

RESPONSE TO CABINET OFFICE STRATEGY UNIT INTERIM ANALYTICAL
REPORT:

National Probation Directorate

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Introduction

What follows are my professional observations linking the current practice and future needs of the National Probation Service (NPS) to the Interim Analytical report findings.

I have identified what I perceive to be the most relevant paragraphs, and placed them alongside some initial thoughts relating mainly to the Probation Service. There are occasional references to the Criminal Justice System (CJS) as a whole, but these are contextual rather than organisational.

The views expressed are my own professional opinion and I believe fit with the general policy approach as presented in the NPS Diversity strategy. They are, however, by the nature of the exercise, speculative in places.

Selected Strategy Unit Interim research text

- Disabled people are faring less well than non-disabled people across a range of indicators and opportunities. For example, disabled people are less likely to obtain educational qualifications, more likely to live in poverty and more likely to experience social exclusion and isolation.
- There are particular concerns about the support available to disabled people at key transition points in life - and about outcomes for specific groups of disabled people. There are also concerns about the families of disabled people - and in particular the links to child poverty
- Many services are in place, but these can be fragmented and their effectiveness may in some cases be low

Disabled people face multiple barriers; widespread discrimination; lower incomes; poorer educational outcomes; and fewer employment opportunities

National Probation Directorate Implications

Very little is known nationally about what proportion of the offender population identifies as or is identified as a disabled service user. There is currently no national monitoring process in place, though the issue is recognised as one needing attention and is beginning to be addressed.

Concerns about support available at key transition points, particularly in relation to young disabled offenders, would be echoed in the probation domain. This would also extend to the families of disabled offenders and to disabled victims of crime. Hate crimes against disabled people are now fully recognised, and will need to be a matter of particular concern to all agencies working with victims.

The situation for disabled people in non-custodial care is exacerbated by the fact that their lives and interactions with the wider world continue while they undertake their sentence. Their need for personal support and economic survival also continue unabated, and disruptions to living and/or working arrangements are likely to complicate the effects of this situation.

The fact that disabled people face the barriers of widespread discrimination, lower incomes, poorer educational outcomes and fewer employment opportunities than their nondisabled counterparts would lead to concern that there may be a disproportionately high risk that disabled people will find themselves coming into contact with the criminal justice system which has few mechanisms for anticipating the barriers they may face or more particularly their access and support requirements. It is often only the

The additional and varying needs of disabled people across employment, income, health, housing, social care and education are responded to on a piecemeal basis

Disabled people are not empowered; often they lack full involvement in policy making or meaningful choice

Further barriers arise from a failure to implement best practice in policy-making and in service design and delivery

There are a number of existing barriers to implementing 'best practice' in policy making and service design and delivery, e.g:

- Separation of budgets
- Focus on process rather than

observance and professionalism of staff which prevents potentially damaging decisions being made in ignorance of the needs of disabled offenders.

The lack of consistency of monitoring and the frequent lack of time available for service co-ordination particularly where disabled offenders are coming into contact with the criminal justice system for the first time, may well emphasise the tendency for piecemeal responses to service provision.

The processes involved in arrest, court appearance, sentencing and placement can be extremely disempowering and those involved in administering these processes (police, courts, probation and Prison staff) may need to review the external (third party) resources which could ensure that disempowerment is no more of a feature of the offenders experience for disabled offenders than for non-disabled ones. In particular, consideration should be given to the increased use of trained advocates in this regard.

Without a detailed profile on the disability status of offenders, it has arguably not been possible for services to offenders to be designed proactively to include the precise needs of disabled people. Little if anything is known about the criminogenic needs of disabled offenders, and the need for consistency and rigor in the design and administration of programmes does not always lend itself to the absorption of a barrier removal approach.

Given all above, the existing barriers to implementing 'best practice' in policy making and service design and delivery, are likely to at least be replicated in the probation context, despite pockets of good practice. If process triumphs over outcomes, the

outcomes

- Assumptions about disabled people e.g. ability to work, capacity to make decisions
- Different working definitions of disability and assessment procedures
- Poor case management
- Lack of overall vision and framework for disability policy, supported by robust performance management

likelihood of meaningful impact assessment, and therefore of inclusive policy design, will be minimal. Prejudicial assumptions about disabled people, given the paucity of positive images in the public domain and the extent of the subliminal nature of media imagery around disability, are likely to have a profound but undetected impact on their relationship with the criminal justice system.

The culture within which disabled offenders are dealt with may not as yet have adopted a clear definition of disability, and this may have a negative impact on the approach to service provision. The approach taken by the NPD in its DDA compliance work, which emphasises the need to develop Managed Solutions to insuperable physical access problems, and which adopts a social definition of disability, should help to mitigate this.

This should also have a direct impact on case management quality and style.

- Disabled people should be at the heart of how relevant public services are designed and delivered
- Services for disabled people should be personalised to reflect the range of needs of individual disabled people

The identification of, and the development of effective, innovative and accessible mechanisms for consulting with, disabled offenders will need to be an urgent priority if useful feedback is to inform both policy development and service design and delivery.

The need for individual support and access requirements to be built into the offender management systems is of paramount importance, regardless of with what point in the system the disabled offender, family member or victim is engaged.

- Service providers should be held to account by disabled people wherever possible.
 - Disabled people should also be involved in the design and planning of services – but should maintain the ability to provide strong critical challenge
- It is suggested that focused development work with disabled offenders might be one way of bringing about the opportunity, mechanism and climate within which disabled offenders will be able to provide the accountability framework necessary to safeguard their rights and entitlements as disabled people. Such work would doubtless reveal hidden but hitherto only suspected issues for the service and would as such be of enormous value in providing detailed feedback.
- Disabled people should have increased choice regarding the services and benefits they receive, with specific support available to achieve informed choice
- Care needs to be taken to ensure that any restrictions placed upon disabled offenders in relation to the terms of their sentence do not inappropriately compromise their ability to make informed choices about the kinds of services they wish to access both to support them in carrying out their sentence and in those aspects of their lives (particularly in the case of non-custodial sentences) which are not directly impacted by the sentence regime.
- The transition from childhood to adulthood can be difficult for young disabled people, especially for the growing number with very high levels of impairment
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- Any additional barriers encountered by young disabled adults in making the transition from childhood to adulthood may impact negatively on the risk of offending or re-offending. It will be important for CJS practitioners to be involved in cross-agency thinking about ensuring a smooth and properly resourced and supported transition for disabled young people, especially for those emerging from institutional care or special (segregated) education into the community.
- Major changes take place across most aspects of life, including in education and employment, housing and family life
- Employment, Education and family life all play a vital role in providing the emotional and economic framework within which young disabled people will want to thrive, and making sure that the probation service understands the importance of including the requirements of disabled young

In a number of areas of service provision, the impression currently given to disabled people is that they are a “burden” and a “problem” ...

The medical model still underpins health and social care provision:

- Focussing on impairments rather than barriers experienced in society
- Reinforcing “normalisation” as the desired outcome, with impairments being “cured”
- Promoting fault with the disabled person
- Defining and labelling disabled people as perceived by non-disabled policy makers and service providers

• Services aimed at disabled people are an add-on to non-disabled people's services

- The number of assessments

people in its engagements with these systems will be important in supporting any of them who later encounter the criminal justice system either as offenders or victims.

It would be flattering and optimistic to assert that all practitioners in the service no longer regard disabled people as either a 'burden' or a 'problem'. This is, however, unlikely to be a sustainable position. The very nature of punishment and the requirements for conformity are likely to expose difference, either in appearance or access requirements, as a problem rather than presenting a welcomed challenge for the system. There are, however, many examples both in the custodial and non-custodial systems of both appropriate and imaginative responses to meeting disabled people's requirements, and dissemination of good practice both across the CJS and across the public sector as a whole should be resourced and encouraged.

The prevalence of the medical model of disability and its deep embedding in policy thinking and in programme design and implementation is probably no more apparent in the probation service than in many other parts of the public sector. Initiatives like the NPD's DDA Compliance Process, and working in strategic partnerships with community and local government organisations is hopefully beginning to erode this prevailing culture.

In a less medically dominated climate, it is becoming more possible to design in an inclusive way, and the prospect of the need for disability impact assessments as part of the proposed duty to promote disability equality heralds the coming of a more disability-centric service culture.

It will be important for data capture

disabled people have to negotiate reflects the variety in needs of service providers, not the dynamics of disability or the life cycle. This adds to the difficulty in accessing the range of services to which disabled people are entitled

- Disabled people's lives are determined by service providers and are subject to inefficient procedures and lack of choice

- Attitudes of service providers often demonstrate a lack of awareness of disabled people's needs. At present, there are no statutory targets for providers of disability - specific - let alone all - public services to undergo disability equality training

- Disabled people may access services on the basis of their impairment, but they are not solely defined by this identity. Service providers need to consider the effect of the intervention on the whole person. Disabled people come with a diversity of perspectives and life roles which impact on what services they require and how they are delivered

- Inappropriate targets falsify the extent to which disabled people's needs are being met, and may

and monitoring systems (within the boundaries of Data Protection legislation) to include and take account of assessments from inside other systems in order to minimise the chance of unhelpful and unnecessary re-assessments.

In the context of the criminal justice system, it is important to recognise the importance of meeting society's expectations that offences will be dealt with appropriately and offenders treated justly and fairly. Punishment inevitably restricts choice, and is determined by a system which provides prescribed services through the sentencing structure. Within these constraints, however, it is important that disabled people are empowered in arriving at the most appropriate and accessible solutions which best suit their individual needs. To ensure that appropriate solutions are arrived at, serious consideration will need to be given to prioritising the provision of appropriate training to targeted staff. The DDA Compliance model in use in the NPS recommends going beyond awareness training and providing disability equality training. It is, however, up to individual areas to arrive at their own solution both in the scope of the training and its targeting. In considering what response is most appropriate, it is important to recognise that disabled offenders or victims are more than their impairments and are, including their impairments, whole people. They have the same needs drives and aspirations as non-disabled people, as well as those which are part of their response to the barriers they face.

In defining targets, it will be important to recognise the need to encourage mainstreamed provision and the

increase segregation if they mean more focus on disability-specific services

- Fear of handing over choice to disabled people by service providers reflects a paternalistic attitude, that they may make the 'wrong' choice. Consideration of disabled people as equal citizens would challenge this approach

- There is often a stigma attached with meeting disabled people's needs through social welfare, which can prevent full take-up of services. Disabled people need to be empowered by their needs being met, without having to apologise for their condition or being made to feel grateful for the patronage of the state

There are various mechanisms which can be used to enhance the empowerment of disabled people, for example:

Direct Payments

- Cash in lieu of social services to enable more choice and control of social care delivery. Most DPs are used to employ a Personal Assistant, evidence of the variation in type demonstrates ability to meet individual needs
- Positive outcomes cited by disabled people using DPs include: choice and control, independence, improved family and social life, and better quality relationships with their Personal Assistants
- Flexibility over use of DPs is evolving as the take-up and length of use increases

Advocacy

inclusion of the needs of disabled offenders in generic programmes and regimes.

The provision of the capacity for choice within the constraints of criminal justice interventions presents a serious challenge to programme designers and delivering practitioners. Many of the issues which relate to the debate on inclusive education may have particular resonance in this context, and these are waters which are currently little charted.

The impact of the way in which disabled people's needs are met, either within the context of a programme or an institution, can be very significant. Meeting access requirements should be seen (and be seen by others to be seen) as part of the core business of the service, and should be dealt with positively in group or institutional settings.

Issues of third party involvement in non-custodial interventions are only just beginning to be addressed. As the use of Direct Payments to supply personal assistance increases, policy and practice may need to be reviewed to take this into account.

Many practitioners in the service recognise anecdotally the likelihood

- Can be defined as “taking action to help people say what they want, secure their rights, represent their interests and obtain services they need”
 - Advocacy services can, for example, enable better understanding of benefit entitlements, choices around DPs, communicating needs and securing delivery of services with health and social care providers
 - Access to independent advocacy is patchy, with most being focussed on people with learning impairments and mental health problems (the draft Mental Health Bill and ‘Valuing People’ both stipulated access to advocacy services)
- of a high prevalence of both learning disability and mental health issues in the offender population. Barriers may occur at either end of the offender management system, both with disabled people coming into the system because of the failure of other services, and emerging from the custodial system with either recognised or unrecognised needs. In either case, the use of trained advocates is likely to become more commonplace, and some long-term planning to resource this and other support needs, possibly in partnership with other agencies, may need to be put in place.