The Prison Reform Trust response to the NHS White paper, Equity and Excellence: Liberating the NHS.

The Prison Reform Trust welcomes the opportunity to comment on this White paper.

Our response is concerned with children and adults who come into contact with the criminal justice system (CJS) as suspects at the police station, defendants in court, prisoners and as offenders living in the community. These distinctions are important. For suspects, defendants and prisoners with particular health and support needs there will be little, if any, opportunity to exercise patient 'choice and control', while it is likely that most offenders living in the community will fall into the broad group described in the White paper as 'hard to reach'.

The health and mental health needs of children and adults who offend are significant and well documented, as are the social inequalities many experience[1]. Consequently, in aiming for equitable outcomes, disproportionate 'inputs' will be necessary.

The Prison Reform Trust is especially concerned about the high numbers of children and adults with mental health problems or learning disabilities who are caught up in the criminal justice system and strongly urge that the recommendations contained in Lord Bradley's report[2] are implemented through the government's vision for the future of the NHS.

Effective cross-departmental working at both the national and local level is fundamental to delivering timely and appropriate service provision. This should be underpinned by routine and efficient transfer of information across and between health and criminal justice services and, where appropriate, shared accountability for delivering outcomes.

1. Commissioning arrangements
    a. An integrated approach to commissioning is necessary to ensure a seamless, end-to-end care pathway through the CJS.

    b. The health and mental health profile of the offender population should inform the commissioning of services to ensure that health and mental health outcomes equitable to those of the general population are realised.

[1] See for example Prison Reform Trust publications: *Troubled Inside: responding to the mental health needs of men in prison* (2005); *Punishing Disadvantage: a profile of children in custody* (2010); and *How fair is Britain? The first Triennial Review* (Equality and Human Rights Commission, 2010).
[2] *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system* (Department of Health, 2009).

c. Commissioning should be explicit in the need to include 'hard to reach' groups; offenders and newly released prisoners should be included as a hard to reach group.

d. Health and Wellbeing boards have an important role to play in commissioning services for the CJS. Criminal justice agencies such as the police, crown prosecution, probation and youth justice, should be integral to Health and Wellbeing boards. This would help to ensure that the health and mental health needs of people who come into contact with the CJS are identified and met, and that the most appropriate disposal is made, including diversion away from the CJS. This is especially important for people with mental health problems and for those with learning disabilities.

e. Accountability for safeguarding measures for adult prisoners with support needs, including the provision of routine social care, should be clarified and commissioning, to national standards, developed accordingly.

f. Local criminal justice liaison and diversion schemes should be mandatory and a NICE quality standard developed for diversion away from the CJS and into appropriate health services.

g. Commissioning arrangements should ensure a planned and seamless transition between children's and adult service provision. Children should receive full access to children's services up to their 18th birthday (evidence suggests that 16 and 17 year olds often have difficulty accessing CAMHS[3]). Where adult services do not offer equivalent levels of support, there should be a phased reduction in services agreed as part of the transition planning.

h. Commissioning arrangements should take into account the particular health needs of vulnerable women, including the provision of women only services.

i. 'The over-representation of people from black and minority ethnic (BME) groups in both mental health secure care and prisons suggests that further convergence could contribute to institutional racism'[4]. Commissioning arrangements must ensure that all service providers are bound by the Equalities Act, for example by creating systems for monitoring people from BME groups, and developing a range of appropriate responses in collaboration with BME communities[5].

[3] The Prison Reform Trust, forthcoming.

[4] Rutherford, M (2010) *Blurring the Boundaries: The convergence of mental health and criminal justice policy, legislation, systems, and practice*

[5] Liaison and diversion services for BME service users: A good practice guide for court diversion and criminal justice mental health liaison schemes, Nacro.

2. NHS outcomes framework
    a. The NHS outcomes framework should reflect the principle of integration between public services and, where appropriate, include the requirement for shared outcomes.

    b. The diversion of people with mental health problems and/or learning disabilities away from the CJS and into appropriate services is an example of a shared outcome between the NHS and the CJS. More specifically suggested outcomes are:
        i. Early identification of people with mental health problems and/or learning disabilities, i.e. at the point of arrest, to avoid the inappropriate entry of certain individuals – children in particular – into the CJS
        ii. The number of people identified as having mental health problems and/or learning disabilities who are diverted away from the CJS and into appropriate services
        iii. The number of offenders identified as having mental health problems and/or learning disabilities who receive a community order with a mental health or learning disability treatment requirement; and the availability of appropriate mental health and learning disability services for this group
        iv. The number of prisoners with mental health problems and/or learning disabilities transferred into secure hospital care.

    c. There are further outcomes that should be developed to support the health and wellbeing of offenders, such as:
        i. The availability of appropriate treatment programmes – in the community and in prison – for offenders with dual diagnosis and for those with learning disabilities, and the number of offenders who successfully complete such programmes
        ii. The number of prisoners registered with a GP on release from prison, and the number who attend a follow up appointment for a 'well man/woman/child' health check
        iii. The number of offenders in the community registered with a GP and who attend an appointment for a 'well man/woman/child' health check
        iv. The number of prisoners, and offenders in the community with learning disabilities who attend a Health Action planning appointment
        v. The improved health and well being of individuals between the point of arrest to the end of their sentence
        vi. Timely access to service provision, including for screening or assessment of suspected impairment
        vii. Developing patient-reported outcomes measures, as proposed in the White paper, for prisoners. Measures could utilise pre-existing complaints procedures and would be one way of determining the quality of care for prisoners
        viii. Children's services routinely available for children up to their 18th birthday.

d. Payment by results may prove beneficial to certain parts of the criminal justice system. One such example is the diversion of people with mental health problems and/or learning disabilities away from the criminal justice system and into health care; or a community order with a mental health or learning disability treatment requirement instead of a custodial sentence. However, care must be taken to avoid perverse outcomes such that those with the most challenging support needs are denied access to the benefits of diversion.

3. Diversion
   Criminal justice liaison and diversion schemes should be co-terminal with Health and Wellbeing boards. NICE quality standards should be developed for the diversion of children and adults at each stage of the CJS, for example at the point of arrest, from the courts and from prison. Schemes should have timely access to mental health, learning disability and speech and language expertise.

4. Information and information sharing
   a. The provision of timely, fit-for-purpose court psychiatric reports should be a requirement of criminal justice liaison and diversion schemes, supported as required by mental health and learning disability services.

   b. The sharing of information across and between health and criminal justice services is problematic[6]. Principles underpinning information sharing should be re-stated and model protocols developed for use at the local level.

5. A needs led approach
   a. Many offenders have multiple and complex support needs that cut across traditional public service boundaries, however many public services are ill-equipped to provide effective provision for people with a dual diagnosis. The experiences of people using multiple services should be measured to inform more effective integrated working between different services. Developing patient-reported outcomes measures for this group would be one way of determining their quality of care.

   b. The cumulative effect of a number of relatively low level difficulties and impairments which, taken individually, may not be sufficient to secure access to service provision, should be recognised.

[6] See for example Identifying and supporting prisoners with learning difficulties and learning disabilities: the views of prison staff (Prison Reform Trust, 2007)

6. Early identification
   It is well established that children who come to the attention of youth justice services have complex support needs and low levels of attainment. The early identification of children at risk of offending is fundamental to preventing their 'drift' into criminal justice. National standards should be developed, agreed jointly between health and education, that would precipitate a full assessment of the health and social care needs of individual children and their families. These should include exclusion from school, truancy and low levels of attainment.

The Prison Reform Trust would be pleased to add to the above as necessary. Hard copies of Prison Reform Trust reports cited in this response will be posted.

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