

rethink

SAINSBURY CENTRE
for MENTAL HEALTH
removing barriers achieving change



The diversion dividend: interim report

Contents

| | |
|--|----|
| Introduction | 4 |
| The Bradley Report | 4 |
| The National Delivery Plan | 4 |
| Next steps | 5 |
| | |
| The impact of diversion on public spending | 5 |
| Potential cost savings | 5 |
| Diversion from short prison sentences | 6 |
| | |
| The case for intervening early | 8 |
| | |
| Justice Reinvestment and mental health | 10 |
| | |
| Secure mental health services | 12 |
| | |
| Interim Conclusions | 13 |

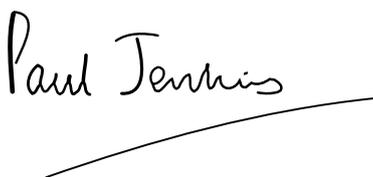
Foreword

Diversion for people with mental health problems in the criminal justice system has been the subject of considerable political and public attention over the last two years. With a rising prison population, the knowledge that one prisoner in ten has a severe mental illness and that mental ill health is a 'default' among the prison population as a whole has led to a growing call for action to divert more people to the care, treatment and support that they need.

The publication last year of the Bradley Report brought that call to the centre of government. It led to a pledge from ministers to increase the provision of diversion and liaison services, whose role it is to identify people in need of mental health support in the justice system and to get them appropriate help, and also to speed up the transfer of prisoners to psychiatric hospital in a crisis.

At the very same time, a period of unprecedented growth in public spending, especially in the NHS, came to an end. We now face up to a decade of limited, if not negative, public spending growth. Against this backdrop, nationwide implementation of diversion and liaison may not appear a high priority compared with other calls on public spending.

Yet as this paper indicates, the case for change remains compelling, and if anything is enhanced by the prospect of a period of spending pressures. The paper provides the latest evidence on the spending implications of reinvesting money already in the health and justice systems on diverting many more people with mental health problems to services that will improve their health and reduce their risk of criminal activity. It also provides some of the human stories behind the diversion debate and presents the interim results of a project begun by Sainsbury Centre and Rethink to quantify the costs and benefits of diversion. A final report will follow later in 2010.



Paul Jenkins, Chief Executive,
Rethink



Sean Duggan, Joint Chief Executive,
Sainsbury Centre for Mental Health

Introduction

Over time, effective diversion should result in savings in criminal justice system spending, particularly by reducing the demand for prison places, and there may also be scope for downstream savings in the NHS, for example because of the earlier identification and treatment of emerging mental health problems. But to release these savings, commissioners in health, social care and other agencies will need to prioritise development of the services envisaged in the Bradley Report, along with continuing costs to support more people in the community. What evidence exists on how the upfront investment balances any projected savings? This interim report presents the evidence we have to date to answer these questions. A fuller report will be produced later in 2010 presenting further analysis.

The Bradley Report

In December 2007 the Secretary of State for Justice commissioned Lord Bradley to undertake an independent review of people with mental health problems or learning disabilities in the criminal justice system. The findings of this review were published in April 2009 in a wide-ranging report which made some 82 recommendations for change. These focused particularly on how action could be taken to divert people with mental health problems or learning disabilities at different stages of the criminal justice pathway towards more effective interventions which would improve their mental health, reduce the need for custodial interventions and lower the risk of re-offending.

Little is said in the Bradley Report about the economic and financial implications of its 82 recommendations. At a relatively late stage in his review Lord Bradley commissioned a consultancy firm, Tribal, to provide some financial support and a short document describing this work was made publicly available at the same as Lord Bradley's main report. However, while this exercise sets out

some high-level costings, its scope was very limited and its analysis of the potential benefits of diversion focused exclusively on short-term savings within the criminal justice system.

The National Delivery Plan

In November 2009, the Government published its full response to Lord Bradley's review, in the form of a national delivery plan for improving the health and well-being of offenders throughout the criminal justice system. The plan, 'Improving Health, Supporting Justice', was prepared by a new cross-government Health and Criminal Justice Programme Board, itself set up in response to one of Lord Bradley's specific recommendations.

The plan also included actions to implement parts of the Corston Report, which in 2007 made recommendations specifically on the needs of women offenders, among whom rates of mental ill health are higher than for men.

The plan sets out the actions the Government will take at national level to support such local improvements. Of particular relevance in the present context, these actions include:

"We will promote and stimulate the development of liaison and diversion services through:

- Providing a clear cut economic case for the financial and health impact of liaison and diversion services on other mental health and community based learning disability services by August 2010.
- Modelling the financial benefits for local authorities, prisons, probation and the police of liaison and diversion services by November 2010."

(‘Improving Health, Supporting Justice’, p 40)

The impact of diversion on public spending

Along with other deliverables described in the plan, these actions will contribute to “the development of a robust analysis of potential costs and impacts on existing services and the scope for efficiency savings. It is only once this work has been done that we will be able to make firm commitments on implementation of the deliverables that have costs to local services, taking into account the availability of resources in the next Spending Review and the capacity of local services to prioritise this agenda” (‘Improving Health, Supporting Justice’, page 6).

Next steps

In support of the delivery plan, we will now work together to develop the fiscal case for liaison and diversion services for the NHS and other public sector bodies. It will be completed by November 2010.

This work is now in progress, aimed at specifying the key data requirements of the exercise, identifying gaps in the current availability of information and exploring means of filling these gaps within the required timetable, for example by working closely with a sample of existing liaison and diversion services in different parts of the country. As discussed below, existing evidence on the impact of liaison and diversion services is incomplete and it will not be possible to remedy all of these shortcomings in a limited amount of time. Whatever progress can be made over the coming months, there will remain an important longer-term research agenda in this area.

A fuller review of the economic and financial case for diversion is given in a Sainsbury Centre report published in February 2009 (Diversion: a better way for criminal justice and mental health). One early finding of this study was that reliable quantitative information on the effectiveness of diversion and liaison services for offenders with mental health problems is in short supply. Faced with this problem, the approach taken was to address the case for diversion from a number of different angles, including:

- A review of published research evidence, drawing on the international literature as well as studies relating to this country;
- The collection of information on the current workings of diversion and liaison services, based on site visits to a sample of 16 established schemes around the country;
- An investigation of the economics of diversion, based on modelling and related analytical techniques.

The aim in utilising a variety of methods and sources of evidence in this way was to assemble sufficient material to support a broadly-based informed judgement on the general merits of diversion from a value for money perspective.

Potential cost savings

The overall conclusion reached in the review was that well-designed arrangements for diversion and liaison can be strongly justified on value for money grounds. Central to this assessment is the fact that diversion has the potential for generating multiple benefits, including cost and efficiency savings in the criminal justice system, reductions in re-offending and improvements in mental health. In combination, these benefits constitute a powerful

Louise, Rethink member

“In some ways, I was lucky. I was in a very vulnerable situation as an inpatient on a mental health ward. I became so unwell, I assaulted another patient. Luckily, a nurse on the ward went far beyond her duties and helped me to find a specialist mental health solicitor. With his help, I got a hospital order instead of a prison sentence. This meant that I got treatment, therapy, a team to support me and completed an Open University course. I’m now out of hospital and living a full and productive life, but it frightens me that life could have been very different – only one person’s actions stood between me and a prison cell. Diversion works – we need to make it happen.”

case for active intervention aimed at directing offenders with mental health problems towards community-based services and support.

In some cases the magnitude of these benefits can be estimated with reasonable accuracy. This particularly applies to cost and efficiency savings within the criminal justice system. To give a specific example, a recent pilot project in the South West of England has been testing new arrangements for the provision of mental health advice to the courts, based on a service-level agreement between the courts and the local NHS mental health trust.

The commissioning of formal psychiatric reports in the criminal justice system is widely recognised as a problem, for example because they may not be commissioned at the appropriate time, they may be commissioned unnecessarily or they may take a long

time to prepare. Such difficulties have significant cost implications, particularly when they increase the amount of time that defendants with mental health problems spend in custody on remand (as happens in about half of all relevant cases).

Evaluation of the South West pilot which provided a screening service by a liaison and diversion scheme before any psychiatric report could be requested by the court has shown that the new arrangements led to a reduction of 55% in the number of formal psychiatric reports which needed to be commissioned and also to an average reduction of over 70% in the amount of time taken for mental health advice to be provided to the courts. The latter was equivalent to an average saving of 39 days, which in turn implies a potential saving in prison costs of around £4,200 per case for those held in custody on remand. (In practice, not all this saving may be realised, because if an individual held on remand is subsequently given a prison sentence, the amount of time spent in custody on remand counts towards the sentence and so reduces the time to be served.)

In the current state of knowledge it is less easy to quantify the longer-term benefits which may be associated with diversion, particularly better mental health and reduced re-offending. However, because mental illness and crime impose such large costs on individuals and society, the scale of improvement does not need to be very large to justify substantial investment in diversion on value for money grounds. For example, it is estimated in the Sainsbury Centre report that even on fairly conservative assumptions the diversion of an offender with mental health problems from a prison sentence towards effective treatment in the community could result in savings to society of over £20,000 because of reductions in future offending.

Diversion from short prison sentences

The case for diversion is particularly strong when it means diverting offenders from short sentences (less than 12 months) in prison. Prison is a high-cost intervention which is ineffective in reducing subsequent offending and inappropriate as a setting for effective mental health care.

Offenders on short sentences are the obvious target group for diversion, having committed relatively minor offences and so posing little or no risk to public safety if diverted into the community. The numbers involved are large, as nearly three-quarters of all custodial sentences given out by the courts are for 12 months or less. Prisoners on short sentences are in most cases unlikely to be in custody long enough to benefit from prison-based programmes aimed at reducing re-offending, nor are they subject to statutory probation supervision after release, which reduces the scope for subsequent intervention. Problems on release are further compounded by the fact that imprisonment can often lead to loss of previous housing or employment. A high proportion of this group have multiple needs with common mental health problems as a core or exacerbating factor. For women offenders the complexity of need is even more pronounced.

Diverting offenders towards effective community-based services will improve their mental health. In turn, better mental health will reduce the level of crime, both because mental ill health is itself a risk factor for offending and because better mental health will reduce other risk factors such as substance misuse and improve the effectiveness of interventions directed at these other influences on offending.

Dawn: Rethink member

“I was imprisoned for 6 months following excessive spending as a result of mental illness and feel that the criminal justice system failed to address my mental well-being at every stage.

“My legal team encouraged me to withhold information, the police failed to follow procedure, the Probation Service failed to show any understanding of my mental health issues, and in prison I found the officers indifferent to prisoners’ individual needs.

“The worst part is that I was without medication for the whole time I was in prison just because of a decision made by the doctor who saw me when I arrived. After only five minutes he said ‘You look fine to me, I don’t think you need medication’ which resulted in my medication being removed leaving me confused, scared and angry.”

The case for intervening early

To achieve the biggest financial and social cost reductions possible, two complementary principles must be established. First, services must intervene early. Second, a justice reinvestment approach must be applied. This section examines what is known about the first of those in detail.

The case for diversion is inextricably linked with the case for 'early intervention', in both health and criminal justice, which is highly evidenced and irrefutable. Literature and research from across continents has demonstrated that when public resources are invested 'early' they produce the greatest return in terms of cost savings in the future.

We believe that, in order to fully realise the benefits of early intervention, 'early' must be understood in multiple ways:

- Youth
- Point of diagnosis
- Point in criminal justice pathway

Interventions are most effective when the person is of a young age, before or at the onset of a mental health problem, and before or at the point of entry to the criminal justice system. Early intervention in all of these ways will maximise major benefits over a lifetime including:

- Improved health
- Reduced reoffending
- Value for money through long term savings

These principles are increasingly reflected in government strategies and policies. For example, a report of 2007 on prison capacity by Lord Carter of Coles ('Securing the Future: Proposals for the efficient and sustainable use of custody in England and Wales') stated that:

'Many non-dangerous offenders with mental health or drug problems may receive better treatment and rehabilitation outside of prison.

These offenders need to be diverted into appropriate treatments at an earlier stage in their offending behaviour'.

(Carter 2007, p. 16)

The Bradley Report also strongly supported embraced the principles of 'prevention and early intervention', with diversion defined as:

'A process whereby people are assessed and their needs identified as early as possible in the offender pathway (including prevention and early intervention), thus informing subsequent decisions about where an individual is best placed to receive treatment, taking into account public safety, safety of the individual and punishment of an offence' (p. 16).

'Early' intervention in the criminal justice pathway was seen as a priority in the Bradley report:

'Interventions as early as possible in the criminal justice system would provide the best opportunities for improving how people with mental health problems or learning disabilities are managed' (p. 29).

In order to deliver early intervention it was recommended that all Youth Offending Teams should employ a mental health worker, that neighbourhood police should take an active role in identifying and signposting people with mental health problems into services, and that all police stations and courts should have access to healthcare staff. Central to his report were the recommendations that all police stations and courts should have access to a national network of criminal justice mental health teams, also known as liaison and diversion services.

Schemes such as the Link Worker + service run by P3 in Milton Keynes and the Warrington police

referral scheme, which is part of Revolving Doors Agency's national development programme engage with people who have come to the attention of the police where there are concerns about mental health problems. These schemes aim to support clients to access a range of services they need to address their multiple problems and are successful in preventing repeat contact with the police and reoffending.

Member, Revolving Doors service user forum

"I was in care until I was sixteen then became homeless. My mental health was not good and I ended up using drugs and committing crime. I was in and out of prison but always on short sentences. I never got any real help and sometimes when I came out of prison I just wanted to go back in because at least there was someone to talk to. Then I got referred to P3 [Milton Keynes Link Worker + scheme]. That's when it all changed. For the first time someone listened and valued what I was saying and supported me to get myself sorted out. I haven't offended since then."

The Ministerial foreword to the Government's response to the Bradley Report says that:

'To better ensure that the right treatment is given at the right time, we must identify a person's health and social care needs as early as possible – and ideally before they offend. Prevention and early intervention (coupled with system reform to deliver better information sharing and close working between criminal justice agencies and

the NHS – through embedding offender health in World Class Commissioning, for example) must inform our focus as we move forwards' (HM Government 2009a, p. 3).

The 'overall goal of police and court liaison and diversion services in place' was timetabled for implementation within five years (HM Government 2009a, p. 5).

The Bradley Report and the Government's delivery plan were both acknowledged in the cross-government mental health strategy, New Horizons, which replaces the ten-year National Service Framework for Mental Health that came to an end in 2009.

'New Horizons' strongly emphasised the importance of 'early' intervention in the diagnosis and treatment of mental illness:

'Early interventions in severe mental illnesses, such as schizophrenia and psychosis, not only reduce the length and severity of the illness and disability but are also very cost-effective' (HM Government 2009b, p. 24).

Along with other reviews such as the Foresight report on mental capital and well-being and the Marmot review of health inequalities, 'New Horizons' emphasised 'early' intervention in terms of age. The government's policies relating to the health of children and young people involved in criminal justice are summarised and driven forward by the 'Healthy children, Safer Communities' strategy published in December 2009.

The cross-government ministerial representation quoted in 'Healthy Children, Safer Communities' (from Health, Justice, Children, and Home Office) stated that:

‘Our vision is that children and young people will be healthy and safe, and stay away from crime and anti-social behaviour’ (HM Government 2009c, p. 4).

This, the report noted, would be achieved most effectively through early intervention in terms of both age and point in the criminal justice pathway. It states that poorer outcomes are achieved if physical and mental health ‘needs are left unattended’ and that it is on the ‘root causes of children’s offending behaviour’ that resources should be targeted. The focus of the strategy is ‘where and how we can intervene earlier, faster and more effectively to meet the health and well-being needs of children and young people’. (p. 4).

Diversion, the report notes, is:

‘The process by which children and young people receive help and support to reduce their involvement in the YJS. It includes early responses from mainstream services to emerging health and well-being needs, as well as diversionary interventions at specific points along the YJS pathway’ (p. 10).

Yvonne, Rethink member

“I was remanded to Holloway prison after pleading guilty to harassment without violence. It took eight weeks to get a psychiatric report to confirm that I had a severe mental illness. Not only did I have to spend 8 weeks in an environment that is hardly good for one’s health, I didn’t even get the medication I needed for much of this time. We need to change the system so that people like me don’t end up in stranded waiting for basics like this.”

Justice Reinvestment and mental health

An increasing weight of evidence about the benefits of early intervention has been framed through the theory of ‘justice reinvestment’, a US criminal justice reform strategy that has, for more than a decade, sought to deliver three key objectives:

- Reduce spending on corrections
- Increase public safety
- Improve conditions in the neighbourhoods to which most people released from prison return

The US strategy is implemented by the effort to ‘Work closely with state policymakers to advance fiscally-sound, data driven criminal justice policies to break the cycle of recidivism, avert prison expenditures and make communities safer’. It has attempted this through the following actions:

- Step 1: Analyse the prison population and spending in the communities to which people in prison often return.
- Step 2: Provide policymakers with options to generate savings and increase public safety.
- Step 3: Quantify savings and reinvest in select high-stakes communities.
- Step 4: Measure the impact and enhance accountability.

(see www.justicereinvestment.org/)

These principles were echoed in the UK, first in 2007 by the report by the International Centre for Prison Studies, which noted that:

‘The measures needed to produce better outcomes for victims, offenders and the neighbourhoods in which they both tend to live lie not behind prison walls but in the way people in deprived and vulnerable communities are housed, employed and educated, the extent to which the health services treat substance abuse and mental illness and the availability of

accessible opportunities to address and remedy their problems’ (ICPR 2007, p. 6).

The subject was addressed directly again in the weighty report from the House of Commons Justice Committee published in January 2010 ‘Cutting crime: The case for justice reinvestment’. This report was the result of more than two years of evidence gathering, concluding that the criminal justice system faces a ‘crisis of sustainability’. It argued that a ‘more prudent, rational, effective and humane use of resources is needed to shift the focus of expenditure away from incarceration and towards rehabilitation and prevention’.

The report detailed a number of specific reforms and changes that are required to implement this kind of ‘radical’ resource redistribution. Specifically on mental health the Committee recommended that:

‘We welcome Lord Bradley’s review of the treatment of people with mental health problems or learning difficulties in the criminal justice system. There is strong evidence that swift action in this area, in particular to broaden access to diversion and liaison schemes and to secure hospital treatment, could yield short, medium and long-term reductions in the prison population and result in cost savings to the public purse, as well as provide more humane approaches to managing offenders with mental ill-health’ (Justice Committee 2010, p. 78).

Ultimately, the principles advocated by the policies above are unequivocally the best way forward in a time of financial restraint. As the Justice Committee’s Chairman noted:

‘Whoever forms the next government, they face a choice between unsustainable “business-as-usual” in the criminal justice system, and making some radical decisions. With pressure

on all areas of public spending, the costs of the current “predict and provide” approach to prison places simply cannot continue to be met. It is the responsibility of governments and Parliament to protect citizens from crime by using the taxes they pay as effectively as possible; and that is not what is happening.

‘Instead of sinking endless resources into prisons, it is time to make tough choices and reinvest in other parts of the criminal justice system, and, equally importantly, invest in a range of community and public services outside the system that can do most to cut crime. Evidence from other countries shows that this approach can actually cut the financial cost of crime and reduce the wider burden of crime for individuals and for society as a whole. In an election year it is vital that there is a responsible debate about how we can use limited resources to cut crime’.

Following on from the Justice Committee’s report, a report from the National Audit Office in March 2010 (‘Managing offenders on short custodial sentences’) further cemented the evidence that short sentences are costly to society by failing to reduce reoffending or to enable rehabilitation. Short sentences, the report stated, are particularly ineffective at engaging offenders with health problems, particularly those with mental illness or drug addiction, in meaningful treatment. The report noted that:

‘Only 82 per cent of prisons conduct more detailed assessments of the mental health and emotional needs of all new short-sentenced prisoners. The level of need identified outstrips the supply of care [and] while one in three short-sentenced prisoners suffers from anxiety or depression, and one in ten may have a psychotic illness, only one in fifteen receives help for mental or emotional problems’ (p. 6).

The report also echoed the Bradley Report’s findings that ‘prisons are struggling to provide the range of [mental health] services needed’ (p. 22). It also reflected that continuity of care for offenders with health needs is particularly poor for those prisoners serving short sentences, noting that ‘NOMS does not provide guidance to prisons on how to develop effective relationships with local authorities and other external bodies, even though all short-sentenced prisoners return quickly to their communities’ (p. 7).

Focus group participant, Multiple Needs: service users perspectives, Revolving Doors

“First I went to [Prison A] which is quite a rough prison, and I was put into a cell with a girl who had mental health problems as well, and we didn’t get any help, either of us. They didn’t care if you self harmed or if you were feeling low. There was no one to talk to. But when I moved to Foston Hall as it’s only a small prison I got put on an injection after two weeks of being in there. I got put onto constant watch for my own safety. They were the ones who got me sectioned off to hospital.”

Secure mental health services

The analysis we have undertaken focuses on the spending implications of diversion in its widest sense, from diverting a young person with mental health problems from ever offending to seeking a community-based alternative to a short prison sentence for an offender. It does not examine in detail the spending implications of changing the level of investment in secure (or forensic) mental health services. These hospital-based services play an important part in the system but are not an alternative to diversion from custody for the majority of offenders with mental health problems.

The case for diverting more people from prison to secure hospital was made in the recent Laing and Buisson report, *Waiting on the Wings*. The report put forward a business case for increasing the number of secure beds and transferring more people with severe mental illness from prison to hospital. While we agree strongly that speeding up prison to hospital transfers is an important and necessary step, we do not believe this can be achieved solely by increasing capacity in medium secure hospitals.

Instead, we need to rebalance forensic mental health services to increase the provision of low-secure step-down facilities and community support for patients in order to speed up discharge from high-cost medium secure beds: to un-block the system. It is also important to note that the vast majority of prisoners with severe mental illness are on short sentences and have not committed serious enough crimes to warrant transfer to medium secure hospital: indeed to do so would increase the time they spend in custody and would increase considerably the cost of their incarceration.

Interim conclusions

The scale of investment needed to make diversion possible for all of the people who require it is as yet not known. Nor do we yet have enough information to provide an accurate picture of the savings that would accrue to the taxpayer if, as the Government's delivery plan pledges, good quality diversion and liaison were available to every police station and court in England.

We do, however, have sufficient evidence to say with confidence that when diversion is done well, it will at least pay for itself and at the same time increase the quality of care and support that it offers to the people who need it. It is highly likely that reoffending will be reduced among people diverted from a short prison sentence to a community alternative. And it is very likely that intervening early, in every sense, will increase the scale of the benefits (to the individual, the community and the taxpayer alike) that diversion has to offer.

To achieve their full potential, diversion, liaison and early intervention should be priorities for justice reinvestment in the UK. While gaps in the evidence about what works remain, the case for acting now, at the beginning of what could be a sustained period of tight public sector spending, is compelling and should not be ignored as a source of both short- and long-term benefits for us all.

Published: April 2010

Rethink

89 Albert Embankment,
London
SE1 7TP

T 0845 456 0455

www.rethink.org

Registered Charity no. 271028.
Rethink is the operating name of the National
Schizophrenia Fellowship, a company limited by
guarantee registered in England no. 1227970.

Sainsbury Centre for Mental Health

134–138 Borough High Street,
London
SE1 1LB

T 020 7827 8300

F 020 7827 8369

www.scmh.org.uk

Charity registration no. 1091156.
A Company limited by guarantee registered
in England and Wales no. 4373019.