baltimore, MD: Paul H. Brookes, 17-53.

Northern Ireland Prison Service (2000) *Prison Education Beyond 2000: A Review of Educational Provision for Prisoners in Northern Ireland*. Belfast: NIPS Inmate Activities and Services.

Office of Standards in Education, in consultation with HM Chief Inspector of Prisons (2004) *Girls in Prison: The education and training of under-18s serving Detention and Training Orders*. London: Her Majesty's Inspectorate of Prisons.

- Oliver, C., McClintock, K., Hall, S., Smith, M., Dagnan, D., and Stenfert-Kroese, B. (2003) "Assessing the Severity of Challenging Behaviour: Psychometric Properties of the Challenging Behaviour Interview". *Journal of Applied Research in Intellectual Disabilities* 16 (1), 53-61.
- Palmer, C. and Hart, M. (1996) *A PACE in the right direction?* Institute for the Study of the Legal Profession, Faculty of Law, University of Sheffield: Mental; Health Foundation.
- Paterson, L. (2006) Personal communication with Lesley Paterson, learning disability trained nurse at HMYOI Polmont, 20 July 2006.
- Pearse, J. and Gudjonsson, G. H. (1996) "How appropriate are Appropriate Adults?" *Journal of Forensic Psychiatry* 7, 570-580.
- Perlman, N. B., Ericson, K. I., Esses, V. M., and Isaacs, B. J. (1994) "The developmentally handicapped witness." *Law and Human Behaviour* 18, 171-187.
- Probation Board for Northern Ireland (2005) "Probation Board for Northern Ireland Policy Screening Form." www.pbni.org.uk/probationprojectsscreeningformmarch0521.pdf.
- Pryor, A. (1998) A systematic assessment of the prevalence of communication difficulties within a small group of young offenders. Unpublished thesis, University of Reading.
- Rack, J. (2005) "The Incidence of Hidden Disabilities in the Prison Population." Egham, Surrey: Dyslexia Institute.
- Reed Committee (1992) *Review of Health and Social Services for Mentally Disordered Offenders and Others Requiring Similar Services Volume 2: Service Needs - Community Advisory Group Report.* London: HMSO.
- Reichard, C. L., Spencer, J., and Spooner, F. (1980) "The mentally retarded offender." *Journal of Special Education* 14, 113-119.
- Reid, A. (1994) "Psychiatry and learning disability." *British Journal of Psychiatry* 164, 613-618.
- Reid, G. and Kirk, J. (2002) *Dyslexia in Adults: Education and Employment.* Wiley: Chichester.
- Rice, M. (1999) *Literacy and Behaviour: The Prison Reading Survey.* Cambridge: University of Cambridge.
- Rice, M. (2001) "Dyslexia and Crime". Paper presented to the International Conference of the British Dyslexia Association, University of York.
- Rice, M., Howes, M. and Connel, P. (2002). *The Prison Reading Survey. A report to HM Prison Service Planning Group.* Cambridge: Institute of Criminology, University of Cambridge.
- Richards, M., Maughan, B., Hardy, R., Hall, I., Strydom, A., and Wadsworth, M. (2001) "Long-term affective disorder in people with mild learning disability." *British Journal of Psychiatry* 179, 523-7.

Richardson, S. A. and Koller, H. (1985) "Epidemiology." In A. M. Clarke, A. D. B. Clarke, and J. M. Berg, eds., *Mental Deficiency: The Changing Outlook*. London: Methuen.

Rickford, D. and Edgar, K. (2005) *Troubled Inside: Responding to the Mental Health Needs of Men in Prison*. London: Prison Reform Trust.

Robinson, C. (2005) "A Pilot Investigation into the prevalence of Learning Disabilities within HMP Perth and a viability study of the practical use of the HASI (Hayes Ability Screening Index)." Perth: HMP Perth Psychology, SPS.

Scott, M. and Wright, M. (2006) "Dyslexia Screening and Literacy and Numeracy Assessments." Internal document. Belfast: HMYOC Hydebank Wood.

Scott, M. (2006) Personal communication with Michael Scott, Education Department, HMYOC Hydebank Wood, 27 July 2006.

Scottish Prison Service (n. d.) *Sex Offender Treatment Programme – Adapted Programme Theory Manual*. Edinburgh: SPS.

Scottish Prison Service Psychological Services (2005) *Sex Offender Treatment Programme – Adapted Programme: Application for Accreditation*. Internal document. Edinburgh: SPS.

Seaward, S. and Rees, C. (2001) "Responding to people with a learning disability who offend." *Nursing Standard* 15(37), 36-39.

Seden, R. (2006) "Access to Justice for Vulnerable Defendants." *Legal Action*, March 2006, 11-12.

Sheldrick, E. C. (1995) "Delinquency: risk factors and treatment interventions." *Current Opinion in Psychiatry* 8, 362-365.

Shropshire Probation Service (1998) *The Stop Project*. Cited in NIPS (2000), *op cit*.

Singleton, N., Meltzer, H., and Gatward, R., with J. Coid and D. Deasy (1998) *Psychiatric morbidity among prisoners*. Office of National Statistics Social Survey Division. London: Department of Health.

Smith, S. A. (1993) "Confusing the terms 'guilty' and 'not guilty': Implications for alleged offenders with mental retardation." *Psychological Reports* 73, 675-678.

Snowling, M. J., Adams, J., Bowyer-Crane, C. and Tobin, V. (2000) "Levels of literacy among juvenile offenders: The incidence of specific reading difficulties." *Criminal Behaviour and Mental Health* 10, 229-241.

Sparrow, S. S., Balla, D. A., and Cicchetti, D. V. (1984) *Vineland Adaptive Behavior Scales*. American Guidance Service.

Svensson, I., Lundberg, I., and Jacobson, C. (2001) "The prevalence of reading and spelling difficulties among inmates of institutions for compulsory care of juvenile delinquents." *Dyslexia* 7, 62-76.

Taggart, L., McLaughlin, D., Quinn, B., and Milligan, V. (2004) *An Exploration of Substance Misuse in People with Learning Disabilities Living within Northern Ireland*. Research Commissioned by the Review of Mental Health and Learning Disability, Northern Ireland

(McClelland Committee), Alcohol and Substance Misuse Working Group.
www.rmhdni.gov.uk/published_reports.asp.

Thompson, D. (1997) "Profiling the sexually abusive behaviour of men with intellectual disabilities." *Journal of Applied Research in Intellectual Disabilities* 10, 125-39.

Thornton, C. (1997) "Meeting the health needs of people with learning disability." *Nursing Times* 93(20), 52-54.

Tomblin, J. B., Zhang, X., Buckwater, P., and Catts, H. (2000) "The association of reading disability, behavioural disorders and language impairment among second grade children." *Journal of Child Psychology and Psychiatry* 41(4), 473-482.

Van Brunschott, E. G. and Brannigan, A. (1995) "IQ and crime: Dull behaviour and / or misspecified theory." *The Alberta Journal of Educational Research*, 61(3), 316-321.

Vaughan, P. J., Pullen, N. and Kelly, M. (2000) "Services for mentally disordered offenders in community psychiatry teams." *Journal of Forensic Psychiatry* 11, 571-586.

Wechsler, D. (1981) *Wechsler Adult Intelligence Scale – Revised*. New York: The Psychological Corporation.

Wechsler, D. (1999) *Wechsler Abbreviated Scale of Intelligence (WASI)*. New York: The Psychological Corporation.

West, D. J. and Farrington, D. P. (1973) *Who Becomes Delinquent?* London: Heinemann.

Whittaker, S. (2004) "Hidden Learning Disability." *British Journal of Learning Disability* 32, 139-143.

Williams, J. and Atthill, C. (2005) *Learning difficulties and disabilities in prison: Setting the scene*. Briefing paper for *No One Knows*. London: Prison Reform Trust.

Winter, N., Holland, A. J., and Collins, S. (1997) "Factors predisposing to suspected offending by adults with self-reported learning disabilities." *Psychological Medicine* 27, 595-607.

Wilson, D. and Haire, A. (1990) "Health screening for people with mental handicap living in the community." *British Medical Journal* 301, 1379-1380.

World Health Organisation (1992) *International Classification of Diseases*, 10th edition. Geneva: WHO.

Appendix 1

Membership of the advisory group:

- Chair: the Rt Hon. The Baroness Joyce Quin
- Alan Bicknell, Regional Co-ordinator, The National Autistic Society
- Professor Karen Bryan, University of Surrey, European Institute of Health and Medical Sciences
- Judy Clements, Regional Director, London and South East, Independent Police Complaints Commission
- Shirley Cramer, Chief Executive, Dyslexia Action
- Dr Kimmett Edgar, Head of Research, Prison Reform Trust
- Dr Andrew Fraser, Director of Health and Care, Scottish Prison Service
- Dr Ann Hagell, Freelance Research Associate, Policy Research Bureau and trustee, Prison Reform Trust
- Brian Ingram, Head of Resettlement, Northern Ireland Prison Service
- Dr Glyn Jones, Consultant Psychiatrist, Learning Disability Directorate, Bro Morgannwg NHS Trust
- Glynis Murphy, Professor of Clinical Psychology of Learning Disability, Tizard Centre, University of Kent
- Robert Newman, Director: education, training and employment, Youth Justice Board
- Sue O'Hara, Head of Offender Learning, Learning and Skills Council
- Sarah Payne, Regional Offender Manager (South East), National Offender Management Service
- Tom Robson, National Executive, Prison Officer Association
- James Shanley, Governor, HMPYOI Norwich
- Keith Smith, Chief Executive, British Institute of Learning Disabilities
- Kathryn Stone, Chief Executive, Voice UK
- Dame Jo Williams, Chief Executive, Mencap (and partner organisation)