

Crime against people with learning difficulties

Interviews for a recent study found that criminal offences or abuse perpetrated against people with learning difficulties were often not regarded as such by professionals, the police, or the victims themselves, making it difficult for victims to achieve redress. The researcher, Christopher Williams of the Norah Fry Research Centre, found:

f People with learning difficulties are often victims of persistent, low-level offending. Such offences tend to be given lower priority by the legal process; however, they can cause considerable distress and may be the forerunners of more serious offences.

f Professionals are often unaware of relevant basic law; in group homes, for example, common forms of 'discipline' may in fact be criminal offences.

f Reporting routes in service settings are usually 'chains' reflecting line-management structures. These preclude direct reporting to the police, and one 'missing link' (who may well be the perpetrator) can prevent a report getting through.

f Much victimisation within service organisations is not dealt with through the legal criminal process but rather through administrative routes.

f People with learning difficulties interviewed felt that police commonly do not take reports by victims with learning difficulties seriously.

f Criminal law may reflect perceptions of the lifestyles of people with learning difficulties which are now outdated (for example, assuming that people have 'guardians' rather than live independently). Police are often unaware of helpful specialist legislation.

f The Crown Prosecution Service has no obligation to support vulnerable victims actively (unlike in some other countries); this can lead to cases being dropped.

f It is common not to prosecute where the offence has been committed by another person with learning difficulties. However, this means that the victims will not qualify for court compensation and may feel unjustly treated.

f The ways in which crime statistics are collected makes it unlikely that they accurately reflect the level of crime against people with learning difficulties.

Perceptions of crime against people with learning difficulties

People with learning difficulties are vulnerable to many forms of victimisation, including abduction, sexual offences, assaults, and less apparent crimes such as 'false imprisonment', Public Order offences and theft by deception. The level of unlawful killings involving people with learning difficulties is also a cause for concern.

However, people with learning difficulties are often more readily seen as potential offenders than potential victims. People interviewed for the study had rarely been taught to think about crime as something they might be victim of, rather than something they ought not to commit. Their perception is further blurred because they are taught to tolerate victimisation

"At special school I was taught not to pinch other children's sweets and money. I was not taught, if I am in trouble, to tell the police."
(Victim of racial harassment)

Nor do professionals working with people with learning difficulties always recognise crime as crime. The daily language used by social services professionals can disguise what happens and obscure our view of crime, perpetrators and victims. Women with learning difficulties are more likely to be described as being 'sexually abused' than raped; men with learning difficulties are 'physically abused' not assaulted; stealing something from someone with learning difficulties is 'financial abuse', not theft. Offenders against the general community are criminals, those who victimise people with learning difficulties are 'abusers'; victims with learning difficulties are 'survivors' and 'sufferers'; 'sufferers' do not report crimes to the police, they 'disclose abuse' to professionals.

Unrecognised perpetrators

Interviews for the study found that those most likely to perpetrate crime against people with learning difficulties were staff who worked with them, families, other people with learning difficulties, children, and those working with service organisations. These groups do not readily match the common perception of 'criminals' and this can greatly hinder detection and redress.

Contradictions in legislation

Legislation made before the NHS and Community Care Act 1990 does not take account of the new lifestyles of service users. For example, the Sexual Offences Act 1956 (s.21 (1)) concerning abduction assumes that all people with learning difficulties are

in 'the possession' of a guardian, rather than living independently or semi-independently as now encouraged by community care. Whilst the Mental Health Act 1959 makes it unlawful for a man to have sexual intercourse with a female patient, sexual offences by women and between men are not covered. The Sexual Offences Act 1956 (s.27 (1)) can deter managers from reporting sexual offences, because of a duty put on them to prevent sexual assaults on service users.

The legal status of group homes poses other problems because of their dual status as home to some and workplace to others. So, for example, consenting homosexual acts between people with learning difficulties in the bedroom of a group home might be illegal because they do not happen 'in private' (Sexual Offences Act 1967 s.1(1)). But indecent exposure by a staff member to a resident in the same bedroom may not be illegal because it was not done in 'a public place'.

The Public Order Act 1986 does not relate to acts in a 'dwelling', but there is no clarification relating to the semi-public areas of group homes, such as staff rooms.

Service responses

The prevailing service ethos is that service users should not report directly to the police. Reporting routes in service settings are usually reporting 'chains' up the management hierarchy. One 'missing link' can prevent a report reaching the police. As the next person in the chain may well be the person committing the offence, the system is obviously open to abuse.

Much victimisation within service organisations which is reported is not dealt with through the legal criminal process but rather through administrative routes, such as staff dismissals, closure of Registered Homes, formal complaints to services, and Health and Safety prosecutions. Even failures of duty leading to deaths may be seen as management problems rather than victimisation.

Staff are often unaware of basic law. Few know that they might commit an offence by intercepting a letter or by instructing a colleague not to report a crime. Staff confining people to their rooms (a fairly common form of discipline) may be guilty of 'false imprisonment' where this is done against a person's will. There is little awareness that any unwanted touching might be an assault, or that most service users cannot be compelled to undergo medical treatment, which would include taking an Aspirin. Staff never consider that an unsubstantiated accusation, such as "John hit Rubina", may constitute defamation.

Police responses

People's experience with the police in other situations could colour their attitude to reporting crime.

"I would never tell the police if I was raped, because once I went to the station to help them identify someone and they got angry with me."
(People First member)

Harassment, verbal abuse and insults are common Public Order offences. However, people interviewed had many stories of police not taking reports of such offences seriously; none of these reports resulted in charges.

Police do not pursue cases if victims cannot make formal complaints, but this is based on habit not law. In cases of murder, for example, the Crown acts as complainant in place of the victim. Yet the principle of a third party complainant or no complainant is not applied when victims cannot make a complaint because of intellectual disability.

Police may not pursue cases because they are not familiar with specialist laws; for example, incidents of abuse and neglect may be covered by sections of the Mental Health Act 1983, Registered Homes regulations, the National Assistance Act 1948, or Health and Safety regulations.

In one region, forms used by police to determine if an offence of 'false imprisonment' has been committed incorrectly require that the victim has suffered an injury. 'False imprisonment' of the kind experienced by people with learning difficulties would not usually entail injury.

Response from the legal profession

Until recently the Code for Crown Prosecutors explicitly discriminated against victims who were not regarded as likely to make 'good' witnesses in court. This has now been changed, but CPS officers can still block cases on the basis that a person with learning difficulties will not be an adequate witness — a decision that can be taken without meeting the person concerned. In contrast, the prosecution service in North America must actively support vulnerable witnesses.

The new Code for Crown Prosecutors, introduced in 1994, discourages prosecution for minor offences, but these are a significant aspect of the victimisation of vulnerable people. Offences are often cumulative over a long period, by the same perpetrator, and can represent the testing-out of vulnerability prior to a more serious offence.

The CPS is discouraged from prosecuting offenders with learning difficulties. But the victims in these circumstances are frequently also people

with learning difficulties. When more serious cases do not go to court, some victims may miss the chance of compensation from the court.

"Seeing as the man who did it had learning difficulties, the police did nothing and I got no compensation. Now if I had done something like that to someone outside, they would have sent me down."

(Victim hospitalised by an assault by another resident at his group home)

The logic of the CPS and that of a court can be contradictory: in one case a decision not to prosecute was rationalised on the basis that the perpetrator was confused about the law, yet in court ignorance of the law is not a defence.

When cases do go to court, some lawyers may deliberately play on both prejudices about people with learning difficulties and their unfamiliarity with formal legal proceedings. Tactics may include repeating the same question many times, leaving long silences, and congratulating witnesses on being clever for using long words.

Judges may also be prejudiced in their views of people with learning difficulties. In one case, a judge likened an assault by a professional on a 45-year-old man to smacking a naughty child.

Crime statistics

Because services use other means of resolving reported problems, studies based on police and court records only reveal a fraction of the crime and abuse that attracts formal redress. Crimes committed by other people with learning difficulties are also unlikely to show up in statistics because of low levels of prosecution.

However, victims commonly complain that police take no notice of their reports and these are then unlikely to be accurately reflected in the profile of 'recorded crime' (police statistics). Some victimisation may be noted as an 'incident' rather than a crime, for example, an assault on a man who was pushed into a freezing river was recorded as an 'incident' despite the endangerment of life involved; 'incidents' do not show up in recorded crime figures.

Statistics for 'reported crime' (which may not necessarily have resulted in prosecution or conviction) are collected by interviewers for the British Crime Survey. The interviewers exclude people in group homes which are classed as 'institutions'. Even if victims live with families, interviewers are not trained to ask questions in a way which might be easier for some people with learning difficulties to understand or to recognise indirect reports of uncommon offences.

Conclusion

Redressing the stereotyped view of people with learning difficulties, in relation to crime, is the key element in changing the present situation. Justice is frustrated not only because of the response of separate agencies, but because of the effect they have on each other. The police do not record crimes because they believe the CPS will not prosecute, staff do not report to the police because they 'do nothing' and victims do not tell staff because 'they say the police won't help'. Consequently the courts are unpracticed at dealing with vulnerable witnesses, and perpetrators see people with learning difficulties as safe targets. Positive action by the CPS, as in North America, could break this spiral.

"People with learning difficulties are treated with no respect ... No one believes us. It is time that criminals are taught a lesson."

(Victim of unredressed sexual and Public Order offences)

About the study

The two-year study was based on the expressed concerns of people with learning difficulties, who then directed its progress. There were discussions with over two hundred victims, followed up by a brief questionnaire and/or in-depth interviews where appropriate. Complementary perspectives were gained from carers, police officers, weekly involvement at a local court, and international comparisons. Raw data were discussed with groups of crime victims, who highlighted what was important to them and proposed the best means of dissemination. This includes a video made by one of the groups, and articles by a journalist who is a 'special school survivor'.

Further information

Two separate reports are available:

Invisible Victims: crime and abuse about people with learning disabilities: this is a full report of the project which includes training material (for police, service providers, and lay advocates) and policy recommendations. Published by Jessica Kingsley Publishers, Price £17.95 (ISBN 1 85302 309 4).

Cracking Crime - a learning pack: this pack consists of materials designed for use by people with learning difficulties and their supporters, including a video, video workbook, and 'Coping with crime' skills book. For further information, call Pavilion Publishers on 01273 623222.

Related Findings

The following *Findings* look at related issues:

- 40** Continuing institutional care for people with learning difficulties (Oct 93)
- 41** Community living for people with learning difficulties (Oct 93)
- 42** Citizen advocacy and people with learning difficulties (Nov 93)
- 46** Sexual abuse of adults with learning difficulties (Jan 94)
- 57** Living in the community after leaving long-stay hospital (Oct 94)
- 64** Moving from hospital into the community: an evaluation by people with learning difficulties (Mar 95)
- 66** Housing and support for people with learning difficulties (Apr 95)
- 67** Complaints procedures in social services departments (May 95)

For further information on these and other *Findings*, contact Sally Corrie on 01904 654328 (direct line for publications queries only; an answerphone may be operating).



Published by the
Joseph Rowntree Foundation
The Homestead, 40 Water End
York YO3 6LP
Tel: 01904 629241 Fax: 01904 620072
ISSN 0958-3815

The Joseph Rowntree Foundation is an independent, non-political body which funds programmes of research and innovative development in the fields of housing, social care and social policy. It supports projects of potential value to policy-makers, decision-takers and practitioners. It publishes the findings rapidly and widely so that they can inform current debate and practice.