



Beyond risk: preparing Adult Social Care for Mental Health Act reform

A guide to the capabilities needed to support autistic people and people with learning disabilities at risk of contact with the criminal justice system

Introduction

Skills for Care works to develop the skills and capabilities of people working in adult social care in England. The proposed reforms to the Mental Health Act will have a significant impact on how autistic people and people with a learning disability are supported in the community.

This is one of a series of resources, which will cover various aspects of the reforms in more detail. We have developed two case studies about 'Jo' and 'Natalia' which can be used in workforce planning.

Key aim:

Our aim through the resources and support provided is to help adult social care employers prepare their workforce so people can live good lives in their communities and avoid unnecessary detentions or hospital admissions.

What do we mean by 'forensic support'?

The term 'forensic' is often used to refer people's background or services for people who have come into contact with the justice system as a suspected or convicted offender.

Autistic people¹ and People who have a learning disability² are no more likely to commit crimes than others, yet they are more likely to be caught and penalised³. Part 3 of the mental Health Act is about people with a 'relevant disorder' (a psychiatric disorder, autism or learning disability which has serious behavioural consequences) who are involved in criminal proceedings or under sentence, it allows for people to be detained in hospital as an alternative to prison for assessment and treatment balanced with protection of the public. People can end up detained in hospitals for a long time, often longer than the prison sentence they would have served for the crime, without that being based on the person's current risk or need for care⁴.

How have people become 'forensic'

- People are systematically coerced as part of 'mate crime', or cuckooing, into carrying out illegal acts including unlawful sexual activity.

Darron thought he was doing his friends a favour by looking out for anyone coming. He didn't know that were doing a burglary and he was the lookout.

¹ [A Systematic Review of Autistic People and the Criminal Justice System: An Update of King and Murphy \(2014\)](#)

² Holland, T., Clare, I.H. & Mukhopadhyay, T. (2002). Prevalence of 'criminal offending' by men and women with intellectual disability and the characteristics of 'offenders': Implications for research and service development. *Journal of Intellectual Disability Research*, 46 (Suppl1), 6–20.

³ Wilson, J.Q. (1998). *Crime & Human Nature: The definitive study of the causes of crime*. The Free Press. USA. [Google Scholar](#)

⁴ [Committee investigates impact of draft Mental Health Bill on people with learning disabilities or autism. 14 October 2022](#)

- Distress is perceived as aggression or anti-social behaviour.

Melissa was attacked and the attacker fled. When police arrived, Melissa was crying and distraught; they assumed Melissa had been drinking and arrested her. The decision to take the matter to court was taken after Melissa refused to admit to the charge and pay a £60 fixed penalty.

- 'Challenging behaviour' becomes identified as 'antisocial/criminal behaviour'.

During his treatment at a private Hospital Adam was frequently physically restrained by as many as nine hospital staff for up to 11 hours at a time. A doctor removed Adam's diagnosis of autism and hospital staff criminalised his behaviour (claiming that he now had capacity and was therefore was criminally responsible for his behaviours).

- Loneliness, unemployment and homelessness increase the risk; as people may commit crime as a way of changing their circumstances

Bradley was homeless and surviving by begging and sleeping rough. When he appeared in court he pleaded with the judge to invoke his sentence and send him to prison so that at least he could be warm and fed on his birthday.

- Lack of awareness of laws or poor insight into the effect of actions on others.

Osime was charged with 'perverting the course of justice' when he was accused of robbery and posted a Facebook message in which he urged the victim to "stop lying" about his involvement in the robbery.

Examples from [Autism Injustice](#)

People risk becoming criminalised if they are in distress or displaying self-harm, or even attempting to end their life, and they act in a way that might harm others or

present as anti-social behaviour. Others have been criminalised when they were experiencing abuse and seeking to escape that abuse.

It's possible to read literally hundreds of stories of people who are accused of or convicted of a criminal offence when it seems clear that the situation arose because they did not get the support they needed.

What will change with the reform of the mental health act

Thanks to Neil Allen (Director, LPS Law. [MHA 1983-2025 Referencer](#)) these changes refer specifically to part 3 of the act. Please see our other new resources for the full range of changes.

Section of the act	2025 amendment
<p>s.35 AMENDED - Awaiting Remand to hospital for report on mental condition Court may remand accused person to hospital for a report on their mental condition instead of remand in custody.</p>	<p>“Mental disorder” replaced with “relevant disorder” (includes autism/LD with serious behavioural consequences).</p>
<p>s.37 AMENDED - Awaiting Powers of courts to order hospital admission or guardianship A court may issue a hospital order or guardianship order instead of another sentence if the offender has a mental disorder.</p>	<p>“Mental disorder” is replaced with “relevant disorder.” Nominated person provisions apply. “Appropriate medical treatment” is redefined by new section s.1A: Treatment must have a reasonable prospect of:</p> <ul style="list-style-type: none"> ▪ alleviating the disorder, or ▪ preventing the worsening of the disorder or one or more of its symptoms or manifestations.
	<p>s.41 Power of higher courts to restrict discharge from hospital Crown Court may add restriction order to hospital order if necessary for public protection.</p>
<p>s.42 AMENDED - In Force from 18 February 2026 Powers of Secretary of State in respect of restricted patients The Secretary of State may discharge restricted patients absolutely or subject to conditions, and may recall conditionally discharged patients to hospital.</p>	<p>Supervised conditional discharge</p> <ul style="list-style-type: none"> ▪ The Secretary of State may impose conditions amounting to deprivation of liberty when conditionally discharging restricted patients. <p>This closes the “MM gap” identified in Secretary of State for Justice v MM [2018]. In force from 18 February 2026.</p>
<p>s.47 AMENDED - Awaiting</p>	<p>“Mental disorder” is replaced with “relevant disorder.”</p>

Removal to hospital of persons serving sentences of imprisonment
The Secretary of State may direct the transfer of a sentenced prisoner to a hospital if the prisoner is suffering from a mental disorder.

“Appropriate medical treatment” is redefined by new s.1A to mean treatment that has a reasonable prospect of:

- alleviating the disorder, or
- preventing the worsening of the disorder or one or more of its symptoms or manifestations.

A further change relevant to this topic is s.48 (amending ss.135, 136)

MHA 1983

The Policing and Crime Act 2017 prohibited police stations as places of safety for under-18s. For adults, police stations can currently only be used in exceptional circumstances (Code of Practice guidance).

MHA 2025

Section 48 amends s.135 and s.136: police stations will be prohibited as places of safety in all circumstances. This removes the exceptional circumstances provision for adults.

Capabilities needed in the adult social care workforce

Capability 9 of the [Core Capabilities Framework for Supporting Autistic People](#) and capability 6 of the [Core Capabilities Framework for Supporting People with a Learning Disability](#) outline the tier 2 and tier 3 capabilities needed and build on the tier one capabilities.

Prevention

Investing in support in the community can help people stay out of trouble in the first place or stay out of trouble after they have left hospital or prison. This might be adult social care support for individuals or sustaining community projects and self-advocacy groups.

Think about how your role can make sure that:

- all autistic people and people who have a learning disability living in your area get information and support to avoid getting involved in crime. See examples in the [North Wales police guide to mate crime](#)
- people get support with housing and benefits so they don't become homeless or destitute. What support will they get to manage their home and keep it safe from people using it for illegal purposes?
- people in your area can make friends, get jobs and have good relationships so they are less vulnerable to mate crime, drug and alcohol problems, anti-social behaviour and sexual exploitation
- there is help for people's families to support them and for people to carefully move out of their family home at the right time
- people in your area are protected from hate crime and bullying
- when people do get into trouble with the law there's good support to make sure they understand how to avoid this, and have a fair trial and are not left vulnerable in prison.

Top three tips for commissioners from Steve Bardsley, former commissioner Leeds

1. Develop a clear Small support offer, based on high values. This is what you will use to promote and it lets potential Small Support organisations know what is expected from them and the support they can expect. It's also useful to refer back to.
2. Housing - build links with as many housing providers as possible. This also includes Housing benefit colleagues, to ensure they are on board.
3. Develop a mature relationship between commissioner and small support provider, based on honesty, equality, high challenge and support.

Nurture and support organisations that offer good support

Share risk. This can be:

- the risks to people using their service or their staff of getting hurt or traumatised.
- Reputational risk
- Financial risk

What can you do to reduce these risks or share them?

- Have 24/7 support for them in the community
- Insurance – what companies offer this. Can the Local Authority and ICB help?
- Staff
- premises

Working with partners

How do your local public services learn about and screen for neurodivergence, autism and learning disability? This is especially important for

- the police,
- the probation service
- local prisons,

- offender rehabilitation and treatment services
- drug and alcohol services
- homeless support and housing.

Joint commissioning – ICB & LA (and housing)

“I feel it would be easier if we were about to sit with the commissioner when this discussion were being made. We could explain what our package of care is and the reason for the pricing and this would speed up the process. Also what support or we going to get from ICB and others when taking this risk with someone on an extended S117.”

Support Provider

Leaving hospital

As the reforms are put into place there will be people currently in hospital who will no longer be legally detained as well of course as those people who are ready to be discharged. These are the things that providers say will help them deliver the support they need;

- Commissioning; more open communication, joined MDT approach to commissioning making it person centred and co-produced (iterative as a discussion between providers and commissioners),
- Help matching timeframes; recruiting and training staff and discharge plans,
- Help in finding business insurance / sharing risk – providers saying there is only one insurance provider willing to insure their services which of course adds to costs. One provider citing that no insurance company will cover them to support people with fire-setting histories.
- Services locally that are well equipped and not risk averse
- ensure that understanding all of the frameworks and systems and be able to make my team/community and supported person safe within the community.
- knowing what support as a provider is available to me to access.
- Having contacts to organise a team around the service users quickly when coming out on a S117
- circle of support, same as that of Norfolk have in place as sounds very supportive and responsive
- People leaving after a long time, need help to adjust.

- Alternatives to hospital in a crisis.

[This film tells the story of Mark](#), who was supported by Unique Support Solutions (as part of the 'small supports' programme) to live a rich and fulfilling life after many years in hospital.

With thanks to;

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References and further reading

- Working in community settings with people with learning disabilities and autistic people who are at risk of coming into contact with the criminal justice system. A resource for health and social care staff. June 2021. Publisher: Health Education England. Peter E Langdon & Glynis Murphy.
https://www.researchgate.net/publication/354089773_Working_in_community_settings_with_people_with_learning_disabilities_and_autistic_people_who_are_at_risk_of_coming_into_contact_with_the_criminal_justice_system_A_resource_for_health_and_social_care_staff
- Liaison and Diversion Service Career and Competence Framework [Skills for Health website](#).
- [Out of the Shadows: Women with learning disabilities in contact with or on the edges of the criminal justice system | Prison Reform Trust](#)
- A UK-wide survey of community forensic services for adults with intellectual disability and/or autism https://eprints.ncl.ac.uk/file_store/production/297338/4633880D-0C18-4735-A268-9CB052D6484B.pdf?utm_source=consensus
- National Autistic Society website/Criminal Justice: <https://www.autism.org.uk/professionals/others/criminal-justice.aspx>
- National Autistic Society, Autism Accreditation Framework of Best Practice in Supporting Autistic People: <https://www.autism.org.uk/professionals/accreditation.aspx>
- RCLST, Communication help for the justice system: <https://www.rcslt.org/learning/the-box-training>
- Autism West Midlands (2016) Autism and the Criminal Justice System: Advice and Guidance for professionals, <http://www.gain-grantham.co.uk/wp-content/uploads/2016/12/ASD-and-Criminal-Justice.pdf>
- ARC UK (2016) People with learning disabilities in the Criminal Justice System: a guide for carers and learning disability services, <https://arcuk.org.uk/wp-content/uploads/2016/04/PWLD-in-the-CJS-Guide.pdf>
- Gwillim, Peter (2009) Police awareness of autism and how to deal with the criminal justice system, Presentation at Autscope: <http://www.autscope.org/2009/presentations#police-autism>
- The Advocate's Gateway, Planning to Question someone with an autistic spectrum disorder including Asperger Syndrome, <https://www.theadvocatesgateway.org/images/toolkits/3-planning-to-question-someone-with-an-autism-spectrum-disorder-including-asperger-syndrome-2016.pdf>
- Judicial College (2018) Equal Treatment Bench Book, <https://www.judiciary.uk/wp-content/uploads/2018/02/equal-treatment-bench-book-february-v6-2018.pdf>
- Iain Dickie, Shirley Reveley and Austin Dorrity (2018) *The criminal justice system and people on the autism spectrum: perspectives on awareness and identification*. Journal of Applied Psychology and Social Science, 4 (1). pp. 1-21.
<http://insight.cumbria.ac.uk/id/eprint/3933>
- Clare S. Allely, (2018) "A systematic PRISMA review of individuals with autism spectrum disorder in secure psychiatric care: prevalence, treatment, risk assessment and other clinical considerations", Journal of Criminal Psychology, Vol. 8 Issue: 1, pp.58-79,
<https://doi.org/10.1108/JCP-06-2017-0028>