Justice Committee

Inquiry into purposeful activity in prisons

Written submission from the Scottish Consortium for Learning Disability

About the Scottish Consortium for Learning Disability

SCLD is a Centre for Excellence funded by the Scottish Government and is made up of 12 partner organisations. Our mission is to work in partnership with people with learning disabilities, people on the autism spectrum and family carers to challenge discrimination and to develop and share good practice. SCLD’s goal is an inclusive Scotland where everyone is valued and respected for who they are and what they contribute as equal citizens.

SCLD’s partner organisations include 12 third sector organisations and universities: Association for Real Change (ARC), British Institute for Learning Disabilities (BILD), Badaguish Outdoor Centre, Capability Scotland, Central Advocacy Partners, Down’s Syndrome Scotland, ENABLE Scotland, Key, PAMIS and the Universities of Dundee, Glasgow and St Andrews.

SCLD sits on the Criminal Justice Sub Group of ‘The same as you?’ organised and facilitated by People First Scotland. Other member organisations include the Scottish Government and representatives of criminal justice social work and forensic health services. This group is currently overseeing a new piece of research into the criminal justice journey of people with learning disabilities.

Introduction

SCLD is not in a position to comment on the majority of the questions within the inquiry into purposeful activity in prisons. However, we would like to take this opportunity to highlight that a failure to identify people with learning disabilities and/or a lack of appropriate support for people with learning disabilities within prison may represent a significant barrier to people with learning disabilities being included appropriately within purposeful activity in prison, and ultimately in having opportunities to seek release, avoid offending behaviours upon release and leave equipped with independent living skills and appropriate support.

People with learning disabilities are defined in ‘The same as you?’, the Scottish Government’s national policy on learning disability¹ as follows:

‘People with learning disabilities have a significant, lifelong condition that started before they reached adulthood, that affected their development and which means they need help to:

- understand information;
- learn skills; and
- cope independently

People with learning disabilities should have a range of support and services to meet the following needs.

**Everyday needs**
For example, a place to live, security, social and personal relationships, leisure recreation and work opportunities.

**Extra needs because of their learning disability**
For example, help to understand information, support to make decisions and plan, help with communication, mobility or personal care.

**Complex needs**
For example, needs arising from both learning disability and from other difficulties such as physical and sensory impairment, mental health problems or behavioural difficulties.

This definition demonstrates that a person with learning disabilities could struggle to adapt to and progress through the prison system without the appropriate support being in place.

There is no definitive data as to the prevalence of people with learning disabilities within the criminal justice system. Different screening and diagnostic tools for identifying people with learning disabilities will give different estimates of prevalence. Loucks notes that ‘research in Scotland has shown that, despite a number of procedures that may identify a learning difficulty, formal assessment and diagnosis of learning disability or learning difficulty in secure settings is rare, but equally that prison staff and managers believe many such people are in custody (Myers 2004; also Robinson 2005).’ However, research shows that there is a lack of support for people with learning disabilities in prison.

2. **The extent to which prisoners have an opportunity to engage in purposeful activity**

SCLD recently undertook the evaluation of ‘The same as you?’ on behalf of the Scottish Government. The evaluation team sought to speak to people with learning disabilities and family carers across Scotland about their lives. We succeeded in speaking to one person with learning disabilities who was serving a sentence in prison. From this single experience, it is not possible to generalize. However, we were pleased to see that this individual did have the opportunity to engage in what might be considered ‘purposeful activity’. The individual worked the equivalent of a

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3 Ibid

full-time job within the prison. It was clear that he enjoyed his job and that it offered him skills which could be useful to him upon release. While we were pleased to see that he was able to draw on other prisoners for support, it was clear that there was very little formal support offered to him from SPS staff. He said of SPS staff:

“No, they’re in the office, they don’t come to you. I need to bother them to get my [names administrative procedure] ready, we’ve got to say to them.”

The one member of staff who did offer support was a member of the healthcare profession. However, without a reason to see healthcare staff (i.e. physical or mental health issues), the individual would have been denied this support. Formal support for people with learning disabilities may not be available on a systematic basis.

This individual had also had the opportunity to participate and complete courses which had enabled him to progress through the prison system. He linked his progress through the system directly to his participation in these courses:

“All my certificates, I passed it all, it’s all wrote up on reports, that’s how I managed to get up here.”

Someone else in his situation may not be able to progress through courses without the appropriate support.

4. What barriers may exist to prevent prisoners being engaging in such activities

SCLD is concerned that learning disability within the Scottish Prison Service often goes unidentified, and even when identified, may not be widely understood, especially in terms of the kinds of supports which prisoners with learning disabilities may require. This may in turn impact on the ability of people with learning disabilities to participate meaningfully in ‘purposeful activity’ within prisons. There is currently relatively little research evidence available on this particular issue.

The Adult Care and Support Department of the Scottish Government have funded the Scottish Consortium for Learning Disability to undertake some research into this area. The research aims to map the journey of offenders with learning disabilities through the criminal justice system and identify how decisions can affect the outcomes of people with learning disabilities. We would be happy to share the findings of this research with the Committee (later in 2013).

We note that public authorities, including the Scottish Prison Service and the National Health Service are bound by the Equality Act 2010. This Act obliges public authorities to refrain from acting in such a way that they discriminate, directly or indirectly towards any group of people with a protected characteristic, including disabled people. We are concerned that the failure to provide appropriate support for prisoners with learning disabilities, for example in activities which count towards progress through the prison system,5 constitutes indirect discrimination and may lead

5 See 2
people with learning disabilities to serve longer sentences than their non-disabled counterparts. This in turn may have implications for the human rights of prisoners with learning disabilities under the Human Rights Act 1998.

6. Whether access to such activity can be improved

People with learning disabilities in the prison system must not be excluded from opportunities to undertake purposeful activity. Without a more detailed evidence base it is difficult to make specific recommendations. However, SCLD would suggest the following:

- Person-centred practices and approaches which identify the support which any individual in the prison system requires to participate in purposeful activity;
- Appropriate training and support for prison staff in recognising learning disability and supporting people sensitively and appropriately to participate in purposeful activity;
- Recognising that the label of learning disability may subject a prisoner to bullying and harassment, including within the context of purposeful activity;
- Responding thoroughly and appropriately to incidents of bullying and harassment so that this does not continue to be a barrier to purposeful activity;
- Accessible information in a variety of formats, such as easy read, to be available throughout prison practices and processes, and support for people to understand this;
- Fostering natural supports and friendships which may arise during purposeful activity.

Scottish Consortium for Learning Disability
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