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Title:

Court liaison and diversion services for people with neurodevelopmental conditions: a House of Lords consensus meeting

Authors:

Professor Eddie Chaplin Professor of Mental Health in Neurodevelopmental Conditions, London South Bank University, 103 Borough Road, London, SE1 0AA, ORCID ID: <https://orcid.org/0000-0002-2865-1070>

The Rt. Hon. the Lord Bradley of Withington, Honorary Special Adviser at the University of Manchester and Chair of Council of Salford University.

Dr Jane McCarthy Associate Medical Director/Appraisal Lead, Medical Lead & Consultant Psychiatrist for Learning Disability Service, Sussex Partnership NHS Trust), Associate Professor University of Auckland, ORCID ID <https://orcid.org/0000-0002-4702-1939>

Professor Andrew Forrester, Professor of Forensic Psychiatry, Cardiff University – Division of Psychological Medicine and Clinical Neurosciences, Haydn Ellis Building, Maindy Road, Cardiff CF24 4HQ – email ForresterA1@cardiff.ac.uk – ORCID ID <https://orcid.org/0000-0003-2510-1249>

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On 6th May 2021, we held a *virtual House of Lords event* to examine the role of court liaison and diversion services (L&D) and pathways in the criminal justice system for people with neurodevelopmental conditions. The event was led by London South Bank University, with support provided by the Rt Hon. the Lord Bradley. It was held virtually via Zoom webinar and included a presentation of findings from an evaluation of a neurodevelopmental court pathway that had been funded by Guys & St. Thomas' Charity in a local Magistrates' Court in London. The study reported the successful integration of a specialist neurodevelopmental L&D service with an existing standard L&D service, with subsequent evidence of modest service effectiveness. We found an increase in the detection of comorbid mental illness and a reduction in custodial remands for defendants with neurodevelopmental conditions (1). The meeting considered these results, reviewed current policy arrangements for L&D services, and discussed potential future services designs (2, 3).

At present, most court liaison and diversion services (L&D) services are provided using a general mental health model, with expertise in mental illness and forensic mental health, but limited specialist expertise in the care and management of people with neurodevelopmental conditions and other vulnerable groups (1, 3). While it is apparent that these services have developed very considerably since the Bradley review (2), issues relating to screening and the provision of an appropriate skill-mix remain a work in progress, and there are serious national concerns about the ways in which mental health services operating in the criminal justice system (CJS) are supported by wider community and hospital-based healthcare services (4, 5). Yet despite the largescale development of these services, it is apparent that people with neurodevelopmental conditions are still entering our prisons in considerable numbers, including in circumstances in which they may be highly vulnerable, and despite the established literature showing high rates of mental illness, self-harm, and co-morbidity in these settings. (6, 7, 8)

In total, 22 people took part in our *virtual House of Lords event*. The panel included a range of people with relevant expertise from across England and Wales, with representatives from clinical disciplines (psychiatry, psychology, nursing and social work), academics and researchers, the CJS (including the judiciary, police custody and the local courts), commissioners and policy makers.

The first agreed theme acknowledged that while court defendants with neurodevelopmental conditions form a diverse and heterogeneous group, current thinking and literature often focuses on challenges to the whole group. In doing so, it can overlook the experiences of individuals, and other considerations such as gender and ethnicity. However, we know that people with neurodevelopmental conditions can present in many different ways within the CJS with, for example, experiences of trauma and victimisation, or issues relating to family and childcare, or pregnancy. We also know that the systemic disadvantage that is known to apply throughout the CJS to people from Black and Asian minority ethnic groups also applies to people with neurodevelopmental conditions. (9)

The second agreed theme recognised the central importance of screening for the purposes of case identification within L&D services. (10, 11, 3) The initial act of screening can allow a wide range of further actions to follow, many of which are important to both healthcare services and the court system – e.g., confirming or making a diagnosis, assessing health and social care needs, offering an opinion on fitness to be interviewed, fitness to plead, or effective participation. Screening, followed by specialist assessment, can enable resources to be planned then put in place for individuals, and make sure that they are adequately supported by reasonable adjustments where this is necessary. (12) However, further research is required to assist with the development of practice guidelines for screening for NCs in the CJS, because a number of important questions remain outstanding - including how best to identify who should be screened, and how to ensure appropriate training for clinicians who will use the screens. (13, 14) Additionally, difficulties with information flow and retention are well-recognised within the CJS, (15) and this problem also arose in the Chaplin et al. study (1). Although information was generally used and valued during subsequent criminal trials, it was often difficult to access along the way, meaning that Magistrates could be unaware of defendants' language or other difficulties. The overall *virtual meeting* consensus view was that screening and identification should therefore take place as early as possible during the court process to ensure the efficient availability of information upon which important decisions are made, and that a single national model should be established and implemented for this purpose.

The third agreed theme concerned the provision of services in the CJS for people with NCs, and raised the question - should services for people with NCs in the CJS be integrated with existing L&D services, or should separate services now be established? In answering this question, the group recognised the need to provide information to the courts as quickly and efficiently as possible but was also mindful that such information should be of high quality. While the former can be arguably be provided best within a one-size-fits-all model, the latter is more likely to require a specialist approach. There was broad recognition that most L&D services currently provide limited specific expertise in the identification and management of NCs, but there was also an understanding that the provision of a more specialist approach would likely require regionalisation given the numbers involved, which could then introduce unhelpful delays to the court process. While the meeting did not achieve a consensus on this point, it was agreed that a useful intermediate step could be to work nationally to ensure that enhanced NC expertise is provided within existing L&D services, with a parallel research recommendation to further consider the feasibility and effectiveness of regional L&D models for NCs. Such a service could, at least in theory, work across health, social care and CJS pathways to support and manage this group that is too often overlooked. (16)

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