

# LORD BRADLEY REVIEW INTO THE DIVERSION OF OFFENDERS WITH MENTAL HEALTH PROBLEMS AND LEARNING DISABILITIES AWAY FROM PRISON

CAPTURING THE VIEWS OF  
STAKEHOLDERS: A SUMMARY  
REPORT OF  
CONSULTATION EVENTS

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## EXECUTIVE SUMMARY

The Rt Hon Jack Straw MP, Secretary of State for Justice and Lord Chancellor announced, 5 December 2007, a review, reporting jointly to the Department of Health and the Ministry of Justice, to look at how more offenders with severe mental health problems can be diverted away from prison and into more appropriate facilities. Lord Bradley was subsequently asked to Chair the Review.

Some 12 months on, this report gives an overview of the information and opinions gathered during a series of regional stakeholder events hosted as an essential part of Lord Bradley's independent review.

The events, which attracted over 500 delegates, were held to ensure that the views and experiences of local staff and stakeholders informed and shaped the final recommendations made by Lord Bradley to Government about the future arrangements for diverting those with mental health and learning disabilities away from prison. The formal report was submitted to the Government in February 2009. [For a copy of the report go to: [www.insert link](#)]

A detailed record was made of each of the seven regional events held during the Autumn of 2008, and the later event in Wales in November, and whilst many different opinions were expressed, this report focuses on those issues that came up time and time again. The separate issues for Wales are included in their entirety as an appendix to this report. These included the need for a national framework to give much needed consistency about the role of diversion schemes whether they be in Cornwall or Cumbria, greater clarity on funding arrangements, including a desire to see money ring fenced for the purpose of diversion, and a concern that without effective information sharing protocols the needs of individuals with mental health problems and learning disabilities would not be met.

**This report sets out a summary of the discussions held and key themes raised, namely:**

- **Multi agency working:** There can be a lot of fear, misunderstanding, resentment and ignorance about what other agencies do. In the future what is needed is consensus, commitment and enthusiasm of partners with clearly defined roles along the whole offender pathway is required to avoid competing priorities.
- **Funding and resources:** It is vital to get clarity on funding arrangements to ensure the sustainability of diversion schemes.
- **Commissioning:** Mental health needs to be moved much higher up a PCT's agenda to ensure offenders with mental health problems and/or learning disabilities get the services appropriate to their needs.
- **Information gathering and sharing:** information is not being used in the best way to make best use of limited resources; there are too many instances where information is either duplicated unnecessarily or not shared at all. New ways of working need to be introduced.
- **Prevention and early interventions:** More needs to be done to divert people away from criminal activity before they even start offending.
- **The media and public attitudes:** There is a lack of public faith in the criminal justice system, exacerbated by media portrayal of offenders, especially those with mental illness.
- **Screening:** Greater emphasis on initial proactive screening work across the Criminal Justice System, but particularly at police custody suites, could lead to earlier disposal and no necessity for a court appearance and potential remand.
- **Assessments:** Everything hinges on a proper assessment; appropriate assessment at the appropriate time can result in a package of services being made available for an individual.
- **Access to mental health and learning disability services:** People who fall just outside the remit of mental health services are a barrier to good diversion; there are lots of low level issues which are outside mainstream services.
- **Psychiatric reports:** There needs to be speedier access to psychiatric reports for the courts which are of high quality and relevant to the local area in terms of services that are actually available.
- **Case management and continuity of care:** Offenders would benefit from a quick and easy single point of contact for services and help. And on release from prison, an adequate care plan and follow up support would do much to avoid a 'revolving doors' scenario.
- **Training:** Diversion schemes are dealing with complex, high risk individuals. Appropriate training

is therefore required not only for individual members of the workforce but also across agencies to help them understand the role of other agencies involved in diverting offenders.

## INTRODUCTION TO THE BRADLEY REVIEW

What are the points in the Criminal Justice System where there could be alternatives to putting people with mental health problems and learning disabilities behind bars? That was the challenge thrown to former Home Office Minister Lord Keith Bradley in December 2007 when Government invited him to carry out an independent review of the current arrangements for individuals with mental health problems or learning disabilities in the criminal justice system.



*Lord Bradley explains the aims of his Review*

Diversion is a policy which removes people with mental disorders from the criminal justice system into appropriate hospital or suitable community placements where they can receive treatment. It remains Government's policy to divert in cases where the public interest does not require prosecution. However, current provision of diversion schemes is at best patchy and suffers from a lack of strategic planning. There are still many more people with severe mental health problems and disorders in prison than in the wider community.

The original aim of the Review, therefore, was to examine the extent to which appropriate cases were diverted and to make recommendations to Government on the organisation of effective court diversion and liaison arrangements and the services needed to support them.

But after an initial information gathering process, it soon became clear to the Review team that the terms of reference were too tight and Lord Bradley was granted permission by Ministers to extend the scope of his work to look along the whole of the offender pathway, including community, police, courts, custody,

probation and resettlement. As such the Review period was extended from six to 12 months.

***"I realised very quickly that if we looked at diversion schemes in isolation it missed an opportunity to look at the whole pathway and make effective change to this population and where and when they are dealt with. I hope to make some difference for these people."***

Lord Bradley

The first three months of the project focused on information gathering. To get an idea of the baseline situation prior to making his recommendations, Lord Bradley commissioned each of the English regions to carry out a detailed audit of their existing diversion schemes. These were based on the traffic light system advocated by the Mental Health Effective Practice Audit Checklist - or MHEP-AC toolkit - produced by Jane Winstone and Francis Pakes in January 2008. By using a single audit tool common themes could be pulled out when the reports were submitted. (More detail on the toolkit can be found at <http://www.londondevelopmentcentre.org/cms/site/docs/MHEP-AC%20standard.pdf>)

To supplement the audit findings, a letter calling for evidence from across the country was sent out to a wide range of interested stakeholders in January 2008, and an extensive literature review was conducted. A series of interviews were then held with stakeholders across a variety of organisations, importantly including users of the mental health services, their carers and organisations that represent the users. Lord Bradley also made visits to every setting such as prisons, courts and Mental Health Trusts to get as wide a view as possible about the issues and to tease out what would be good practice for rolling out on a national basis. In addition, there was a brief look at international comparisons including a visit to a mental health court in the Bronx.

The response was overwhelming, indicating the huge level of interest in diversion, and subsequent analysis of the findings revealed key themes emerging. For example, those diversion schemes that did well in the MHEP-AC audit tended to have financial stability, clear operational protocols, effective leadership, clear training and shared training with other organisations and adequate staffing.

But where there was lack of funding, lack of trained skilled staff, lack of resources as to where people could be diverted to, lack of continuity and a lack of a shared protocol as to how information was exchanged, then the scheme did not show up as well in the audit.

Having already demonstrated his desire to draw on appropriate expertise and views from professional bodies, service providers and other interested groups, Lord Bradley went on to organise a series of regional stakeholder events in Autumn 2008 to 'road test' the conclusions he had drawn from the fact finding process.

The events, which attracted almost 500 delegates in total, were designed to give stakeholders a good opportunity to shape and inform the future for people with mental health problems or learning disabilities in the criminal justice system. Questions were posed such as how do we prove we need this type of court diversion and liaison service? What would it look like if we started again and who needs to be involved in these services?

Delegates were also asked to suggest quick wins that the review could incorporate to really make a practical difference on the ground. The overwhelming message was that at the moment schemes are not joined up to anything and there is no robust funding or management. As such there is a pressing need for national direction from the centre as to what a scheme should do, how it should be managed and what it should consist of.

***Most of the liaison and diversion schemes in the region, and indeed nationally, are run by individuals with lots of enthusiasm and energy who are well connected but the problem is that they stand alone and have no connectivity in terms of governance or robust funding from PCTs."***

The discussions from those events form the bulk of this report which is being published as supporting evidence to Lord Bradley's formal report to Government. The recommendations he makes will also dovetail into the new Offender Health Strategy – 'Improving Health, Supporting Justice' - which is due to be launched in Spring 2009.

*NB: Apart from comments made by Lord Bradley, event Chairs or other Department of Health staff, quotes used throughout the report are anonymous, although job titles have been attributed where possible.*

## THE STAKEHOLDER EVENTS

***“The aim of these stakeholder events is to test all my thoughts in gatherings like this to ensure all the issues have been properly addressed. My list is not exhaustive; I need the input of delegates so I can produce a report that has a resonance with you and will make a difference to the collective way we all work and makes the public confident we are making the right changes.”*** Lord Bradley

A series of regional events were used to actively engage with over 500 stakeholders between September and November 2008. The events supplemented a range of other methods used by Lord Bradley and the Review team to gather information, as outlined in the previous section.

Each region was asked in advance of the event to conduct an audit of existing diversion and liaison schemes. Analysis of all the audits revealed a fairly bleak picture of patchy provision. It was in the light of those initial findings which highlighted problem areas and barriers that the format for the stakeholder events was shaped.

Each event was organised by a local representative – often the regional mental health lead or in some cases, CSIP. And whilst a suggested format was made by the Bradley Review Team, it was left to local representatives to arrange the day in the way that best suited local need.



Lord Bradley sets out his aims to the South West region

It was evident that at all events there was excellent representation from all levels and types of staff involved in the issue of diversion. A typical mix was prison mental health in-reach teams, mental health practitioners, police custody personnel, probation, academics, police officers, CPS, crown court judges

and magistrates, psychiatrists and other health professionals, local authority and city council staff, commissioners, PCT members, CSIP staff, and representatives from the voluntary sector

Delegates were able to share front line experiences, giving a rich pool of information about the current barriers to effective diversion. Lord Bradley attended each event in person to hear the debate at first hand and give an introductory presentation about the Review, outlining the process, why it was important and the themes he had taken on board following his initial investigations.

Delegates were then invited to share their views about what the Review could usefully focus on. “The purpose is to hear from you” Lord Bradley told delegates, adding that the key aim was to road test his thinking around the need for a national framework and to discuss how best it can support the delivery of regional strategic plans and delivery at a local level.

***“What is most important to me is to test out some of my assumptions and to hear from you how your work could be adjusted to meet the aspirations I am setting out and what is practical to see change happen. Today is about that consideration. We are gathering information from all parts of the country recognising local differences.”*** Lord Bradley

In addition to Lord Bradley’s own speech, some regions chose to showcase regional research findings and working arrangements of existing schemes during plenary sessions. Delegates then took part in workshop sessions where discussions covered a wide range of topics but were broadly based around the current barriers to effective diversion and looking for possible solutions. Examples of good practice were thrown up as an off shoot of these discussions. Throughout each event Lord Bradley moved around the tables to answer questions and discuss issues with delegates.

Among delegates’ major topics of discussion were the need for a national framework, the current lack of effective partnership working and serious issues about how services are commissioned. Many different views were expressed but key points were fed back and recorded.

***“We need a fundamental cultural shift from a system that is currently very disparate to one which sees everybody putting the service user at the centre of their thoughts; if the review could put mechanisms in place to deliver that it would have a huge impact.”*** Eastern delegate

At the conclusion of each event Lord Bradley reminded delegates he was still happy to receive further comments by post or email and that the events had been a valuable opportunity to map out how high quality services can be delivered in the future. He assured delegates that he wanted to set a direction of travel – looking at it as incremental change over time and that he hoped for an independent review in the future to report on progress.

He was very grateful to delegates for the amount of work they put into the stakeholder events and appreciated the knowledge, experience and enthusiasm they brought to the table. He felt there wasn't much disagreement across the country about the nature of the problem and the way it needed addressing.

A table giving specific detail on each event - venue, delegate numbers, presentations, workshop titles and contact details is included as an appendix to this report. (See *pages 27-30*)

## DIVERSION – WHAT DOES IT MEAN?

***“Diversion might not be the right word - it isn’t as clear cut as being mad or bad. The term diversion is in itself one of the biggest barriers because it means we get into ownership issues and it turns into a fight, shifting the body around to fit into a slot.”*** North West delegate

There was considerable discussion at the stakeholder events about terminology and concern that by sticking to the word ‘diversion’ delegates may be trying to find a solution to the wrong problem. Is the term diversion a red herring was how one delegate described it. Indeed, Lord Bradley himself had warned that diversion was perhaps the wrong description and as an oft-used term sent out the wrong signals. He asked delegates to consider a better phrase to describe a process which was essentially about protecting the public yet making sure the mental health needs of offenders were met.

***“I baulk at the term diversion - it doesn’t express what we are trying to do.”*** Lord Bradley

**As part of general discussions at the start of each event, delegates raised issues such as:**

- Provision of diversion services is patchy and inconsistent – a number of people with mental health or learning disabilities might be picked up but it depends on the remit of the local services and how they are funded.

***“Service users certainly don’t understand who is providing what.”*** Eastern region delegate

- In the short term, there is certainly a need to raise the profile of the schemes as many are not known about, even by other agencies working in the same locality.
- Many schemes are provided as a service to the court rather than to an individual with a mental health problem.

***“A lot of diversion schemes see themselves serving the court rather than proactively finding those with mental health problems - they only look at those who the court says they are worried about.”*** London region delegate

- The crucial thing was that diversion should be able to happen at any stage of the Criminal Justice System, ideally as early as possible in the offender pathway. Stakeholders felt that at the moment too

much resource was aimed at prisoners and that steps to divert should be taken much earlier.

- It would be much cheaper to tackle mental health in the community and provide more services than have to pay £280,000 per annum for a bed in a high security hospital when an illness escalates.



*Lord Bradley listens in to a workshop at the North West event*

- There are organisational barriers to good diversion but a service user’s lack of motivation to engage can be a barrier too.
- Community orders are a good alternative to a prison sentence but are under utilised. More could be done to put packages together to help offenders and divert those who are likely to get less than a 12 month sentence into community management.
- Conditional cautioning could be used more frequently and could be a useful resource but for it to work commissioners need to ensure services are available for the offenders to access as part of their condition.

***“We are oiling the wheels all the time - we are in effect the interface between two big organisations [health and the Criminal Justice System] that don’t really understand each other.”*** Sheffield diversion scheme worker.

**With respect to learning disabilities:**

- Many delegates, in particular those involved with young offenders and speech and language therapists were concerned about a lack of emphasis on learning disabilities. They were reassured by Lord Bradley that he was as guilty as anybody of short handing the terms of the Review to ‘mental health problems’ but that learning



disabilities would have prominence in his final report.

- There is a lack of trained staff to carry out learning disability assessments so a lot of people fall through the system. It is therefore important to have a learning disabilities forensic nurse in a diversion scheme.
- There are very limited diversion opportunities for people with learning disabilities. One region where this is being addressed is Yorkshire and Humber where staff are looking at a regional strategy for learning disability in the Criminal Justice Service.

***“A lot of learning difficulties and communication disorders can be very subtle and you need to be skilled to pick those up else run the risk of these people slipping through the net”.*** South West delegate

- It was important to be clear on terminology to avoid a turf war between mental health and learning difficulties – the services should be inclusive for all.
- Finally, delegates were keen to ensure the needs of specific sectors such as women and BME offenders were emphasized in the report and felt any Service Level Agreements would need to be tweaked to make them more receptive to the needs of BMEs.

## A NATIONAL FRAMEWORK

***“We need to allow innovation and local change but if I put in a specific ‘one size fits all’ model that in itself will be a barrier to change taking place.”*** Lord Bradley

The current incoherence, lack of clarity, governance and accountability surrounding court diversion and liaison schemes was seen by stakeholders as perhaps the biggest hurdle that needed to be overcome if the needs of offenders with mental health problems and learning disabilities were to be properly met. Words such as “fragmented”, “piecemeal” and “patchy” were consistently thrown up at the seven regional events, with a plea for some new direction to bridge the gap between the Criminal Justice System and the Health Service.

It was acknowledged that most of the liaison and diversion schemes across the country are run by individuals with a lot of enthusiasm and energy but the problem is that they stand alone with no continuity in terms of governance or robust funding from the PCT; there is no one single model of practice and no line of accountability through to a strategic governance mechanism.

“Everyone beavers away on their own but no one is accountable” is how one delegate described the situation. As such, diversion services tend to be crisis driven rather than seen as part of any strategic planning with a lot of fragmentation within services even within the same region.

Not surprisingly, the need for consistency right across the country via a national framework was the most commonly heard plea from stakeholders, irrespective of region or professional group.

***“The notion of a national framework has appeal in terms of setting out expectations but allowing local flexibility.”*** Eastern region delegate

### Key points made included:

- A national framework - in other words an agreed way or working that all agencies sign up to - is urgently needed because there is currently no one, single model on which court diversion services are based; because service development has not been centrally coordinated or strategically planned the result is a very patchy national network.
- This national framework needs to allow for a multi agency team to operate. The team should be sufficiently resourced to be proactive with clear lines of accountability and with dedicated secure funding from health and the criminal justice system.

It needs to have a clear sense of what it is looking for in terms of outcomes.

- At the moment those at the top of the pyramid on management boards do not have the power to take decisions – senior leadership is therefore required to get the necessary action.



*A workshop at the North West event discuss the need for a national framework*

- A single, accountable lead agency for mental health with lines of responsibility and accountability clearly outlined is required - perhaps a local strategic partnership body.
- In addition to the national framework, an outcomes framework that all agencies sign up to with joint targets was required. There should be penalties if targets are not achieved.

***“To make change we need national leadership and commitment and a framework that this all operates in. But I can’t effect change nationally; I can set the framework but we need to look at a regional tier to look at all those involved in a strategic way to ensure there is a proper plan in all regions and then look to the local level to commission the services and support required.”***  
Lord Bradley

- Diversion services need to be regarded as part of mainstream services for people with mental health problems.

- There must be scope for a national framework to be interpreted and implemented locally to respond to local need. Agencies should not be stifled by national and regional structures.
- Any new framework should not reinvent the wheel. For example, diversion schemes could be modelled on the YOTs services which are multi agency and effective. Similarly, the Offender Mental Healthcare pathway is a clear framework which has clear objectives and responsibilities already set out and would be a useful start point for the review.

## PERFORMANCE MANAGEMENT AND GOVERNANCE

Who do you hold to account if something goes wrong? Where is the statutory responsibility that sets out who is required to do what? Unanswered questions as far as delegates were concerned, highlighting the need for performance management and governance to be a central plank of any attempts to re-organise diversion schemes.

***“There has to be a team that says the buck stops with us.”*** North West delegate

Agreeing who all the various agencies are accountable to would be a step in the right direction, albeit stakeholders felt the current lack of targets meant senior managers had no reason to get involved or interested in the work. Unless chief executives felt they were being held accountable, diversion would not appear on their radars.

### **Ideas put forward on this issue included:**

- The fact that outcome targets need to be set nationally but locally developed.
- The need to get more common agreements about outcomes for both criminal justice and health and getting away from the idea of competing targets – in other words the pressure to charge versus the need for diversion.
- The need to somehow develop feedback into the system so it is a learning system and staff can take action on those things that don't work.
- The fact that it is too early to look at individual responsibilities – the review needs to look at collective responsibility first.
- The fact that performance outcomes for commissioners and providers would connect people and make them feel accountable
- The fact that because success measures have not been agreed, different schemes have different measures leading to inconsistency.
- The need to look at the levers that can be used to improve delivery and provide a catalyst for coherent change. For example, stakeholders felt there was a real opportunity for LAA and/or Local Strategic Partnerships to be the place for governance.



*The need for accountability is logged as a top priority at the North West event*

- The question of who would be responsible for setting performance indicators and that targets would need to be sensible and achievable.
- The fact that final evaluation and collection of information and performance measures is an under developed area.
- The need for research and evaluation of schemes, so a key partner could be academics.
- The fact that the review needs to invest some powers in PCTs if they are to be the lead agency that takes diversion on.

***“Diversion schemes should not be based merely on people with an interest or people with a will - they should be based on a strong strategic direction.”*** Angela O'Rourke, Y&H/NE region event chair

- The need to put responsibility as high up the ladder as possible so commissioners purchase the services needed by offenders with mental health problems or learning disabilities.

## MULTI AGENCY WORKING

One of the crucial issues delegates felt the review needed to look at was how the many varied and different agencies involved in the process of diversion could better work together. A big problem at the moment was a power struggle between different organisations which led to many working in isolation.

A good example of how fragmented services impacted on offenders was when they were released back into the community. Poor links to other services such as housing, employment and training could see an offender being released to no fixed abode. This would prevent them from registering with a GP for example, automatically taking out a key element of support. The likelihood was that the person would re-offend.

### Stakeholders highlighted a number of barriers to agencies working well together:

- Agencies have conflicting performance targets and objectives.
- When looking at how various agencies relate to each other, the Probation Service in particular often found it difficult to get a seat at the table.
- Different agencies have very different agendas – for example a prison governor will have a different agenda to a mental health organisation.
- There is a mismatch between timescales and availability; for example, police need to work in terms of hours, support services respond in terms of days or weeks. Police are there 24-hours a day, 365 days a year. Many services are 9-5 Monday to Friday only.
- There is much evidence of silo working with agencies at ground level not understanding where they complement each other.
- If agencies don't know what each other is doing how can they ever start to provide a proper service? In court you have a situation where people from different agencies are literally falling over each other but because they have all been commissioned by different strands they won't work together.

***“As a court manager I should be more aware [of what other agencies do]. That is a failing of the court service.”*** North East delegate

- Finding it difficult to get mainstream agencies to understand the specific needs of the offender population.

- Partnerships tend to be health led - social services are often excluded from discussions.
- It's easy to say that agencies should work together, but harder to achieve in reality. Partners can come together round a table to discuss and share information but decisions over resources, for example, still tend to be taken by each organisation separately.

### Solutions put forward included:

- Making joint working a statutory requirement would focus the minds and commitment of senior leaders but this approach would need targets that can be linked to all agencies and which don't conflict with each other.
- A regional network/inter disciplinary group/local partnership board to monitor and share good practice at a senior level would help agencies come together for a common purpose and counter each agency having its own outcomes.

***“My plea is to recognise that we need a framework that promotes partnership working. Having organisations that work at a value base and think about how to provide the right interactions is crucial to effective service response.”*** Fiona Edwards, London event presenter

- Connexions has built up expertise in joint working over six years. Can that model be used to sustain agency working?
- Give the voluntary sector the opportunity to be involved as a joint partner.

***“The challenge now is accessing all other agencies for support and unless we use the voluntary sector as part of multi agency working we will fall down on solely using the public sector. If we are going to get resources into this we have to look much more imaginatively across the piece and recognise that other agencies have a huge contribution along the offender pathway.”*** Lord Bradley

- A good start point at a local level would be to review the local offender pathways - working backwards from the service user. That process would in itself bring people together. Mapping the pathway and re-engineering it from the users' point of view would be beneficial.

- Offender health needs to cut right across all agencies – the usual suspects are health and criminal justice but Local Authorities and education departments need to be in the loop too, the latter for prevention issues.
- Secondments among agencies would be a good way to help staff understand the way other organisations work.
- All areas should have a multi-disciplinary Diversion Panel to discuss relevant cases weekly. A good example of this set up is in Oldham which is chaired by the local Police. The panel has representatives from Probation, Social Services, Child services and community adult mental health services and others are invited in when necessary.

## FUNDING AND RESOURCES

The identification of a clear funding model for court diversion and liaison schemes that can be rolled out nationally was seen as a definite requirement for the Review. Many delegates felt their own schemes relied far too heavily on the energy and commitment of an individual practitioner and were not sustainable due to the lack of a robust funding model. As such, greater clarity around funding arrangements was urgently required.

There were a variety of funding arrangements reported during the stakeholder events. For example, one scheme in Sheffield was funded by the PCT as a part of the Forensic Service but the Probation Service paid for the rental of an office at the court while the court provided consumables. Another scheme in Yorkshire got funding through European monies. It was also noted that prison is a 'cheaper' option for the system than a place in a secure hospital.

Much of the discussion at the regional events centred on whether it was lack of resources *per se* or poor allocation of resources that was the main problem.

### Specific points raised by stakeholders were:

- When diversion schemes were first set up, court days tended to be shorter. The current trend however is for much longer court days but diversion schemes have not been extended to match that. Ideally they would be available 20 hours a day but that adds even more pressure to the current funding issues.
- Funding streams across geographical areas are a barrier, particularly when prisoners released from prison in one PCT area are registered elsewhere. For example, an offender might be released from HMP Manchester but live in Cumbria.

***“This [diversion] will never come up as a major priority for spending so something in your report must appeal to those outside this room. That’s why making it a Government commitment and making sure it has an outcome that is necessary in regional plans is key. Offenders are part of the population and not separate to it.”***

Dr Simon Tanner, London event chair

### Several suggestions were made as to how the funding for schemes could be resolved:

- Making a diversion scheme a Local Area Agreement or PSA target could make it more sustainable – there needs to be a mandatory element to funding otherwise PCTs will not commission the services.
- At the very least, funding for diversion schemes should be ring fenced.
- Similarly, funding for psychiatric reports needs to be ring fenced.



*Lord Bradley takes questions with Dr Simon Tanner at the joint London and South East event*

- The resources schemes already have need to be used in a smarter way to meet the needs of offenders who are, after all, part of a PCT's community.
- One idea put forward was to ask the Department of Health to remove restrictions on the use of funding for Lord Patel's pilots on drug treatment for offenders so that a totally new service could be designed and rolled out for offenders in the widest sense.

## COMMISSIONING

Mental health needs to move much higher up a PCT's agenda if offenders with mental health problems or learning disabilities are to get services appropriate to their needs. That was a common message from delegates across all seven regional events with a need for intelligent, robust joined-up commissioning at the top of their wanted list. It was felt needs have expanded and roles have evolved but resources have not followed suit leading to a situation where offender commissioning is not joined up.

***"It is too narrow to look at commissioning for prisons, we need to look at commissioning for the community and allow for prevention strategies – early identification and intervention is crucial."*** London/South East delegate

### **Stakeholders were generally in agreement that:**

- The quality of commissioning has to improve so PCTs actually commission what diversion schemes need to deliver. At a local level, there is often no coordinated commissioning of mental health and learning disability services.
- At the moment Department of Health has no jurisdiction over how money is spent but PCTs need central direction that a certain proportion of their pot of money must be spent on mental health services.
- The current situation is exacerbated because a PCT is unlikely to have many of its own residents in a local prison. For example, there are very few women local to Cheshire in HMP Style.
- It was unclear if PCTs actually knew what they needed to commission.
- Given the movement of people through the offender pathway and prison churn there was a need for joined up commissioning; doing it on a very local basis to reflect local need is a good start but a regional pattern was required.
- It was unclear what the size of the problem is? Commissioners do not have an integrated data system that tells them about the need so they do not know the size of the problem they need to commission for.
- There is often little agreement between PCTs in a region as to who in the PCT is actually responsible for mental health services.

***"Commissioners and partners need to understand the impact of their failure to act and commission – the children coming through courts now are second and third generation offenders – if we could have impacted their parents it could be a different story."*** Yorkshire & Humber/North East delegate

### **Possible solutions included:**

- Money for commissioners must be ring fenced.
- Pooling of money to avoid silo working and to cater for different capacities to commission at a local level.
- Commissioners need a proper framework cum service specification within which they can make judgements. Incentives and penalties need to be introduced for non delivery with transparent reviews of commissioned services by all parties.
- Any new specifications should try to look at the process from the end user point of view.
- A whole system approach linking commissioning for prison and in the community would help. For example, multi-agency commissioning boards that commission pathways of care should be developed. A good example is the newly established North East Offender Health Commissioning Board.
- Looking at other successful commissioning processes and investigating if they could be applied to diversion. At the very least a lead commissioner for offender health should be in post.
- PCTs in a region need to agree exactly who in the PCT is responsible for these services and has the authority to act or offer funding.



## INFORMATION GATHERING AND SHARING

Stakeholders welcomed the opportunity to discuss information gathering and sharing. There was consensus across the board that a new information sharing protocol was badly needed to avoid the needs of offenders being missed. At the moment conflicting systems, protocols and geography all conspire to make the work of the diversion schemes even harder and see offenders having to repeat the same things over and over again as much information never makes it to the table. Many delegates felt a new national database that both health and criminal justice could access could be included as along term goal in Lord Bradley's Review.

***“If you can sort the holy grail of information sharing it makes life much easier for practitioners on the ground to operate effectively.”*** Keith Stevens, Eastern region event chair

### Points raise included:

- Organisational barriers, for example a reluctance to disclose information or difficulties in developing information sharing protocols were commonplace.
- There is a lack of understanding about what legislation says – for example, data protection is often used as a reason for **not** sharing information. Far too many agencies were seen to hide behind these confidentiality issues to avoid having to share information.

***“Confidentiality can be used as an excuse to be lazy.”*** London region delegate

- Information is not being used in the best way to make best use of already limited resources.



*Lord Bradley discusses the Review with Keith Stevens and Neil McIntosh at the Eastern region event*

- There is lots of duplication of information and information not being shared – this is mainly due to a lack of jointly agreed policies across agencies.
- Legislative or protocol barriers that limit the amount of information that can be shared need to be identified.
- Staff working outside the NHS find it particularly hard to find information about an individual.
- NOMS need to look at the information put into the Oasys system in order for it to be a more effective assessment tool.
- When diversion staff are off a main site it can be impossible to access the mental health database. However, one positive example was a project to get two police stations networked so diversion staff can still access data when out of their own office.
- It was wrong to embarrass offenders by needing them to say over and over to different agencies that they can't read, for example. That important information should already have been shared and noted.

### On the positive side stakeholders suggested:

- An information sharing protocol would assist in clarifying when and how information can be shared and disclosed.
- It would be useful to gather and evaluate the views of service users as part of information gathering exercises. For example, in Barnsley a service user is on one of the Boards and he is part of the training package so staff can see things from the offender's perspective.
- Joined up IT systems could help with better monitoring and data collection.
- A potential long term solution to information sharing problems would be to get away from the idea of multi agency worker and introduce a new worker who can do all the interventions so information sharing happens inside their head! They would have a generic set of skills across mental health, learning disability, personality disorder, drugs etc.
- MAPPA was a system that had clear criteria and protocols with national guidance and as such was a good model to copy for information sharing. Similarly. Contact Point is a national children's

database and lessons could be learnt from that system.

- NHS commissioning for health in police stations rather than the current private arrangements would allow for continuity of care and improved information sharing.
- Better access to police computers by diversion staff would help information gathering.

## PREVENTION AND EARLY INTERVENTION

Stakeholders across the regions were keen to point out that diversion work really needs to start at the point before people even get involved in the criminal justice system. They urged Lord Bradley to look at prevention and early intervention for people with mental health problems and learning disabilities, stressing that if they were better placed to pick people up early on there could be considerable cost savings later on when it is much more expensive to treat a person who has become acutely ill.

For example, in Barnsley, the local diversion scheme looks at short term interventions to divert people into the right services. It works with the local college on prevention and mental health awareness, focussing particularly on identifying self harm by young females.

### The following points were raised during workshop discussions on prevention:

- Staff need to focus on schools and education and start at a very early age - if that goes in the overall strategy now it will have future benefits.
- What more can be done to link YOTs, health and education departments to the criminal justice system so prevention can start at pre-school and primary school.
- Diversion schemes need to engage with primary care services, health visitors, and school nurses for example, who often see children who they recognize as having difficulties but often don't know where to go to access support and services.



*Stakeholders in the South West discuss strategies needed for effective diversion schemes in the region*

- If people do get involved in offending behaviour, what work can be done in the community, for example by police officers, to identify those who may be likely to offend? Many stakeholders

believed neighbourhood policing, where officers tend to see the same people on a frequent basis, could throw up plenty of opportunities to divert at this stage. Warrington Neighbourhood police project was a useful example of police community support officers being able to carry out early assessments of people they were seeing on a regular basis.

- Prevention is a very broad strategy and is hard to measure but the cost benefit argument for early intervention work needs to be articulated. The Review needs to show that prevention is a better use of money than dealing with people once they are in the criminal justice system.

***“More young black men go to prison than university – 9,321 versus 8,000 in 2007. Mental health problems disproportionately exist for BMEs, especially young black men. By the time they get to secondary care services and prison it is almost too late so we must look more closely at earlier intervention to break the cycle.”*** Melba Wilson, London event presenter.

- Training in mental health for probation would be a useful preventative resource.
- Not enough is made of supporters, carers and families to provide a support network. Families are an untapped resource.

## THE MEDIA AND PUBLIC ATTITUDES

***“We need to sell the message to the public that this is not just a ‘get out of jail free’ card because someone has a mental health problem or learning difficulty.”*** East Midlands delegate

Stakeholders discussed the fact that one of the big barriers to effective diversion is that the media portrays prisoners as an undeserving and unpopular part of the population. As such, there is a lack of public faith in the Criminal Justice System which can impact on the sentences laid down by the courts, albeit it was acknowledged it was quite right the public believed there should be some sort of punishment if an offence had been committed.

The trick was to convince the public that diversion was not about diverting *everybody* with a mental health problem or learning disability away from the Criminal Justice System, effectively letting them off the hook. Getting the balance right between being aware of the public reaction but not 100% guarded by it was seen as quite a challenge.

- A suggestion was for some sort of social marketing campaign to be developed to educate the public.
- On a similar note, delegates felt the public attitude to offenders had a big effect on the workforce, increasing feelings of being undervalued. As a result recruitment problems were not unusual and staff needed to be made to feel more valued.

## SCREENING

There was universal agreement on the need to find the most effective screening and assessment tools to identify those with mental health problems and/or learning disabilities.

### **Specific points raised by delegates on this subject included:**

- Universal initial screening work across the Criminal Justice System would ensure standardisation and decrease the duplication of assessments.

***“If you screen at court you will find people with mental health problems but what needs to come is the expectation to provide a thorough service, not just lip service.”***  
London region delegate



*Lord Bradley listens to issues of concern to stakeholders in the East Midlands*

- Screening should be carried out at the earliest possible point on the offender pathway. This could enable an even earlier disposal and no necessity for a court appearance and potential remand.
- Having specialist workers in police custody suites to screen those with possible mental health problems is useful.
- It would be helpful if the Review could arrange for an element in the initial health screen to flag up speech and language difficulties or learning disabilities. This in light of the fact that 60% of young offenders have severe communication problems.
- The need to include personality disorder in the Review. What to do with those offenders with PD is a big issue; there is little service provision for them and the fallout is that a number of dangerous individuals are released back into the community with little support and no provision for them. It is currently unclear who picks them up so a referral pathway should be developed.
- Be aware that offenders don't always come in via the police – could be via RSPCA or local authority for example.

## ASSESSMENTS

There was good consensus amongst delegates that early, effective assessment of offenders suspected of having a mental health problem or learning disability, probably at the police custody suite, is crucial. Stakeholders acknowledged that diversion schemes were well placed to make that timely assessment and start to put together a package of services for that individual.

### **That said, delegates had many areas of concern about existing arrangements:**

- The “layer cake” of assessments was a big issue – a person can be “assessed to death” and it can be soul destroying if they never see anything tangible happen as a result of the assessment. One example was a person who had been assessed 17 times for accommodation but still left prison with no housing.
- There tends to be a hierarchy of risk assessments carried out – each agency thinks their assessment is more important than another agencies.
- People tend to be bounced around the system, especially when the contact is out of hours.
- Are the right people doing the right assessment at the right time?
- There is too much duplication of assessments – agencies need to “believe” an assessment that has been made by another agency rather than have the current hierarchy of assessments – for example, if a nurse has done an assessment it is often viewed as “not as important” as if a doctor had done it.
- There are a lot of inconsistencies in how assessment tools gather the information staff actually need rather than the elements that are of little or no use.
- Assessments should give confidence to sentencers to make the appropriate disposal yet magistrates and judges often say they have not been given the appropriate and proportionate information for the offence committed.
- There is little money to carry out assessments and diversion schemes are searching for the funding for an assessment. It is often the case, however, that the money is there, but is just not being used in an appropriate manner. For example, it would be a far better use of resources to pay for a full and proper assessment than let someone re-offend and end up having to pay for that person to be in prison for six weeks.
- Are assessments being made for the right reason? Is it the professional who needs the assessment

done for their own purposes or is it genuinely being done for the good of the offender? Staff often seem to be looking for reasons to exclude a person from the service and do an assessment to justify why their service cannot take a person on rather than why they should be taken on.

- Often assessments are out there, but due to poor information sharing it is difficult for staff to get their hands on it.
- Lots of assessments are made with no real help available at the end of a lengthy period.
- Some assessments can be a hindrance – for example if a bail hostel sees a person has been assessed as having a learning disability or a mental health problem they may not want to take them.

### **On the back of these concerns, stakeholders suggested that:**

- The Review needs to look at how assessments can be carried out in a more generic way using a standardised assessment tool that every discipline can use.
- Staff need better clarity on why they are doing an assessment and what they are trying to achieve by doing that assessment.
- The assessment and identification of people with mental health problems or learning disabilities needs to be done at the earliest opportunity in the system – more could be done in the interface between community and police.
- One, unified body is needed to sort out identification of offenders with mental health and learning disabilities.
- Needs led assessments should lead to specialised interventions by appropriate services.
- Information needs to be gathered in a consistent and timely way so sentencers can make the right disposal.
- Being proactive is the key to accessing difficult groups e.g. women, and BMEs.

***“ We [Together] screen all women defendants in two of the courts. They have less serious behaviour issues so are less visible so we seek them out.”*** Linda Bryant, Forensic Mental Health Manager, Together

- From an offender's point of view they would want a robust and timely assessment by a team who can cover mental health, learning disability and physical health and that the information follows them through the system.

## ACCESS TO MENTAL HEALTH SERVICES

One of the recurring comments made by delegates was that if an acutely ill person came into police custody, it was actually quite easy to sort out diversion for them. The big problem lay with the thousands of offenders who did not fall into the severe and enduring category for mental illness, but instead had mild to moderate mental health problems and as such fell below eligibility criteria for many services. The concern was that without treatment these moderate cases could quickly lead to an individual become significantly more ill, and with that an increased risk of re-offending.

So the big question they felt needed addressing in the Review was how can diversion and liaison services deal with this set of offenders because at the moment they simply cannot access the services they need to provide appropriate treatment and as such there was a feeling that many people were being failed. The irony was that these people with low level mental problems were the very ones using up a lot of court time and service time so if a full range of services were available in the community, then outcomes would be better.

***“I feel like I’m fighting a losing battle in terms of getting access to the services people need to access. It’s easy to identify those with problems, but we can’t get access to the services they need.”*** East Midlands delegate

### Other issues raised were:

- The difficulty with these groups is that they have sub-thresholds in a number of areas – they are not severely mentally ill enough to go into hospital or a secure unit, but even though they are sub-threshold on all the domains, if all the problems are combined with substance misuse for example, then these people do have severe and complex needs.
- What more needs to be done to stop this specific group of people coming back into prison time and time again.
- Due to a lack of low secure NHS beds, many of those who need treatment often have to go to prison because it’s the only they can access a bed.

### Some stakeholders suggested that:

- Having more bail hostels might help as they do have good mental health provision.
- More resettlement support would help this group open the doors to the services they are entitled to.

- There is a need to develop more community mental health services as a whole and disinvest in secure services. The Review could help Government to shift resources to keep people out of prison in the first place.

***“You shouldn’t have to be arrested to get access to mental health services – they should be available anyway.”*** North West region delegate

- Eligibility criteria for what constitutes a mental health problem or a learning disability are too rigid and as such present a significant barrier to diversion. For example, many young people with mild or borderline learning disability fall outside the eligibility criteria for learning disability services. As such, the criteria need to be urgently reviewed.
- There is a need for a protocol to cover out of area working – offenders are often arrested in different areas or commit a crime in an area where they do not live
- Mental health services need to be more flexible to reflect the culture of the people they are dealing with.



*Workshop discussions at the joint Yorkshire and Humber and North East region event*

## PSYCHIATRIC REPORTS

Regrettably, many offenders with mental health problems or learning disabilities are left on remand for long periods while psychiatric reports are gathered. This is often done at great expense. It is a situation stakeholders are keen to change and as such they had some useful suggestions for the Bradley Review.

***“How can it be acceptable that someone is left in prison on remand for six weeks just because they are waiting for a psychiatric report?”*** Eastern region delegate

### **The main points and recommendations from stakeholders were:**

- There is little or no clarity about commissioning reports at the moment, although it was felt PCTs should be the primary funder.
- An approved Service Level Agreement that can be rolled out nationally is required to ensure reports are of better quality and more timely. It should state the number of weeks a report should take with proper incentives and penalties built into the contract.
- Some courts, keen to speed up business and reduce costs, have started to sentence without waiting for psychiatric reports as it can take up to three months for the report to be completed. This situation needs to be rectified.

***“We can’t have a situation where people are in the criminal justice system and shouldn’t be for want of a well articulated psychiatric report.”*** Keith Stevens, Eastern region event chair

- The Review should look at refining the law so it is not only medical practitioners that are allowed to submit a report. The feeling was that reports did not need to be “all singing, all dancing” and that a community nurse, for example, was well placed to provide a report to give a judge some confidence in the sentencing decision.
- Reports from private practitioners tend to recommend a huge range of services but often, in the ‘real world’, these services are not available. Similarly, many reports are written by a psychiatrist who is not local to the offender and thus undeliverable recommendations may be made due to lack of knowledge about the services available in that locality.
- From the psychiatrist’s point of view, it is often not clear what question he is being asked to answer;

they receive no feedback about a report so it can be hard to improve them.

- Some group training for psychiatrists as to what a court is likely to require might be useful. It was noted the Ministry of Justice plans to commission some research to see what courts want from a report and to ask psychiatrists what guidance they need to deliver better reports.

### **Case study examples:**

- **Norfolk County Inter Agency Steering Group**  
The group has developed a Service Level Agreement for psychiatric reports and is in the process of extending that to those with a learning difficulty.
- **Together, London**  
Has set up pathways in three London courts with a single point of contact for psychiatric reports which has seen a significant improvement in the speed and quality of reports.

## CASE MANAGEMENT AND CONTINUITY OF CARE

How are offenders with mental health problems and learning disabilities tracked post release and case managed? That was a key question for delegates and although it was clear offenders would benefit from a quick and easy single point of contact for mental health services and better support to stop re-offending, the model of case management that could be applied to a group of people who tended to lead chaotic lives still needed to be determined.

### Common areas of concern included:

- Community mental health teams tend to close cases very quickly; there is reluctance in the teams to be part of longer term care and they tend to close the case once a person gets to court. The Review should reassess what the role and skills of the CMHT are and make the service appropriate to the service users.
  - Why are community sentences so rarely used as a form of disposal?
  - There seems to be current inability to deal with attachment issues – somehow need to get workers to follow people through the whole system and case manage them.
  - Resettlement information sent out by prisons often does not include information that the person has had a mental health intervention.
- Comparisons could be drawn with the way people on the New Deal scheme are case managed – is there something to be learnt from that model? Ditto the way YOTS teams and MAPPA work –both manage to bring various people to the table so may shed light on what other appropriate agencies can have a role with helping case manage individuals.
  - Having a dedicated case manager who stays involved could ease the situation and allow for better continuity of care – but more work needs to be done on sorting the capacity for case management.
  - A generic social worker working with a prison could be an important link person, coordinating the activities of all the key partners.
  - There needs to be continuity of care through the whole offender pathway.
  - There needs to be a better process for identifying mental health issues prior to release from prison so an individual has an adequate care plan and follow up support organised to avoid the revolving doors scenario.

### Ideas put forward on this issue included:

- If someone has a mental health problem they may well find it hard to stick to an order made by the court. Consideration should be given to revoking certain orders or conditions when dealing with someone with a mental health problem or learning disability. For example, if a person cannot read or tell the time they may not turn up on time for a mandatory appointment. Two mistakes like this and a person would be deemed to be in breach of the court order.
- Individuals need a central point of contact on the care pathway to address gaps in their care more easily

### Case study example: County Inter-Agency Steering Group for Mentally Disordered Offenders in Norfolk

The group has introduced a special Relapse Prevention Worker post which is a three-way funded post based in Norfolk Probation Service to target those released on licence and to help them reintegrate into the community.



## TRAINING

There was concern amongst delegates that almost all professional groups involved in diversion lacked some aspect of knowledge, this despite dealing with complex, high risk individuals. Most stakeholders would therefore welcome an emphasis on shared training in the Review. This would do much to help each agency understand the role of other agencies involved in diversion schemes.

### **Stakeholders pointed out that:**

- Current training is not consistent and is not across the board.
- Training would be less expensive if it was done across agencies rather than each agency doing their own. To that end a nationally delivered standardised programme of multi-agency training about mental health court diversion schemes would be appropriate.
- Better communication between agencies would be a by product of shared training.
- PCTs should resource this training but it should be performance managed to ensure people turn up for it.
- Police need adequate training in how to deal with someone who is distressed and mentally unwell and need an insight into how to make a mental health referral; skilling them up to deal with both mental health and substance misuse is necessary.
- Appropriate adults are not medically trained so training may be needed to ensure they are competent to do the necessary jobs.
- Staff in diversion services often feel undervalued and it can be hard to fill vacant posts. Training could support staff and keep them resilient while dealing with these complex, high risk individuals.
- It was very important to build confidence in disposal options for magistrates and judges to ensure they know the full range of options open to them. They need training as often they don't know what their options are; for example they don't have enough knowledge of Mental Health Treatment Requirements to use them as an effective disposal.
- Diversion schemes are very poor at telling the magistrates what their sentences led to. A quick win would be to give them feedback and tell them about the impact of their sentencing. For example, they need to hear about the successful cases – they need feedback that ordering straight to hospital is OK despite negative press about the occasional case that goes wrong.
- In the same way as sentencers need training about mental health, health professionals and social carers need training about criminal justice. Health staff could go on secondment to a criminal justice setting to aid their understanding and vice versa.
- Offender Managers in the Probation Service need training in mental health. They need to understand the links between mental health and offending and how they can harness other agencies to work with them. They also need support to understand the pathway in the first place so they know where to go to get help.
- Training in mental health and diversion schemes could be integrated into basic nurse and social worker training making it part of professional training.

## CONCLUSIONS

***“We need a fundamental cultural shift from a system that is currently very disparate to one which sees everybody putting the service user at the centre of their thoughts; if the review could put mechanisms in place to deliver that it would have a huge impact.”*** Eastern region delegate

The aim of the Review, and indeed the stakeholder events, has been to unravel what more can be done to improve outcomes for offenders with mental health problems and learning disabilities both in terms of improved health and a reduction in re-offending.

Much has been learnt from the regional stakeholder events in terms of how court liaison and diversion arrangements can be better organised and the level of services needed to support them.

Most existing diversion schemes are inadequately planned, organised and resourced and are therefore of limited effect.

To work more effectively will need political and policy commitment and better multi agency working with a workforce of adequately trained staff. Consideration must also be given to funding and resources to make the schemes sustainable.

A joined up service responding to the needs of the individual is more likely to be successful than the current fragmented arrangements.

Stakeholders believe the future is about national standards and a commitment to dedication with statutory responsibility to drive service development forward.

***“The benefits for this fresh start and an opportunity to do things better are very welcome.”***

Angus Cameron, Mental Health adviser to London Probation Service

Clear national guidelines that give clear responsibilities and a buy-in from the agencies that are working alongside the schemes will lead to a more collaborative approach with joint targets to help each other to meet those targets.



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**Wales Centre for Mental Health Services Development**  
*National Leadership & Innovation Agency for Healthcare*

**INDEPENDENT REVIEW OF THE DIVERSION OF  
INDIVIDUALS WITH MENTAL HEALTH PROBLEMS  
FROM THE CRIMINAL JUSTICE SYSTEM & PRISON**

**The ‘Bradley Review’**

**REPORT on**  
**STAKEHOLDER EVENT – WALES**

**Monday, 10 November 2008**

**ALL NATIONS CENTRE**  
**CARDIFF**

**Canolfan Datblygu Gwasanaethau Iechyd Meddwl Cymru**  
*Asiantaeth Genedlaethol Arwain ac Arloesi mewn Gofal Iechyd*

The following is a report of six workshop groups facilitated during the visit of Lord Keith Bradley to Wales on 10<sup>th</sup> November 2008. Lord Bradley's review is concerned with arrangements to divert mentally disordered offenders from the justice system in England.

Given the potential cross border issues arising, and the interface between devolved and non-devolved policy areas, Edwina Hart AM MBE, Minister for Health & Social Services, agreed that a stakeholder event be held in Wales. On behalf of the Mental Health, Vulnerable Groups and Offender Health policy branch in the Welsh Assembly Government, the event was organised by the Centre for Mental Health Services Development within the National Leadership and Innovation Agency for Healthcare, NHS Wales.

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### **Question 1.**

#### **What are the current barriers to effective diversion?**

- The group considered the main barriers to diversion as a lack of specialist service provision and the lack of response on occasions from general statutory mental health services. They felt that cultural issues within services can affect this, most notably whether working with offenders is perceived to be part of the core business of general mental health services. Facilities and services are either non-existent, or not well developed or sufficiently well known to present real alternatives to either custody or processing through the court system. Key gaps identified included
  - Insufficient approved premises that can deal with mentally ill offenders
  - NHS services in particular an assessment environment including beds, access to psychiatrist for reports, poor co—ordination of substance misuse/mental health services
  - Community orders providing suitable alternatives to custody.
  - Low secure provision within the NHS Wales and more 'step down' accommodation focused on the needs of mentally disordered offenders
  - Women's forensic service – nationally throughout Wales

There is a lack of joined up services which is a particular problem for the repatriation of offenders

- Increased specialisation within mental health services was recognised. Alongside some of the benefits of increased specialisation the following risks were identified:
  - Silo mentality within services
  - Forensic "labelling" of people in contact with justice agencies
  - Lack of understanding of pressures within general services
  - Interface and liaison with general services - this can work well but where it does not this creates particular problems particularly when access to a secure bed is required
  - The prevalence of personality disorder and substance misuse was noted but the group felt that it remains unclear who's business it is to lead in service delivery to people with these multiple and complex problems. This is compounded by some gaps in service provision
- Multiple pathology was seen as a particularly difficult issue both in terms of coordinated management and delivery of care. Importantly clarity of the roles and responsibilities of different

agencies involved in the management of the various strands of this care needs to be totally clear.

- Clinical assessment should dictate how need is addressed. Obstacles to such assessment were identified as:
  - Assessment tools may dictate the clinical pathway
  - Assessment-subjectivity can prevent access to appropriate services
  - Need for greater involvement of the various agencies and of service users
  - The absence of the replication of community models in prison settings can hamper assessment and service delivery
  - Screening at admission to prison needs to be repeated 2-3 days in to prison stay because difficulties not evident at reception are likely to have emerged by this stage.
- Prisons are seen as places of safety in which seriously mentally ill offenders are being cared for. Too much care is provided by prison staff. Prisoners who need to go to hospital spend too long in prisons re delayed transfers of care
- At each stage of the CJS process, information will be gathered from the 'offender/client'. However, because of a lack of a joined up single focus information is not shared. This prevents either the right advice being available to sentencers or the Police/CPS making the right decisions on best disposal (silo workers).
- Within the current policy the CPS have no alternative but to charge when there is a serious incident. In these circumstances diversion would be challenging. Must keep CPS involved at all times.
- Presentation/behaviour of offenders in police custody can be very different to their norm and it is in these circumstances that early and quick assessment in the right environment is essential.
- The risk adverse culture that prevails prevents the development of diversion services.
- There are perverse incentives in the system whereby it is difficult to move offenders to medium or secure accommodation unless there is a serious incident – service is reactive rather than proactive.
- The use of conditional cautions has been used sparingly in Wales and has been used for minor public order type offences. They have not been used in controversial situations and present an opportunity to explore extending their use.
- The full range of CJS professionals from police to judges do not know what options there are other than custody. Lack of understanding and awareness. Need for multi-agency joint training.

## **Question 2.**

### **What mechanisms need to be in place to support effective diversion?**

- The most important mechanisms to improve opportunities for appropriate and timely transfer were:
  - Adequate information transfer

- Minimising language and physical barriers to multi disciplinary engagement
  - Diversion within the prison setting as well as diversion from the prison service
  - Clarity that the mechanism diversion doesn't mean being let off. It is about right disposal right treatment.
- In order to ensure adequacy of information transfer the following information sharing systems need to be rigorously used:
    - Multi Agency Public Protection Arrangements (MAPPA)
    - Section 115 Crime and Disorder Act planning meetings
    - Section 117 Mental Health Act planning meetings
    - Care Programme Approach (CPA)
    - Protection Of Vulnerable Adults procedures (POVA)
    - Child Protection procedures (CPP)
- The use of these processes can be improved through the establishment of consistent approaches to:
    - permissive protocols,
    - Access to PNC/VISOR
    - How do CPA – MAPPA interface?
    - Common commissioning data set – jointly owned at national and local levels with explicit performance management criteria
    - Formalised structure to do business – the need for a *single* policy objective for diversion delivered by joined up structures at:-
      - Executive level national board for joint strategic decision making on resource commitments, demand and capacity planning across NHS, Local Authority and CJS. Who at national level monitors diversion schemes, eg BMEG
      - Operational level sub-group as with the Regional Mentally Disordered Offender (MDO) planning groups, with links to MAPPA. Includes responsibility for joint training, S136 place of safety provision and it monitoring, etc
      - Local team – Joint/co-located base for local CJ liaison service to increase information sharing and critical mass of expertise. Eg Cardiff MAPP Unit brings together once per week the Community Forensic Team, Court Diversion, Prison Inreach, Police Custody, Probation, Housing, SSD. This information sharing underpins MAPPA, etc
      - Need to clarify the role of Community Safety Partnerships in the above. Note the challenge in getting joint understanding of the Clinical Governance agenda to get the balance right – ie, not just ensuring diversion, but to the right quality of service.
    - Conveyancing, clarify the role and (LHB) commissioning of the Ambulance service with a clear protocol for conveying to low secure placements out of county. People who are not a physical risk should not require 2 Police Officers for conveyance.
    - Inequality of services needs to be eradicated
- Even in single Police jurisdictions varied approaches in the use of these methodologies exist. However the group felt that whilst uniformity was required, this should include clarity of function allowing local determination of form. Further progress could be made if services were better resourced. However the services established would need to be:
    - Evidence based
    - Audited, reviewed and researched
    - Accredited, especially sex offender programmes (Marshal Canadian experience)
    - Accompanied by a quality impact analysis

- Demonstrate that the needs of prison populations vary
- Any roll out but reviewed and evaluated
- Progress will require an overarching definition of what is meant by diversion and what is meant by the term security. There is also a need for Early Intervention in the diversion process within community settings avoiding admission to prison where diversion is indicated. These approaches will be reliant upon:
  - awareness raising improving the skill base
  - This in turn underpins the requirement to share information in a proportional manner akin to underpinning principles in child protection
- Leadership is needed - Strategic and operational leadership with a vision of how services should be delivered. Potential to link health to CJ Boards.
- Resources needed - Equal funding of services from NOMS. Longer term funding of voluntary sector projects. Need to ensure the some of the fundamentals are in place e.g. CPN in approved premises, court liaison, easy access to psychiatric advise and reports. Need an end to
  - inequitable services
  - moving patients around the prison service who have a mental health problem
- Training – Multi-agency/multi professional training that helps frontline staff recognise symptoms of genuine mental illness and provides assistance to sentencers.
- Good practice in Wales on which to build
  - Prison Care Pathway
  - Funding for primary care mental health in prisons including crisis intervention
  - Custody court diversion
  - Strong and committed workforce
  - Training for custody sergeants by service users as well as hearing voices training
  - Placement for frontline staff to work with the mentally ill
  - Risk assessment
  - Mental Health custody nurses
  - CPS network leads

### **Question 3.**

#### **How might Lord Bradley’s review support strategic developments in Wales?**

The group noted the following points:-

- the need for consistency between WAG (Secure services review) and Lord Bradley’s review in Wales. This will require a clear political interface between Wales and Westminster. The recommendations need to be ‘readable across’ regardless of English or Welsh Health structures in order to avoid confusion especially within justice agencies.
- Currently participation in the Welsh Secure Services review is voluntary for justice agencies - this has worked well but the Bradley review would add teeth
- Need to ensure systems that support information exchange re links with the Labour/Plaid Coalition ‘One Wales’ strategy

- Bradley Review is in line with minister intention to improve Mental Health Services, and this may be a good time to change given NHS Wales restructuring, but note concern that NSF targets are not being met universally and therefore where is the commitment, drive and leadership?
- Would a devolved system of Justice (to WAG) better enable NHS Wales and CJS in Wales to dovetail?

### Leadership

- Ensuring leadership with a positive direction upon which to act. The need for positive re-enforcement of key messages supporting the early up takers pressing the laggards into action. Who will take the lead to develop services particularly because of the anomaly between England and Wales in relation to Health?
- Health is currently dislocated from the CJS in so far as they do not sit on Criminal Justice Board. Minister in Wales has to be clear about what she wants. How will mental health become an equal priority for probation services re the need whole system approach?

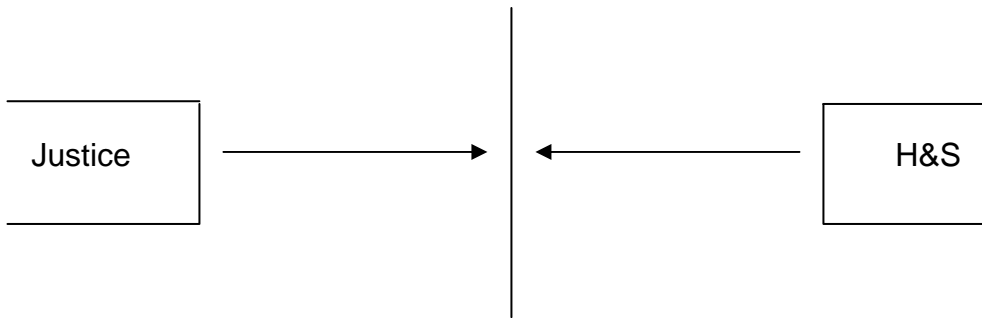
### Resources

- Funding disparity within NOMS and with Wales not having its share of new monies. Need to develop new services/programmes to focus on prevention in the community, to assess individuals and to be able to access services to treat individuals.
- Need longer term funding for voluntary sector project to make an impact.

### Public Perception

- Focus within CJS has been on supporting victims of crime. Need to change public perception around treatment of offenders with mental health or learning difficulties.
- The review can highlight the fact that “the needs of patients are indivisible from the needs of the public” Highlighting this proposition may lead to a reduction in the tension between public protection and patient rights and lead to a reduction in “silo working”.
- MHA reform has changed the alignment of treatment and public safety. Wider definitions close partnership with clear roles and responsibilities have been established. Clarification on the balance between public safety and the rights of the individual patient will emerge from a clear statement of principles which underpin approaches and the relationship of services to patients in the therapeutic alliance.
- The group noted that the position of health and social care agencies and justice agencies had shifted more to the centre ground. Whilst previously these agencies had been seen as opposite ends of a care continuum it was felt that the position had shifted to some common centre ground.





### Other

- Need to take into account cross border issues with prisoners. Need to evidence best practise.
- Need to learn from the wider consultation by Lord Bradley
- Clarity was sought on a number of issues such as where does Learning Disability fit especially within the integrated NHS Trusts in Wales? How are Local Authorities being engaged and what are the resource implications for local authorities?
- Where do Aspergers, Autistic Spectrum Disorder, Acquired Brain Injury and young onset dementia fit. How will the existing Continuing Healthcare budget be used as a means of developing local services? Will it become part of the mental health ring fence?
- The review was felt to be a vehicle to promote the use of existing mechanisms whose use may be dependant upon cultural determination for example in North Wales little use is currently made of some disposals under criminal justice legislation. There is a need to clarify functions to ensure uniformity of delivery and streamlined commissioning.

LMR/LS/PC – Dec 08

## APPENDIX TWO: SUMMARY TABLE OF REGIONAL STAKEHOLDER EVENTS

Region	Venue	Date	Number of Delegates (*)	Chair	Presentations (in addition to Lord Bradley's introduction to the Review)	Workshops	Organiser (**)
North West	The Midland Hotel, Manchester	2 September 2008	75	John Boyington, Chairman of the North West Mental Health Commission (with Mike Farrell, North West SHA Chief Executive)	<ul style="list-style-type: none"> <li>Mental Health Effective Practice Toolkit Audit – North West Findings (Anna Burke, Regional Lead, Offender Health)</li> </ul>	<ul style="list-style-type: none"> <li>What do you perceive are the current barriers to diversion from the Criminal Justice System?</li> <li>How can agencies work more effectively together and what support mechanisms need to be in place to support effective diversion?</li> <li>What are the region's main priority areas?</li> </ul>	Anna Burke <a href="mailto:Anna.Burke@hmpps.gsi.gov.uk">Anna.Burke@hmpps.gsi.gov.uk</a>
Eastern	East of England SHA, Cambridge	9 September 2008	63	Keith Pearson, Chairman of the East of England SHA	<ul style="list-style-type: none"> <li>Review of Criminal Justice Mental Health Liaison and Diversion Services in East of England (Mary Brazier, Area Manager Criminal Justice Mental Health, North Essex Partnership Foundation Trust)</li> <li>Follow-up study of individuals assessed by a CJMHT (Professor Gill Green, University of Essex)</li> <li>County Inter-Agency Steering Group for mentally disordered offenders in Norfolk (David Carrier, Director of Legal Services for Norfolk courts and Janet Dean, CIAG Development Officer)</li> <li>Evaluation of arrangements for provision of psychiatric reports for courts (Rob Jayne, Programme Manager, Health and Social Care in Criminal Justice Programme)</li> </ul>	<ul style="list-style-type: none"> <li>Where are we now, where do we want to get to, what are the barriers and what practical steps are required on: <ul style="list-style-type: none"> <li>Performance indicators and quality assurance</li> <li>partnership working</li> <li>effective provision of court reports</li> <li>mainstreaming services</li> <li>evaluation of services and service user perspective</li> <li>continuity of care and pathways of care</li> </ul> </li> </ul>	Rob Jayne/Amanda Hawkins  <a href="mailto:amanda.hawkins@eoe.nhs.uk">amanda.hawkins@eoe.nhs.uk</a>  <a href="mailto:rob.jayne@eoe.nhs.uk">rob.jayne@eoe.nhs.uk</a>
London and South East (combined event)	The Royal Horseguards Hotel, London	24 September 2008	100	Dr Simon Tanner, Regional Director of Public Health and Health Adviser to the GLA	<ul style="list-style-type: none"> <li>Mental Health Trust perspective (Fiona Edwards, Chief Executive, Surrey and Borders Partnership NHS Foundation Trust)</li> <li>Audit of Diversion and Liaison Schemes, London (Lucy Smith, Senior Research &amp; Information Officer, NACRO. Audit report available at: <a href="http://www.londondevelopmentcentre.org/cms/site/docs/Microsoft%20Word%20-%20London%20MHEP-AC%20-">http://www.londondevelopmentcentre.org/cms/site/docs/Microsoft%20Word%20-%20London%20MHEP-AC%20-</a></li> </ul>	<ul style="list-style-type: none"> <li>Partnership working: how, at a strategic and local level stakeholder agencies and organisations need to work in partnership in order to improve services for offenders with mental health problems/learning disabilities.</li> <li>Continuity of Care: how continuity of care for offenders with mental health</li> </ul>	Patrick O'Dwyer  <a href="mailto:Patrick.ODwyer@justice.gov.uk">Patrick.ODwyer@justice.gov.uk</a>

					<p><a href="#">%20final%20report%20May%2008%202_.pdf</a></p> <ul style="list-style-type: none"> <li>• Audit of Diversion and Liaison schemes, South East Region (Manawar Jan-Khan, Acting Programme Lead, SE Health &amp; Social Care in Criminal Justice Programme)</li> <li>• A Probation and Voluntary Sector perspective (Angus Cameron, Mental Health Lead, London Probation and Linda Bryant, Forensic Mental Health Manager, Together.)</li> <li>• Delivering Race Equality in Criminal Justice (Melba Wilson, National Director, DRE Programme)</li> </ul>	<p>problems/learning disabilities can be improved.</p> <ul style="list-style-type: none"> <li>• New Ways of Working: the organisational changes that will need to take place to support improvements in services for this population.</li> <li>• Prevention: how can we stop young people getting into the criminal justice system in the first place and how can we stop people re-offending?</li> <li>• Criminal Justice Diversion and Liaison Services: how the case can be made for ensuring the establishment of a consistent level of criminal justice diversion and liaison services (at police and courts) across the country.</li> </ul>	
East Midlands	The Riverside Centre, Pride Park, Derby	30 September 2008	54	Rachel Holynska, Deputy Regional Director of Social Care and Partnerships		<ul style="list-style-type: none"> <li>• What do you perceive are the current barriers to Diversion from the CJS?</li> <li>• How can agencies work more effectively together?</li> <li>• What support mechanisms need to be in place to support effective diversion?</li> <li>• What are the region's main priority areas?</li> </ul>	<p>Carl Finch/Pam Swift</p> <p><a href="mailto:Carl.finch@eastmidlands.csip.nhs.net">Carl.finch@eastmidlands.csip.nhs.net</a></p> <p><a href="mailto:Pam.swift@eastmidlands.csip.nhs.net">Pam.swift@eastmidlands.csip.nhs.net</a></p>
Yorkshire & Humber and North East (combined event)	Judges at Kirklevington Hall, Yarm	1 October 2008	83	Angela O'Rourke, Regional Manager, Health and Social Care in Criminal Justice	<ul style="list-style-type: none"> <li>• Sheffield Mental Health Diversion and Liaison Scheme (Luisa Deakin and David Goddard)</li> <li>• Barnsley Criminal Justice Liaison Service (Lesley Birchall)</li> <li>• Together Women Project (Rokaiya Khan, Regional Manager for Y&amp;H)</li> <li>• Durham and Darlington Criminal Justice Liaison Service (Jean Stores, Clinical Nurse Lead/Manager)</li> <li>• Gateshead CJMH Liaison Scheme (Ron Johnstone)</li> </ul>	<ul style="list-style-type: none"> <li>• Partnership working: identify the key partners who will need to be involved in this work and what their responsibilities will be and explore how they will work together to develop and improve services for offenders with mental health problems/learning disabilities.</li> <li>• What do you foresee to be the appropriate governance arrangements for this work at a local, regional and national level?</li> <li>• What funding options do you envisage will be necessary to support these developments or enhance already existing schemes?</li> </ul>	<p>Hannah Brough</p> <p><a href="mailto:Hannah.brough@nhs.net">Hannah.brough@nhs.net</a></p>

						<ul style="list-style-type: none"> <li>• What are the key levers that would have a positive influence on the continuity of care in your locality? Suggest any models of care or areas of good practice that should be replicated or developed further.</li> <li>• What are the challenges for services, providers and commissioners in terms of early intervention, in particular with regard to young offenders, in order to develop services to ensure appropriate and timely access to health and reduce reoffending?</li> <li>• Development of a highly trained and skilled workforce to deliver services is a key component in the delivery of the service. Please make suggestions on key issues and ways of resolving on workforce and service development, training of all staff and leadership at local, regional and national levels.</li> </ul>	
South West	Taunton Racecourse, Taunton	14 October 2008	64	Dr Ruth Shakespeare, Regional Lead for Offender Health		<ul style="list-style-type: none"> <li>• What are the barriers and what are the solutions to good assessment?</li> <li>• What are the barriers and what are the solutions to good information sharing and gathering?</li> <li>• What are the barriers and what are the solutions to good court report writing?</li> <li>• What needs to be in place for consistent criminal justice liaison services to be implemented across the South West by April 2010 and whose responsibility is it?</li> </ul>	Sue Staddon/Faye Brazier <a href="mailto:Sue.staddon@scip.org.uk">Sue.staddon@scip.org.uk</a> <a href="mailto:Faye.brazier@scip.org.uk">Faye.brazier@scip.org.uk</a>
Wales	All Nations Centre, Cardiff	10 November 2008	38	Phill Chick, Special Adviser for Mental Health and		<ul style="list-style-type: none"> <li>• What do you perceive to be the current barriers to diversion from the Criminal Justice System?</li> <li>• What mechanisms need to be</li> </ul>	Lisa Brody <a href="mailto:Lisa.brody@niah.wales.nhs.uk">Lisa.brody@niah.wales.nhs.uk</a>

				Les Rudd, Director of the Centre for Mental Health Services Development /National Leadership and Innovation Agency for Healthcare as facilitator		in place to support effective diversion? <ul style="list-style-type: none"> <li>• What are the implications of              the Review for services in              Wales?</li> <li>• How might the Review support              related strategic development              in Wales?</li> </ul>	
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- (\*) Across all the events there was a good mix of delegates including Crown Court judges, magistrates and other court staff, representatives from the prison service, voluntary sector, mental health practitioners, the police, PCTs, mental health trusts, social services, academics, speech and language therapists, commissioners, approved social workers, representatives from existing court diversion schemes, GPs, the probation service, local authority and other council staff.
- (\*\*) Copies of regional MHEP-AC audits of criminal justice diversion and liaison schemes, PowerPoint slides and delegate lists should be available from the organiser contacts.