



Prisons and Courts Reform Bill Second Reading – 20 March

Executive summary

- We welcome the Prisons and Courts Bill's aim of reforming prisons and courts and particularly support the emphasis on rehabilitation for prisoners.
- In considering the Bill, it is important to recognise that:
 - many people who come into contact with the criminal justice system have communication needs (these are often hidden and unsupported) and some may have swallowing needs:
 - over 60% of young offenders have speech, language and communication needs (SLCN);¹
 - a project based in Pontypridd Probation Service showed that all participants had below average speech, language and communication ability, and revealed specific problems experienced with comprehension and expression, which would affect their ability to understand the justice system and to communicate their wishes and needs.
 - Communication needs affect a person's ability to understand and to make themselves understood. They also affect their ability to form positive relationships and conform with a structured regime. Swallowing needs affect a person's ability to eat and drink safely.
 - Many people with communication needs also have literacy and numeracy difficulties.
 - Left unidentified and unsupported these needs pose a number of risks, including to:
 - prisons' ability to be places of reform and rehabilitation, preparation of prisoners for life outside prison, and safe and secure environments;
 - the efficient administration of justice, including for victims and vulnerable people.
- Given the prevalence, negative impact of, and risks associated with communication and swallowing needs, it is essential that speech and language therapy services are commissioned as part of relevant multi-disciplinary teams in all criminal justice settings to help deliver:
 - **SCREENING:** when people first come into contact with the criminal justice system they should be screened for communication needs;
 - **TRAINING:** training to support those working in the criminal justice system in awareness of communication and swallowing needs and how to respond to them, including knowing when to refer someone to dedicated speech and language therapy services for specialist help;
 - **SUPPORT:** providing support to a wide range of criminal justice staff to fulfil their responsibilities. Staff may need support to administer verbally mediated physical and mental health assessments effectively including suicide risk screening. Reform, rehabilitation, treatment and education programmes, and group work, will need modification to ensure that they are accessible to those with communication needs. Staff may need more direct speech and language therapy support to manage prisoners with more complex communication and swallowing needs.
- In addition:
 - with appropriate input from speech and language therapy services, reasonable adjustments should be made to court processes so they are accessible to those with communication needs (whether defendants, victims or witnesses);
 - registered intermediaries should be used across the criminal justice system, and registered intermediaries should be made available in family courts.

Communication needs in the criminal justice system

- 66-90% of young offenders have low language skills. 46-67% of these are in the poor or very poor range.²
- Half (51%) of people entering prison have been assessed as having literacy skills expected of an 11 year old — over three times higher than in the general adult population (15%).³
- Those who enter the criminal justice system often do so from settings where there is a heightened risk of people having communication needs which may not have been previously identified. For young people these include being in care, excluded from school, referred to a community youth offending

team, referred to Children and Adolescent Mental Health Services, a drug rehabilitation scheme, or having emotional or behavioural problems. For adults these include being unemployed, in touch with mental health services, being in care or having a special school history.⁴

- People with communication needs can find it difficult to express their emotions and often communicate through behaviour. This can lead to offending behaviour, behaviour leading to restraint, and delays to their release from custodial settings.

Communication and swallowing needs associated with other conditions

- A significant number of conditions prevalent amongst prisoners in both the youth and adult estates may also lead to SLCN.⁵ These include mental health problems and neurodevelopmental conditions.⁶
- 20-30% of people in prison are estimated to have learning disabilities or difficulties that interfere with their ability to cope with the criminal justice system.⁷
- 80% of prisoners with learning disabilities or difficulties report having problems reading prison information – they also had difficulties expressing themselves and understanding certain words.⁸
- There is a complex interrelationship between speech, language and communication and dysphagia (swallowing disorders) and emotional, behavioural or psychiatric disorders.⁹
- Specific mental health conditions can have communication and eating/swallowing difficulties associated with them. These include depression, schizophrenia, dementia, and psychosis. Conversely, communication difficulties associated with neurodevelopmental conditions or damage to the nervous system, such as aphasia, dyspraxia, autism spectrum disorders, learning disabilities, and attention deficit disorders can affect mental health, commonly in the form of anxiety or depression.¹⁰
- Prisoners with learning disabilities or difficulties are almost three times as likely as other prisoners to have clinically significant anxiety or depression, and most were both anxious and depressed.¹¹ These conditions can impact on interpersonal communication and engagement in verbally mediated activity.
- 25% of women and 15% of men in prison reported symptoms indicative of psychosis.¹²
- The extent of mental health problems in the adult prison population is evidenced by the rise in suicide rates. 2016 saw a record 119 self-inflicted deaths, up 32% on 2015 and a doubling since 2012.¹³

The impact of unidentified and/or unmet communication and swallowing needs

- Communication skills are fundamental and foundational. They are not simply expressive skills (our ability to make ourselves understood), but also receptive (our ability to understand).
- Communication disorders are often hidden and difficulties with comprehension can be overlooked.
- If these difficulties remain unidentified or unmet, they can have negative consequences for both people's ability to access and engage with the justice system; and for those working in the justice system to be able to recognise and respond appropriately to people's individual needs.
- People with communication needs will have limited understanding of, and participation in, the legal process, and programmes designed to reform and rehabilitate them which are verbally mediated. This has consequences for reoffending. In addition, if their communication needs are not identified and supported, they are also at risk of not being able to participate in verbally mediated physical and mental assessments, including suicide prevention interventions.
 - Around 40% of young offenders find it difficult or are unable to access and benefit from rehabilitation programmes that are delivered verbally, such as drug rehabilitation courses.¹⁴
 - Approximately a third of young offenders have speaking and listening skills below the tested level of an 11 year old¹⁵ and are unable to access education and treatment programmes due to their poor language and literacy skills.
- People with communication needs are at risk of not being able to give an effective defence which may result in miscarriages of justice.
- Left unsupported, swallowing problems have potentially life-threatening consequences. They can result in choking, pneumonia, chest infections, dehydration and malnutrition. They can also result in avoidable hospital admission and in some cases death. Such problems are associated with a range of conditions, including learning disability, brain injury, stroke, and progressive neurological conditions including dementia. They can also be associated with the use of anti-psychotic drugs.

The Prisons and Courts Bill and communication and swallowing needs

There are a number of Clauses in the Bill where those with communication and swallowing needs are at risk of negative outcomes if their needs are not identified and supported. These include:

- **Clause 1 - Prisons: purpose, and role of Secretary of State:** identifying and supporting communication needs is essential for the reform and rehabilitation of offenders and to prepare them for life outside prisons, and identifying swallowing needs is essential if prisons are to be safe.
- **Clause 2 - Her Majesty's Chief Inspector and Inspectorate of Prisons:** in line with the Chief Inspector's new responsibilities identification of communication disability is essential.
- **Clause 3 – Minor and consequential amendments:** Clause 1 and 2 do not apply to young offender institutions or places used wholly or mainly for the detention of persons aged under the age of 18, secure training centre and secure colleges. We believe that these clauses should also apply to young offender settings to ensure the identification of communication disability and statutory responsibility for young offenders' reform and rehabilitation.
- **Clause 4 & 9 -The Prisons and Probation Ombudsman:** for the complaints procedure to be effective, it is essential that SLCN are identified and supported, including through making reasonable adjustments to the procedure for submitting complaints.
- **Clause 23 to 30 - Conducting preliminary proceedings in writing: criminal courts & Clause 31 – Conduct of certain criminal proceedings on the papers:** those with SLCN and limited literacy are at risk of not being able to understand, engage and comply with written information unless it is differentiated and made accessible.
- **Clause 32 & 33 - Audio and video technology: criminal courts:** reasonable adjustments must be made to the technology used in live links to ensure it is accessible to those with SLCN, including those who use Augmentative and Alternative Communication (techniques that support or replace spoken communication, including gesture, signing, voice output communication aids).
- **Clause 36 - Automatic online conviction and standard statutory penalty:** the written information must be made accessible if those with SLCN and limited literacy are to understand and engage with it.
- **Clause 37 to 45 - Online procedure: the civil and family courts and the tribunals:** the online procedure must be accessible to those with SLCN.
- **Clause 47 – Prohibition of cross-examination in family proceedings:** - to support those vulnerable people who have SLCN, the use of registered intermediaries should be extended to family court hearings.
- **Clause 50 – Function of staff of courts and tribunals:** to support courts and tribunals staff to recognise and respond appropriately to those with communication needs, it is essential that they are trained in awareness of SLCN.

Delivering the aims of the Prisons and Courts Bill

In seeking improvements in prisons and courts, we think the provisions of the Bill could be strengthened by dedicated speech and language therapy services being commissioned as part of all relevant multi-disciplinary teams in the criminal justice system (including in prisons, the new secure colleges, secure children's homes, young offender institutes and youth offending teams.) This would help deliver:

- **SCREENING:** when people first come into contact with the criminal justice system they should be screened for communication needs;
- **TRAINING:** training to support those working in the criminal justice system in awareness of communication and swallowing needs and how to respond to them, including knowing when to refer someone to dedicated speech and language therapy services for specialist help;
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- In addition:
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 - registered intermediaries should be used across the criminal justice system, and registered intermediaries should be made available in family courts.

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