



Her Majesty's
Inspectorate of
Probation



Neurodiversity in the CJS: Call for Evidence

Part 1: About you

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<p><i>If you are submitting evidence on behalf of an organisation, please provide a brief summary of the organisation:</i></p> <p><i>The Transition to Adulthood Alliance appreciates the opportunity to respond to this consultation.</i></p> <p><i>The Alliance evidences and promotes effective approaches for young adults (18-25) throughout the criminal justice process. It is an alliance of 12 leading criminal justice, health and youth organisations: Addaction, Care Leavers' Association, Black Training and Enterprise Group, Catch22, Centre for Crime and Justice Studies, Clinks, Criminal Justice Alliance, the Howard League for Penal Reform, Nacro, Prisoners Education Trust, Prison Reform Trust, Police Foundation, Revolving Doors Agency, and Together for Mental Wellbeing. T2A is convened and funded by the Barrow Cadbury Trust. T2A has contributed to positive change in policy and practice and at central and local levels, its evidence has informed service redesign and delivery nationally and internationally. More information on T2A is available at www.T2A.org.uk.</i></p>

Part 2: Questions

This review seeks to identify evidence in the following four areas in relation to adult service users:

1. screening to identify neurodiversity among those involved with the CJS
2. adjustments that have been made to existing provision to support service users with neurodiverse needs
3. programmes and interventions which have been specifically designed or adapted for neurodiverse needs
4. training and support available to staff to help them to support service users with neurodiverse needs.

Please provide any information you may have on the questions below.

I. Screening and identification

If you are able to provide evidence on more than one screening method or tool in this section, please answer it as many times as you need. For example, if you are providing evidence on two screening methods, please answer this part twice, indicating how your work differs in each. If you provide more screening methods than it is feasible to mention here, please indicate if you would be willing for us to contact you to discuss them.

Question
<p>a) Are you aware of and/or have you used any specific screening or tools that are used to identify people with neurodiverse needs in the CJS?</p> <p>Please provide any relevant information about the screening process, including the following details:</p> <ul style="list-style-type: none">• aims and purpose of the screening• how and when the screening is delivered (i.e. at what point in the CJS journey)• who the screening is delivered by (i.e. specialist practitioners, operational staff)• what happens with any screening information (i.e. onward referral, sharing of information, specific adjustments)• prevalence of neurodiversity among those screened (i.e. of those being screened, how many receive a diagnosis) <p>Answer:</p> <p><i>HMPPS has developed and validated a tool for screening psychosocial maturity for adult males convicted of crime. This focuses on items which are routinely available from the existing OASys assessment and which correlated with other, more specific screening tools (i.e. Barratt Impulsiveness Scale (Patton, Stanford & Barratt, 1995); Future Orientation Scale (Steinberg et al., 2009); Resistance to Peer Influence Scale (Steinberg & Monahan, 2007); Sensation Seeking Scale (Zuckerman, Eysenck & Eysenck, 1978); and, Risk Perception Scale (Benthin, Slovic & Severson, 1993)).</i></p> <p><i>The intention is for maturity to be assessed in young adult males across HMPPS in recognition of the fact that young adulthood is a distinctive period of neurological development.; it is currently being rolled out in the prison estate. It is not clear whether or how it is being used for other forms of neurodiversity. [See 'additional information' box below for the importance of this]. In addition, when the tool was validated, it was noted that the use of existing items from OASys may have resulted in production of a suboptimal tool. For example, the nature of OASys is that some items are self-assessed or determined by a probation practitioner who may not be expert in neurodiversity or maturity. The researchers also specified that the tool is not intended to be used on an individual level, which it now is as it is used to determine whether or not a young adult should receive an intervention to improve their maturity. The researchers recommended that further, more in-depth assessment should be conducted for any individual 'screened' as having maturity issues. To T2A's knowledge, this is not happening. There is no equivalent tool for females.</i></p> <p><i>T2A is of the view that while post-sentence assessment has some utility, there should be screening at first point of contact with the justice system, that opportunities for diversion should be explored, and that in-depth assessment of maturity and neurodiversity takes place at pre-sentence report stage. Some of this would require access to suitably qualified professionals.</i></p> <p><i>The suspected high prevalence of various different neurodisabilities amongst young adults in the criminal justice system indicates the importance of understanding the potential complex mix of co-morbidities and resulting needs that might be present in individual cases. T2A is concerned that the lack of proper assessment in the current system means that where low maturity is identified by HMPPS, there is no opportunity to assess whether this relates to typical young adult development or atypical development which may be related to other forms of neurodiversity. These may co-exist with each other as well as with</i></p>

typical lack of maturity related to the stage of brain development and potentially manifest in similar ways and/or compound each other. Research on maturational development shows that temperance and impulse control, located in the frontal lobes at the front of the brain, are among the last areas of the brain to develop fully, often as late in life as the mid-twenties. One example of possible co-morbidity is traumatic brain injury. An injury to this part of the brain during its development can result in long-term problems with impulse control and decision-making, both of which are factors associated with anti-social and violent behaviour. Consequently, while those without a traumatic brain injury are likely to grow out of immature and antisocial behaviour by their mid-twenties, those with TBI are likely to continue to grapple with these issues throughout young adulthood and beyond. It is critical that the relationship between maturity and different forms of neurodiversity are better understood.

The Justice Committee recommended in 2016 in its report *The Treatment of Young Adults in the Criminal Justice System* that the Comprehensive Health Assessment Tool used in the youth justice system—which contains a section addressing neuro-developmental disorders such as learning disability, autistic spectrum disorders and speech, language and communication needs, and also includes assessment for brain injury with a section on TBI—should be adapted for use for young adults. To T2A’s knowledge this has not been done. The use of CHAT was also recommended in the Lammy Review. In recommendation 21 David Lammy MP said “The prison system, working with the Department of Health (DH), should learn from the youth justice system and adopt a similar model to the CHAT for both men and women prisoners with built in evaluation”.

Under the T2A programme, Barrow Cadbury Trust is currently funding the National Autistic Society to undertake research to better understand autistic young adults’ pathways, experiences and challenges in the criminal justice system. The plan is to develop an evidence base and develop recommendations for influencing policy and provision. The findings were due to be published in April 2021 but has been delayed due to inability to access the two prison sites concerned: HMYOI Brinsford and HMYOI Feltham.

b) Does the screening focus on a particular neurodevelopmental disorder or condition? (See information sheet for definition of neurodiversity.) Delete as necessary

i. **No**

ii. Yes

If yes, please specify which disorders:

Could this screening tool be used to identify other neurodevelopmental disorders covered within the definition?

Answer: Potentially

c) What setting(s) does your evidence relate to? Please indicate all that apply.

i. Police

ii. Courts

iii. Prison

iv. Probation supervision

a. National Probation Service (NPS)

b. Community Rehabilitation Company (CRC)

v. Other (please specify)

d) Where is this process or system being used? (e.g. name of prison/CRC, region, England and/or Wales)

Answer: Across the prison estate, but it is reliant on OASys assessments having been conducted and there is a significant backlog.

2. Adjustments to existing services and support

If you are able to provide evidence on more than one adjustment in this section, please answer it as many times as you need. For example, if you are providing evidence on two adjustments, please answer this part twice, indicating how your work differs in each. If you provide more adjustments than it is feasible to mention here, please indicate if you would be willing for us to contact you to discuss them.

Question
<p>a) Are you aware of and/or have you put in place any adjustments to existing practice with service users to provide additional support to individuals with neurodevelopmental disorders in the CJS? These adjustments could be local or individual.</p> <p>Please provide any relevant information about the adjustments. This might include:</p> <ul style="list-style-type: none">• what adjustments have been made (e.g. provision of Easy Read materials)• impact on service provided• impact on service user• any specific areas of good practice• level of service user engagement and uptake <p>Answer:</p> <p><i>The Barrow Cadbury Trust has funded several projects on traumatic brain injury as part of the Transition to Adulthood Alliance. These provide general evidence for the benefits of adjustments and effective practices for children, adolescents and young adults who have traumatic brain injury as well as a more specific preliminary evaluation of the Linkworker Scheme, devised by The Disabilities Trust. They are:</i></p> <p>Williams, W.H. (2012) <i>Repairing Shattered Lives: Brain injury and its implications for criminal justice, Barrow Cadbury Trust</i></p> <ul style="list-style-type: none">• <i>Acquired Brain Injury (ABI) may occur for many reasons, but most commonly it is a result of trauma, infection, or stroke. Traumatic Brain Injury (TBI) is the biggest cause of injury. Recent studies from the UK have shown that prevalence of TBI among prisoners is as high as 60%, and brain injury has been shown to be a condition that may increase the risk of offending. It is also a strong 'marker' for other key factors that indicate risk for offending. Brain injury may lead to particular social problems, such as being less able to de-escalate threats, and acting without considering consequences of action. Moreover, it is likely that problems with attention, memory, and executive functions (neuropsychological sequelae) would limit capacity to fully engage in rehabilitation to enable behaviour change, such as the ability to pay attention, remember, and follow through on advice about new ways to manage a problem situation.</i>• <i>When a TBI occurs during childhood or adolescence, the brain will attempt to compensate for the damage or disruption caused to its structures and find a way of rerouting functions. However, this compensation is not the same as the brain being able to regenerate in the same way as skin or muscle. There may be some 'neuro-plasticity', particularly in younger brains, but even though some functions may be 're-routed', problems can still emerge. It is vital that presence of a brain injury is identified early in children and young adults in the criminal justice system and that individuals are routed into effective interventions in order to optimise the potential for the brain to repair itself.</i>• <i>Nevertheless, Professor Williams identified that it is rare for criminal justice professionals to consider whether an offender may have a brain injury, or for neuro-rehabilitation services to be offered. Furthermore, it is common for the related health and mental health needs of children, young people and young adults to go unmet, while appropriate care and treatment that could divert away from the criminal justice process or help to manage the factors that contribute to criminal behaviour is not provided.</i>

- The severity of a TBI can be classified from 'mild' through to 'severe', although any TBI may be sufficient for actual changes in brain integrity and function. In essence, the level of severity indicates the level of impact that an injury will have on an individual's functioning and therefore the nature of adjustments and support required. Professor Williams identifies two scales for the assessment of the severity of brain injuries, the Glasgow Coma Scale and the length of loss of consciousness. T2A is not aware of either of these being used within the criminal justice system.
- At court, a person with TBI will may have problems with memory, planning, and managing emotion, and would have particular difficulty in following proceedings and providing appropriate evidence. It would be vital that when a relevant TBI is identified measures to enable access to justice and 'effective participation'. It may be necessary that intermediaries are identified and provided to support the defendant throughout the process. Again, T2A is not aware of the use of intermediaries for young adults in the criminal justice system.
- Forensic rehabilitation needs to be enhanced according to the evidence base in neuro-rehabilitation for interventions that can be provided to manage the health, cognitive and behavioural issues stemming from TBI. There should be access to clinical supervision and multi-disciplinary approaches with referral to a Clinical Neuropsychologist, or clinical/forensic psychologists with access to supervision from a Clinical Neuropsychologist.

Parsonage, M (2016) Traumatic brain injury and offending: an economic analysis, Centre for Mental Health and Barrow Cadbury Trust

- Adolescence is a peak period for both offending and head injury, and it is also established that prolific offending, which accounts for the bulk of crime at the aggregate level, usually starts at a relatively young age. Adolescence thus provides a key opportunity for early intervention, covering both preventive measures and the early provision of evidence-based treatment for head injury, particularly among young people in the criminal justice system.
- Michael Parsonage provided two broad estimates of the long-term costs of TBI for an injury incurred at age 15.
 - The first relates to cost per case for a representative 15-year-old in the general population and may be interpreted as a broad measure of the potential benefits of preventing a case of head injury at this age.
 - The second relates to cost per case for a 15-year-old with TBI who comes into contact with the criminal justice system and can be seen as providing a measure of the potential benefits of effective treatment and rehabilitation.
 - The long-term cost of traumatic brain injury is estimated at around £155,000 per case among 15-year-olds in the general population and at around £345,000 per case among young offenders.
 - The difference between the two numbers is entirely explained by differences in crime costs, which are much higher among those who have already embarked on a criminal career. Non-crime costs are estimated at around £95,000 per case and are assumed to be the same in both groups.

Williams, W.H and Chitsabesan, P (2016) Young people with Traumatic Brain Injury in custody: An evaluation of a linkworker service, Barrow Cadbury Trust and the Disabilities Trust.

- The aim was to develop a care pathway and provide dedicated support to young people with a brain injury who were in custody.
- In conducting the service evaluation, it was not possible to collect data that would show whether there was a change in the trajectory (health, well-being and crime) of young people through linkworker involvement. However, service level data was available on a sample of young people and the authors noted the following:
 - The linkworker service was designed, delivered and deployed within what would be expected for a neurorehabilitation and forensic rehabilitation and forensic rehabilitation service 'hybrid'
 - Referrals were made to the service and it was supporting young people who had relevant TBI (in terms of severity and neuropsychological impairments)

- Such TBI would be expected to interfere with traditional forensic rehabilitation
- The young person had significant criminal histories and mental health problems
- Additional input in a range of areas could well have improved outcomes for the young person in terms of mental health, well-being and criminogenic needs
- They concluded that the service appeared to be meeting the key aims defined at inception. From the feedback, it appears that the service was acceptable to, and valued, by young people and staff.
- It is important to emphasise that the young people had complex conditions because TBI is a 'keystone' condition within a constellation of challenges (drug and alcohol, mood disorder, lack of familial coherence (care home etc.), lack of education and work skills and/or experience).
- This evaluation highlights the need for appropriate key-working for such a vulnerable group. Professors Williams and Chitsabesan therefore recommended further adoption of linkworker type services within custodial settings and the need to embed them within larger multi-site studies. Such services could provide a vital link across staff teams working with individuals with TBI and effect change. A linkworker may enable the identification of an underlying TBI, which allows for services to be deployed that are responsive to specific needs and learning styles in order to successfully engage with the young person. This is essential in order to develop support plans and to allow resources to be used cost-effectively, rather than attempting to engage young people in generic interventions which may not take into account their specific profile of needs.

b) Do you have or are you aware of any evaluation or impact? This could be informal or anecdotal evidence.

- i. **Yes**
- ii. No

If yes, please provide any evidence of outcomes.

Answer: See above re Linkworker Scheme evaluation.

c) Do the adjustments focus on a particular neurodevelopmental disorder or condition? (See information sheet for those that fall within the scope of this call for evidence).

- i. No
- ii. **Yes**

If yes, please specify which disorder(s):

Answer: Traumatic brain injury

Could this adjustment to be applied to other neurodevelopmental disorders covered within the definition?

Answer: Yes. See above re Linkworker Scheme evaluation. Where people have developmental disorders or levels of maturity which would benefit from the additional support and planning provided through the scheme.

d) What setting does this evidence relate to?

- i. Police
- ii. Courts
- iii. **Prison**
- iv. **Probation supervision**
 - a. **National Probation Service (NPS)**
 - b. **Community Rehabilitation Company (CRC)**

v. Other (please specify)

e) Where are these adjustments being used? (e.g. name of prison/CRC, region, England and/or Wales)

3. Programmes and interventions

If you are able to provide evidence on more than one programme or adaptation in this section, please answer it as many times as you need. For example, if you are providing evidence on two programmes, please answer this part twice, indicating how your work differs in each. If you provide more programmes than it is feasible to mention here, please indicate if you would be willing for us to contact you to discuss them.

Question

a) Are you aware of and/or have you used any specific offending behaviour programmes or interventions that are delivered for people who have neurodevelopmental disorders as defined in the information sheet?

Please provide any relevant information about the provision, including the following details:

- aims of the programme or intervention
- whether the programme or intervention has been developed specifically for people with neurodiverse needs or is an adjustment to an existing programme or intervention
- how and when delivered (i.e. at what stage in the process)
- who it is delivered by (i.e. specialist practitioners, operational staff, third sector provider, educational provider)
- level of service user engagement and uptake

Answer:

Professor Williams emphasised the importance of access to social and health care services to ensure that packages of care are developed and delivered that addresses the range of issues related to TBI for those in the justice system. He also advocated for further research to explore the links between brain injuries and offending behaviour so that assessment and management practice can be improved.

The Choices and Changes programme has been developed and validated by HMPPS for young adults who are assessed as having low maturity following the maturity screening mentioned above. It is designed for delivery by keyworkers under the offender management in custody scheme, although in some prisons it is being delivered or supported by probation staff. While the implementation of the programme is being monitored by HMPPS, to our knowledge it is not being fully evaluated. An outcome evaluation of the programme—which includes an assessment of the extent to which the young adults involved have neurodiverse needs and any resulting differential outcomes—would be a beneficial contribution to the evidence base, in our view.

b) Do you have or are you aware of any evaluation or impact? This could be informal or anecdotal evidence.

N/A

If yes, please provide any evidence of outcomes:

c) Does the programme or intervention focus on a specific neurodevelopmental disorder or

condition? (See information sheet for those that fall within the scope of this call for evidence).

N/A

If yes, please specify which disorder(s): Answer:

Is there the potential for these programmes or interventions to be used or adapted for other neurodevelopmental disorders? Answer:

d) What setting does this evidence relate to?

- i. Police
- ii. Courts
- iii. Prison
- iv. Probation supervision
 - a. National Probation Service (NPS)
 - b. Community Rehabilitation Company (CRC)
- v. Other (please specify)

e) Where are these programmes or interventions being used? (e.g. name of prison/CRC, region, England and/or Wales)

4. Training and support for staff

If you are able to provide evidence on more than one training course in this section, please answer it as many times as you need. For example, if you are providing evidence on two training courses, please answer this part twice, indicating how your work differs. If you can provide evidence on more training than it is feasible to mention here, please indicate if you would be willing for us to contact you to discuss.

Question

a) What training are you aware of and/or have received for staff working with neurodivergent individuals or service users?

Please include details of:

- what the training is for (please include the name of the programme)
- who the training is for
- who the training is provided by
- what issues the training addresses
- how useful or effective it is

Answer:

In the Repairing Shattered Lives report, Professor Williams identified the need for:

1. Training for front line staff (such as for Youth Offending Teams, prison and probation staff) is necessary for improved identification and management of TBI, and should include:

- *understanding what a TBI is*
- *how people involved in the justice system with TBI may be affected*
- *what they may do for day-to-day management of such problems (e.g. how to manage memory, communication and attention problems by modifying how staff ask an offender with TBI to follow instructions or manage impulsivity.)*
- *how the TBI may impact on engagement in offender treatment programmes (particularly group*

programmes)

- where to access advice and support if problems are more extensive
- who to refer to the individual on to if necessary.

2. Training of solicitors to take account of TBI is recommended, as is training of magistrates and judges, so that they are aware of the potential for TBI issues in offending, 'effective participation' in the criminal justice process and rehabilitation.

The Sentencing Council has recently issued guidance for sentencers which describes developmental and other disorders and how they may manifest themselves. The US organisation Brainline hosts online guidance on brain injury for criminal justice professionals.

The Howard League is in the process of developing a training video on maturity and neurodiversity for sentencers and members of the legal profession, funded by Barrow Cadbury Trust.

b) What other support are you aware of and/or have you received for staff working with neurodivergent individuals or service users?

Please include details of:

- how the support is provided
- what resources are available for staff (e.g. mentoring, booklets, posters, website)
- how useful or effective the support is

Answer:

c) Does the training or support for staff focus on a specific neurodevelopmental disorder or condition?

- No
- Yes

If yes, please specify which disorder(s)

Could this support or training to be applied to identify other neurodevelopmental disorders?

d) What setting does this evidence relate to?

- Police
- Courts
- Prison
- Probation supervision
 - National Probation Service (NPS)
 - Community Rehabilitation Company (CRC)
- Other (please specify)

e) Where is this training or support being delivered? (e.g. name of prison/CRC, region, England and/or Wales)

f) What unmet needs are there among staff who work with people with neurodiverse needs?

Please include details of:

- what these needs are
- how prevalent the need is
- what 'staff level' the unmet need is at (i.e. managerial, operational)
- what do staff need in order to help them work more effectively with neurodivergent

- service users
- any limitations or barriers to addressing this need

Answer

5. Final questions

Please provide any additional information not covered in the previous questions here.

Young adulthood is a distinctive period of development. T2A has amassed an irrefutable body of evidence about advances in behavioural neuroscience that the typical adult brain is not fully formed until at least the mid-20s, meaning that young adults typically have more psychosocial similarities to children than to older adults. The parts of the brain influencing maturity are the last to develop and are responsible for controlling how individuals weigh long-term gains and costs against short-term rewards. As the system to regulate 'reward seeking' is still evolving this affects how young adults judge situations and decide to act, including consequential thinking, future-oriented decisions, empathy, remorse, and planning. This transition and the underlying development of maturity is a process, rather than an event.

In typical brain maturation, temperance—the ability to evaluate the consequences of actions and to limit impulsiveness and risk-taking—is a significant factor in moderating behaviour and the fact that its development continues into a person's 20s can influence antisocial decision-making among young adults. Criminal behaviour typically decelerates rapidly in the early 20s, importantly including those who had hitherto been persistent offenders.

Learning disabilities and other developmental disorders can impact maturity detrimentally. Those who persist in criminal behaviour into adulthood are more likely to have neuro-psychological deficits, including cognitive difficulties with thinking, acting, and solving problems, emotional literacy and regulation, learning difficulties and language problems associated with Attention Deficit Hyperactivity Disorder (ADHD), autism, learning and language disorders and head injuries. These deficits, particularly ADHD and traumatic brain injury (TBI, an impairment to the brain from an external mechanical force), are associated with more violent offending.

We know that there is a two-way link between brain injury and criminal justice, in that risk-taking individuals may be at particular risk of impulsive criminal behaviours, and similarly, at greater risk of engaging in thrill-seeking behaviours where injury is more likely. Furthermore, being involved in crime may put individuals into situations where injury is more probable. In addition, in younger people and children, there is a link between deprivation and brain injury, while in women there is a clear link between victimisation from domestic violence and brain injury (see Making the Link Female Offending and Brain Injury). We also know that people with a traumatic brain injury are at risk of greater mental health problems and adults who were younger when they acquired their head injury had higher rates of depression or mood disorder and/or childhood developmental disorders including Attention Deficit Hyperactivity Disorder (ADHD) or disruptive behaviour difficulties. Studies have also linked brain injury to mental health problems, drug and alcohol misuse. Drug and alcohol abuse and levels of mental health problems (depression, anxiety and suicidality) have been shown to be elevated in prisoners who have a TBI history, and a person's capacity in coping with such mental health issues would be compromised in the context of a TBI.

Part 3: Use of information

The information you have provided will be summarised in a published report and passed on in full to Ministry of Justice. If you don't want specific details passing on to Ministry of Justice, please let us know.

Are you happy to be contacted by staff from HMI Prisons, HMI Probation or HM Inspectorates of Constabulary and Fire & Rescue Services in connection with your submission?

- i. **Yes**
- ii. No

If you have any other information, studies, reviews or statistics which is relevant to this call for evidence please submit it with this form.

If you are unable to use the submission form, please let us know and we will try our best to offer an alternative format.

Thank you for taking the time to respond to this call for evidence. Please email your responses to shannon.sahni@hmiprisons.gov.uk