



Improving Support for the Accused Person with a Learning Disability

The views of people with learning disabilities / Round Table discussion questions

The SOLD User group is made up of people with learning disabilities who have experience of the criminal justice system. This document highlights the support they have told us would enable them to have fair access to justice. It is provided to help ensure their views are considered by delegates and included in the round-table discussions to be held at the SOLD event on 24 August 2016.

The views of the SOLD User group have helped to inform the key questions we wish to address during the round table discussions. These are also included for your information, along with some references to some key publications in the field we will be discussing.

Views of the SOLD User group

Below are the points that members of the group have identified as being important in any support services for people with a mental disorder from the point of arrest to conclusion of the court process.

From arrest, to court

- Support from someone who is there for us as soon as possible after we are picked up by the police until the end of the court process
- The police to ask us if we have a learning disability or if we need help to understand
- Support from someone who knows a lot about the criminal justice system and how to support people with a learning disability
- Support from someone who cannot be called as a witness against us

- Support from someone with the skills to:
 - Explain the charges, process and our rights in a way we can understand
 - Make sure we understand what the police and others are asking
 - Help us think through questions and give a clear answer
 - Work alongside our lawyer
 - Work alongside people who know us and our needs best
 - Spot and step in if we are finding the process too difficult, and say if we need a break or something should be changed

- Support to be there for us:
 - In interviews with the police
 - In meetings with lawyers and other professionals
 - In arranging reasonable adjustments to the court process
 - When we go to court
 - From someone who cannot be called as a witness against us

The court process:

- Before getting to court, support to understand the court process
- A lawyer who understands, or is helped to understand, learning disability
- Enough time to prepare with our lawyer before appearing in court
- To be questioned in a way that is not deliberately trying to confuse us. The questions should be about finding the truth, not making a fool of us
- The information about the extra support we need to be passed on so we are not starting again when we move on to our sentence
- Always have the chance to stand trial with reasonable adjustments if we need them
 - We have the right to a fair trial. If we do not understand the court process, it should be explained in a way we can understand
 - A communication expert who can be involved to aid the process
 - Extra time, more breaks, clearer language, re-wording difficult questions and changing parts of the process. These should be based on our individual support needs.

Round Table Discussions

At the event on 24th August, there will be a number of round table discussions in the afternoon. We would appreciate it if you could take some time to consider some of the issues ahead of these conversations. Below you will find the specific questions we will be addressing. These are based on the work SOLD has done to date, including input from the user group, with a view to identifying practical solutions to on-going challenges in this area.

We recognise that these are complex issues. This event is bringing together a broad range of people with a high degree of knowledge and experience. It is important to make the most of this opportunity. All contributions to these discussions will be appreciated.

1. Identifying Learning Disabilities

What further work is needed to make sure that people with a learning disability are identified at an early stage of the criminal justice pathway?

What is working well at the moment?

What else is needed?

How would this improve the criminal justice system?

Who needs to be involved?

(The SOLD User group have stated “*we want to have appropriate support as soon as possible, once we have been picked up by the police.*”)

2. Support in Custody

What steps are needed to ensure that people with learning disabilities receive the support they need in custody, in a consistent way?

What is working well now?

What else is needed?

How would this improve the criminal justice system?

Who needs to be involved?

(One suggestion you may wish to consider has been put forward by the SOLD User group: that a new specialist post be created, solely for supporting vulnerable defendants from arrest to court. This could be funded and co-ordinated centrally to ensure consistent provision across Scotland)

3. Support in Court

What are the key features of effective support for people with learning disabilities in the Court process?

What is working well now?

(e.g. In terms of existing special measures)

What else is needed?

(e.g. Are there aspects of the registered intermediaries scheme that might be expanded?)

How might these improve the criminal justice system?

(You might want to consider whether improved support at this stage of the pathway has wider implications in terms of making the criminal justice system fairer. For example, with support, might more people be deemed fit to plead, and have the chance to stand trial? Or might more people with learning disabilities have better access to the full range of sentence options?)

Members of the SOLD User group have stated: *“we have the right to a fair trial;”* and *“before we get to court, we want support to understand the court process.”*)

References

If you wish to do some reading ahead of the event, you might find some of the documents below useful. Please do bear in mind that a number of these are UK wide studies, and not specific to Scotland.

Bowden, K, Douds, F and Simpson, Y (2011) People with Learning Disabilities and the Criminal Justice System, Scottish Government, Edinburgh.

<http://www.gov.scot/resource/doc/346993/0115487.pdf>

This document provides guidance on how to support a person with a learning disability when they come into contact with the criminal justice system, as victim, witness or accused.

Department of Health, (2010) Positive Practice, Positive Outcomes, UK Government, London.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216318/dh_124744.pdf

This document provides guidance for supporting offenders with learning disabilities in the criminal justice system. It offers some examples of support that have been successful.

Duggan, S. (2015) The Criminal Justice Pathway for People with Learning Disabilities, SOLD, Edinburgh.

<http://soldnetwork.org.uk/wp-content/uploads/2015/11/criminal-justice-pathway.pdf>

This document was produced by SOLD last year. It provides an overview of some key challenges and opportunities for change that will help improve support and reduce offending amongst people with learning disabilities in Scotland.

McKinnon, I, Thorp, J & Grubin, D. (2015) Improving the Detection of Detainees with Suspected ID [Intellectual Disability] in Police Custody, *Advances in Mental Health and Intellectual Disability*, 9(4).

http://eprint.ncl.ac.uk/file_store/production/212469/5F3A5385-5A69-4A26-9159-7903B757C5A8.pdf

This document looks at how learning disability might be identified in police custody.

Talbot, J. (2008) No One Knows, Prison Reform Trust, London.

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/No%20One%20Knows%20report-2.pdf>

This document provides an insight into the experiences of people with learning disabilities in the criminal justice system.