



Centre for
Mental Health



Keeping the Care Not Custody Promise

Centre for Mental Health, Prison Reform Trust,
NHS Confederation, Rethink and the WI

In February 2011 the Prisons Minister Crispin Blunt confirmed in Parliament that the Ministry of Justice “with the Department of Health, have invested £50 million by 2014 in establishing a liaison and diversion service, both in the police stations and in courts, to ensure that people who should more appropriately be treated in the health service do not go to prison”. In March the government announced plans for ‘path-finder’ diversion services for both adults and children and young people in the justice system. These will receive up to £5m investment over the next year (£3m for adult diversion sites and £2m for youth sites).

Diversion

The objective of liaison and diversion services is to ensure that people who come into contact with the police and courts with a range of health needs including mental health problems and learning difficulties, are identified and directed towards appropriate mental health and social care, particularly as an alternative to imprisonment.

Diversion can be within or outside the justice system and need not replace sanctions for any offence a person has committed. It can, and should, happen at any stage of a person’s journey through the system, from first contact with a police neighbourhood team to release from prison.

‘By building up the evidence base and proving these interventions work, we will make diversion services a staple of the health and criminal justice system.’

Paul Burstow, Minister of State for Care Services

To demonstrate the joint commitment between the Department of Health and the Ministry of Justice to the roll out of a national liaison and diversion scheme by 2014, in March the Health Secretary Andrew Lansley and the Justice Secretary Ken Clarke both spoke at a Care Not Custody reception in Westminster jointly hosted by the Women’s Institute and the Prison Reform Trust.

The Health Secretary Andrew Lansley said: “True justice for the most vulnerable is about drawing them into treatment, not pushing them away from the support they need. Ken and I agree wholeheartedly about this, and officials from across our two department are working together in partnership to make it a reality.”

The Justice Secretary Ken Clarke agreed, saying: “I hope we’ll be judged by how far rhetoric is turned into reality ... Andrew and I and our colleagues are going to have a go and I hope you hold us to producing some worthwhile improvement.”

Keeping the momentum going

To ensure that this important policy is successfully implemented, practitioners need to demonstrate significant evidence in support of diversion and provide a compelling business case. It will take considerable commitment from a range of public services and government departments to work together to achieve a common goal to make diversion a reality and prove that it can be implemented successfully.

Economic modeling and evidence gathered from existing schemes and pilots have paved the way for this substantial investment in diversion services.

With a typical six week stay in prison costing £5,000 compared to, for example, a typical one-year community order involving probation supervision and drug treatment costing £1,400 it is not hard to see the logic of diversion on financial grounds alone.

What we have yet to gather is robust evidence about the longer-term impact of diversion and its financial implications across the full range of public spending areas – including for example social security and housing budgets.

There are a number of other factors which will also affect the practical implementation of this policy, with joined up working and joined up government being central to success.

‘(It) is the joint responsibility (of) all the government departments, agencies and organisations (that I have discussed in this report) to drive through improvements by working closely in partnership with one another.’

The Bradley Report, April 2009

10 key factors will affect the successful implementation of this policy:

Political leadership

Liaison and diversion are cross-government priorities and success will be contingent on support across government departments. Commitment to reforming the justice system and investing in community alternatives to short prison sentences, for example, will need to be sustained to make diversion a reality across the country.

A shared view of cost savings

The available evidence demonstrates that investment in diversion services will result in an overall saving to public expenditure. But most of the upfront costs will fall on the NHS and most of the downstream savings will be felt by the criminal justice system. This presents a challenge to the Government to ensure that limited funds are used most wisely across public spending areas.

NHS reform

The current set of NHS reforms present both opportunities and threats for diversion. Clinical commissioning groups may find that this is a service model which they can develop but without clear process and outcome measures progress may be patchy.

Justice reform

The proposals in the Legal Aid, Sentencing and Punishment of Offenders Bill currently before Parliament should increase the flexibility of the court in making a mental health treatment requirement. Provision will need to be made to ensure that arrangements for diversion into treatment and social care are routinely available at all stages in the criminal justice system.

Financial constraints

There is widespread concern that constraints in funding will affect service provision. For example we are already seeing evidence that community mental health teams and supported housing schemes, which are vital for diverted offenders, are being significantly scaled back.

Balancing national and local

The pathfinder pilots offer an excellent opportunity for capturing and sharing good practice to create a national model for diversion. Previous attempts to implement diversion nationally have foundered on a lack of clear guidance from the centre. But it is also important that local services have enough flexibility to respond to their particular needs and gain broad support from other organisations.

Joint agency working to meet complex needs

Many offenders have complex needs and so it is essential that services offer an intensive and integrated response to multiple needs. In order to provide effective, tailored support, diversion services will need to work well not just with the police and mental health services but also with, for example, housing providers, drug and alcohol services, schools, social care and employment services.

Integration across crucial transition points

The Government's mental health strategy acknowledges that much more needs to be done to support integration across crucial transition points such as the transition from children's to adult services. The T2A Alliance has demonstrated that this is also a big issue in the justice system.

Quality standards and outcomes

Minimum quality standards must be set for liaison and diversion services to ensure quality and coverage across the country. Robust outcome measures will also be needed to hold commissioners to account for achieving results in their areas.

Political Consensus and Public Support

There is currently support across the health and justice sectors, and widespread cross-party agreement, to implement Lord Bradley's recommendation for a national liaison and diversion scheme. A letter published in the *Guardian* in March welcoming the government's *Care Not Custody* promise was signed by representatives from the health and justice sectors representing in total more than one million members (see appendix). However, there is a need to convey the benefits of liaison and diversion to the general public to get across the message that custody is not always the right option for the individual concerned, for victims and for the taxpayer.

Conclusion

The benefits of liaison and diversion are substantial, in terms of their impact on individuals and their families; securing significant public health gains; reducing offending and the knock on effects of this on society; and in achieving substantial savings to the public purse.

The commitment to develop liaison and diversion services has been made. Pilots and the business case for national roll-out are in development.

It is important that we all support the development of a liaison and diversion infrastructure at both national and local level. We need to identify what practical action must be taken, at all levels, to see diversion implemented on a widescale basis in the medium to long term.

Questions

- How can we ensure that the government sticks to its commitment to establish liaison and diversion services on a nationwide basis?
- What experience from Labour's time in government can be drawn upon to identify challenges to the diversion agenda and workable solutions?
- Does the Sentencing Bill go far enough to make community sentences more effective for offenders with mental health problems?
- How do we convey the benefits of liaison and diversion to the general public to get across the message that custody is not always the right option for the individual concerned, the victim and for the taxpayer?
- How do we maintain a focus on diversion in the aftermath of the riots where sentencers have taken a tough line, favouring custodial terms over other measures?

State must keep Care Not Custody promise

Letter to the Guardian, Wednesday 30 March 2011

We welcome the commitment of the health secretary, Andrew Lansley, and the justice secretary, Ken Clarke, to divert people with mental health needs away from the justice system where possible and to improve treatment and support in the community (£5m scheme to divert mentally ill offenders from prison, 28 March). Many men, women and children in prison have two or more mental health problems, such as depression and anxiety, many others struggle with a learning disability, and significant numbers have severe and ongoing illnesses such as schizophrenia and personality disorders. Prison healthcare is too often a catch-all for people who would be better cared for outside the criminal justice system.

Lord Bradley's recent review of diversion from the criminal justice system into treatment and social care said "there are more people with mental health problems in prison than ever. While public protection remains the priority ... custody can exacerbate mental ill-health, heighten vulnerability and increase the risk of self-harm and suicide."

The Care Not Custody campaign was inspired by the tragic death in prison of the son of a Norfolk WI member. Three years since the campaign was launched, we are pleased that both secretaries of state have agreed to work together and commit further resources to the full roll-out of a national liaison and diversion scheme by 2014, as proposed by the Bradley report. We plan to work in partnership to make sure that the government keeps its "care not custody" promise.

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