

OPSIDIANET

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Persons with Mental Health, Autism & Intellectual Disabilities
in the Criminal Courts

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The logo for the Prison Reform Trust, consisting of a dark red square with the words "PRISON REFORM TRUST" in white, stacked vertically.

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What I will cover:

- Persons with Mental Health, Autism & Intellectual Disabilities in the Criminal Courts: <http://www.mhldcc.org.uk/>
- Prevalence
- Challenges faced
- Identifying and assessing needs: an example from England
- Intermediaries

Prevalence:

- Prevalence:
 - High numbers of people with psychosocial disabilities caught up in criminal justice systems around the world.
 - Less is known about people with intellectual disabilities (ID). In England and Wales, estimates vary but it is generally acknowledged that around 7% of the prison population has an ID, and a further 25% have needs associated with low levels of literacy and communication skills.

Challenges faced:

- The criminal courts are challenging for most people, but especially so for people who find it hard to read and write, to express themselves, to understand what others are saying, and to concentrate. 'Fast' is how one person with ID described his experience of being in court.
- *I couldn't really hear. I couldn't understand... Sometimes they tell you two things at once.*
- *They talk so fast; they were jumping up and down saying things. I gave up listening.*
- *The judge asked me if I understood and I said yes even though I didn't... my legs turned to jelly, and my mum collapsed.*
- *Everyone was talking but I didn't know what was going on.*
- *The solicitor tried to talk to me but used big words... when she left [the court cell] I thought, 'what was that all about?'*
- *I understand that I have done something wrong, but I'm still not quite sure as to what that is.*

Film clip:

- <https://youtu.be/yrwGGdDCa94>
- Three men talk about their intellectual disability, how they came into contact with the criminal justice system, and their experience of the criminal courts.

Liaison and Diversion services – England

- **Liaison and Diversion** (L&D) services identify people who have mental health conditions, intellectual disability, autism, substance misuse or other vulnerabilities when they first encounter the CJS.
- L&D services are located at police stations and criminal courts. Staff are qualified healthcare personnel; funded by the National Health Service.
- Justice personnel can make referrals to L&D services, and L&D staff are proactive in identifying and assessing needs. They write reports that inform criminal justice decision making, including reasonable accommodations at the police station and in court and sentencing, and make referrals into local services.
- Ten years to reach 100% population coverage.

Liaison and Diversion services – England

- Two main aims:
 - improve health and social care outcomes
 - reduce reoffending.
- Limited evidence, but promising:
 - One study involving 4,462 persons found a statistically significant reduction in the amount of offending following contact with L&D services at the police station, and a statistically significant reduction in the use of compulsory hospital detention.

(Kane E, Evans E, Mitsch J, Jilani T. Are Liaison and Diversion interventions in policing delivering the planned impact: A longitudinal evaluation in two constabularies? *Crim Behav Ment Health*. 2020;1–12. <https://doi.org/10.1002/cbm.2166>)

Intermediaries:

Intermediaries (also known as "facilitators"): persons who work, as required, with justice system personnel and persons with disabilities to ensure effective communication during legal proceedings. They support persons with disabilities to understand and make informed choices, making sure that things are explained and talked about in ways that they can understand, and that appropriate accommodations and support are provided. Intermediaries are neutral and they do not speak for persons with disabilities or for the justice system, nor do they lead or influence decisions or outcomes (International Principles and Guidelines on Access to Justice for Persons with Disabilities: Geneva, 2020)

https://www.ohchr.org/Documents/Issues/Disability/SR_Disability/GoodPractices/Principles_A2_Justice.pdf

Intermediaries

- Introduced in the Youth Justice and Criminal Evidence Act 1996, as a ‘reasonable accommodation’– but for witnesses only.
- Can be made available for defendants at the discretion of the court, but significant gaps in provision and funding can be problematic.
- Intermediary schemes exist and are developing around the globe, including, Australia, New Zealand, Mexico, Kenya, Spain and Israel.
- Report on intermediaries for justice around the globe (María Gómez-Carrillo de Castro, 2020)
- Justice Intermediary Starter Kit (forthcoming, 2021)

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Thank you

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