

# BRAIN INJURY NEWS

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**BRAIN  
INJURY GROUP**

Providing practical answers

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# Welcome

The link between brain injury and criminal behaviour is an issue that has begun to attract increasing attention. In this edition of *Brain Injury News* we take a look at how people with brain injuries are treated within the criminal justice system.

Long since recognised as the leading cause of death and disability in children and young adults, there is a growing body of evidence to suggest that children who survive a traumatic brain injury (TBI) are likely to have behavioural and communication problems as they move in to adulthood, which increases the chances of offending. It also appears just as likely that people who have survived TBI could enter the criminal justice system from the opposite angle – their vulnerabilities opening them up to becoming the victims of crime.

Professor Huw Williams has studied youth offending in particular and shares some of the research findings and his own thoughts on recognising and managing historic brain injuries to improve outcomes and reduce re-offending (page 4).

Louise Wilkinson of the Child Brain Injury Trust looks at how the education system needs to be more alert to the effects of mild to moderate brain injuries that may never have been diagnosed, and the environmental factors that impact offending (page 9).

We also look at the support available for vulnerable witnesses within the system (page 6), at how offenders with brain injuries might struggle to achieve effective representation (page 12), and at the current Criminal Injuries Compensation Scheme which has significantly tightened up the rules for submitting a claim (page 8).

As our features demonstrate, greater awareness of the 'silent epidemic' of brain injury throughout the system is desperately needed, together with more joined-up thinking to connect rehabilitation provided by the NHS and the rehabilitation of offenders.

We welcome your views on these topics and any brain injury related issues. Please visit our website to find out more about the Brain Injury Group at [www.braininjurygroup.co.uk](http://www.braininjurygroup.co.uk) or give us a call on 0800 612 9660 if you think we can help you.

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The Brain Injury Group, a not-for-profit community interest company, is a network of specialist brain injury solicitors and other professionals with proven experience of supporting those affected by brain injury. Our aim is to provide a gateway to support, information and advice for brain injured people, their families and carers.

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# Uncovering the brain injury and the criminal justice system



facts:

**Professor Lindsay McLellan considers the shortcomings of the criminal justice system in how it deals with those affected by brain injuries, with missed diagnosis, limited resources and lack of understanding leading to a lack of comprehensive rehabilitation opportunities.**

For a person with a brain injury, the criminal justice system can either be a pathway to recovery or an unjustly oppressive environment. On the one hand, it may offer the victim of crime who has suffered a brain injury access to compensation, ensuring effective rehabilitation, together with continued support if required. On the other, an offender's history of brain injury may well be brushed aside in assessment and sentencing, particularly as the current system doesn't generally screen for brain injury.

There is statistical evidence that a background of social deprivation increases both the risk of offending and of sustaining a brain injury in the first place. In addition, a brain injury may affect a person's behaviour in such a

way as to increase their chances of offending. These complex, interlinked issues must be taken into consideration regarding brain injured individuals, as they affect subsequent rehabilitation and future contact with the criminal justice system.

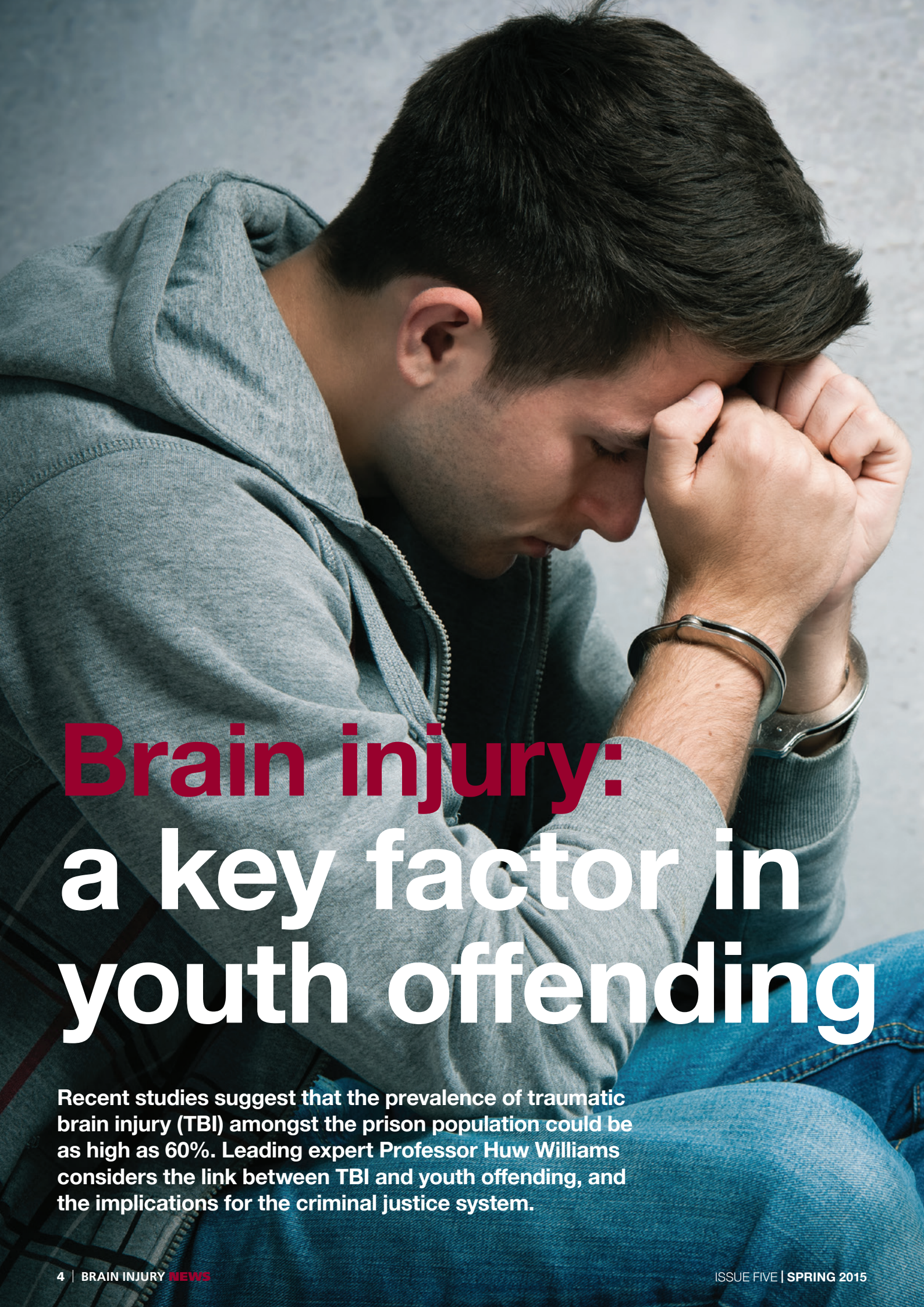
Current NHS rehabilitation service resources are limited and are also separated from psychiatric rehabilitation services and those concerned with drug and alcohol dependency. Services for the rehabilitation of those with offending behaviour are similarly sidelined. There is therefore very little opportunity in the NHS for a comprehensive, joined-up programme of rehabilitation for brain injured individuals with concurrent mental illness, drug or alcohol dependency and a history of offending behaviour. Many rehabilitation professionals lack the experience and expertise to tackle all these problems, with the criminal justice system even further removed. The lack of continuity between NHS rehabilitation services for children, adolescents and adults is a further cause of missed diagnosis and offers fewer rehabilitation opportunities for those that are injured just before they

reach adulthood. This makes it all the more important for the criminal justice system to recognise the extent to which behaviour can be affected by a brain injury that may have occurred years earlier, so that subsequent rehabilitation and resettlement following an offence can be more effective.



**Professor Lindsay McLellan** is a former consultant in neurology and rehabilitation medicine and Professor of Rehabilitation at the University of Southampton. He is a non-executive consultant with the Brain Injury Group.

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# Brain injury: a key factor in youth offending

Recent studies suggest that the prevalence of traumatic brain injury (TBI) amongst the prison population could be as high as 60%. Leading expert Professor Huw Williams considers the link between TBI and youth offending, and the implications for the criminal justice system.

## TBI – the silent epidemic

Traumatic brain injury is the leading form of acquired brain injury (ABI) and often referred to as a silent epidemic. The condition most frequently occurs in young people as a result of falls, sporting injuries, fights and road accidents and is the major cause of death and disability. Both sexes are equally affected when very young (under 5), however males are more at risk than females in teenage years and adulthood.

During childhood, adolescence and young adulthood, the brain grows rapidly, its connections shaped and strengthened by experience. An injury to the brain before these areas are fully developed could mean they never entirely evolve. Indeed it may be that skills which are developing at the time of injury may be the most vulnerable to disruption. The consequences of brain injury include loss of memory and concentration, decreased awareness of one's own or others' emotional state, poor impulse control, and especially poor social judgment. Unsurprisingly, behavioural problems may be prevalent in people with TBIs.

## Links between crime and brain injury

Young people offend for many reasons and it is difficult to identify a clear causal link between TBI and offending. Adolescence is marked by increased risk taking, which may lead to a greater likelihood of breaking rules. Those who take risks are also more likely to suffer a TBI, so it is difficult to ascertain if having a TBI actually causes someone to offend or whether it is because they are more likely to take risks and therefore suffer a TBI. There is mounting evidence to suggest however that TBI may, to some extent, increase the chances of offending due to the actual injury.

In **Finland**, a birth cohort study of around 12,000 subjects, showed that a TBI during childhood or adolescence was found to be associated with a fourfold increased risk of developing later mental disorder coexisting with offending in adult males<sup>1</sup>. Those who had a TBI earlier than age 12 were found to have committed crimes significantly earlier than those who had a head injury later, which may suggest a degree of causality between TBI and crime.

In **Sweden**, hospital records of the entire population from 1973 to 2009 were examined for associations between a history of TBI and violent crime records<sup>2</sup>. Out of almost 23,000 TBI cases, 8.8% had committed a violent crime compared with about 3% of the general population. The researchers also examined the risk of violent crime in siblings of those with TBI (they would be likely to have shared similar social and economic backgrounds). Those with TBI had a higher rate of violent crime compared to their siblings.

Studies of TBI prevalence rely on self-reporting, which is largely valid. In a **UK** study of nearly 200 adult male prisoners, 60% claimed to have suffered a TBI of some form<sup>3</sup>. Moderate to severe TBI was reported by 15.6%. Those with a self-reported history of TBI were, on average, five years younger at the age of their first prison sentence than those who did not report such a history (16 years old compared to 21 years old). See **Table 1** below.

### Table 1 TBI in adult prisoners

Of 196 males held in HMP Exeter (sentenced or on remand, aged 18 to 54):

**60.4%**  
reported suffering a TBI

Our estimate suggests the figure could be as high as

**65%:**  
**15.6%**  
moderate – severe TBI

**49.4%**  
mild TBI

Average age of first imprisonment:

With TBI **16 years**  
Without TBI **21 years**

Source: Williams et al (2010)

## Understanding young offenders

To try to understand the links between TBI and crime, particularly in young offenders, we interviewed 192 young male offenders in a prison<sup>4</sup>. See **Table 2** below. We asked about head injuries, their crime history, mental health problems and drug usage. Of those contacted, 94% took part. They were on average 16 years old.

- 65% reported some kind of 'head injury', but significantly, the study found a mild TBI with a loss of consciousness in 46% of the sample. The main cause of injury in the young offenders was violence.
- Repeat injury was common with a third reporting being 'knocked out' more than once. Self-reporting three or more TBIs was associated with greater violence in offences.
- Those reporting TBI were also at risk of greater mental health problems and misuse of cannabis.

### Table 2 TBI in youth offenders

Of 192 young male offenders (aged 11 to 19):

**65%**  
reported history of 'head injury'

**46%**  
reported mild TBI with loss of consciousness <10 minutes

**16.6%**  
reported moderate to severe injury with loss of consciousness >10 minutes

Source: Williams, Corden et al (2010)

Continued on page 6

In a related study, we showed that in a group of 61 participants over 70% had TBI histories with a relationship between TBI and concussion symptoms such as forgetfulness, headaches and nausea. Those with more serious mild injuries reported a greater degree of on-going problems<sup>5</sup>. This indicates that those with TBI are likely, depending on the severity of injury, to have brain injury related problems that may interfere with their ability to engage in forensic rehabilitation.

### Addressing the problem

Brain injury was largely neglected within the criminal justice process both as a health issue and a factor in offending until very recently. To begin to address the problem the Offender Health Research Network developed the Comprehensive Health Assessment Tool (CHAT), which allows TBI to be assessed. Young people coming into custody are now evaluated for mental health and neurodevelopmental disabilities, including TBI.

Addressing the issue of TBI in relation to crime requires awareness and understanding; it is an issue throughout the criminal justice system and in related areas of health, social care and education. Those who work with vulnerable young people need to assess for, monitor and manage the effects of brain injury. Better screening for TBI and communication problems at point of entry into the system, together with ongoing assessments, could be used to inform proceedings and determine the most effective interventions and rehabilitation to enable changes in behaviour.

If the underlying causes of their behaviour can be recognised through better management of TBI, there could be many benefits, such as:

- providing the right evaluation and help for young people with brain injury
- raising awareness amongst professionals within the criminal justice system
- reducing the number of offences and repeat offences through correct diagnosis

This would improve young people's lives and reduce costs of public services.



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### Additional reading

- Traumatic Brain Injury and Juvenile Offending: complex causal links offer multiple targets to reduce crime (Journal of Head Trauma Rehabilitation, March 2015)
- Repairing shattered lives: Brain injury and its implications for criminal justice (University of Exeter and T2A Alliance, 2012)

### Sources

- <sup>1</sup> Timonen M., Miettunen J., Hakko H., et al. *The association of preceding traumatic brain injury with mental disorders, alcoholism and criminality: the Northern Finland 1966 Birth Cohort Study.* Psychiatry Res. 2002;113(3): p. 217-226
- <sup>2</sup> Fazel, S., et al., *Neurological disorders and violence: a systematic review and meta-analysis with a focus on epilepsy and traumatic brain injury.* Journal of Neurology, 2009. 256(10): p. 1591-1602
- <sup>3</sup> Williams, W.H., et al., *Traumatic brain injury in a prison population: Prevalence and risk for re-offending.* Brain Injury, 2010. 24(10): p. 1184-1188
- <sup>4</sup> Williams, W.H., et al., *Self-reported traumatic brain injury in male young offenders: A risk factor for re-offending, poor mental health and violence?* Neuropsychological Rehabilitation, 2010. 20(6): p. 801-812
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# Help at hand: support in Court for vulnerable people

## Occupational therapist and brain injury case manager, Louise Sheffield describes how she applies her expertise to support vulnerable witnesses in Court.

People with an acquired brain injury (ABI) are more likely than most to come into contact with the criminal justice system whether as a victim of a crime (as a witness) or as someone accused of a crime (as a defendant). Studies in recent years have demonstrated that a disproportionately high number of people within the prison population have an ABI. This is hardly surprising given that ABI can result in disinhibition, impulsivity, impaired theory of mind and difficulties with anger management.

### Helping a vulnerable witness

ABI can also make someone more vulnerable to criminal behaviour by others: perhaps they have money or property taken from them by so-called friends, or they are encouraged to steal from a shop. How many are unwittingly involved in a crime because they are told they are doing something legitimate? Imagine someone with an ABI being questioned by the police. Cognitive impairment often means they can become confused when giving evidence and, in my experience, these difficulties are exacerbated when the person is cross-examined in Court.



## Access to a Registered Intermediary

Vulnerable witnesses are provided with a RI through the Ministry of Justice Witness Intermediary Scheme. The referral can be made either by the police or the CPS and is funded by the police or the Court. Contact the Specialist Operations Centre of SOCA on **0845 000 5463** or **soc@soca.x.gsi.gov.uk**

Access to an intermediary for a vulnerable defendant is trickier. However, Intermediaries for Justice (IfJ), a new special interest group, is compiling a database that defendant solicitors can access. Visit **[www.intermediaries-for-justice.org](http://www.intermediaries-for-justice.org)**

To work towards improving such issues, the Youth Justice and Criminal Evidence Act 1999 made provision for a range of special measures designed to level the playing field by assisting vulnerable witnesses to give their best evidence. These include the provision of a Registered Intermediary (RI) who can help at any or all of the stages of the criminal justice process.

RIs are experts in communication and trained in relevant matters of law. Their key tasks are to:

- assess a vulnerable witness
- report to the Court
- facilitate communication during a police interview and at Court

RIs must pass rigorous Ministry of Justice-accredited training and prove their competence every year. They must be impartial and are considered officers of the Court. One of the crucial differences between an appropriate adult and a RI is that the intermediary is allowed to intervene if the questions being asked are not likely to be understood by the vulnerable witness.

### The future for brain injured offenders

Unfortunately, special measures proposed within the Coroners and Justice Act 2009 have not yet been enacted, so there is not yet automatic access to the

support of an intermediary for vulnerable defendants. However, between a growing body of case law supporting the need for vulnerable defendants to have the support of an intermediary and other legal constructs that enshrine the right to a fair trial, it is to be hoped that proper support will be in place for all parties sooner rather than later.

## Registered Intermediary in action

One of my cases involved a lady with learning disabilities who had been sexually assaulted by a friend who had visited her home twice in one day. The assault took place on the second visit.

The questions posed at Court jumped between the first and second visits and the witness quickly became confused. With the permission of the Judge, and using pen and paper, I helped the witness differentiate between the visits.

Her evidence subsequently became clear and compelling, demonstrating that she had excellent recall of the offence. The assailant was subsequently convicted and sentenced to three years in prison.



**Louise Sheffield** qualified as an occupational therapist in 1996, specialising in old age psychiatry and then brain injury rehabilitation. Having qualified as an intermediary in 2004 she is the only RI to also work as a case manager solely with those with acquired brain injury. In 2010 she set up her own business to provide specialist ABI case management and RI services

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**The Criminal Injuries Compensation Scheme exists to compensate the blameless victims of violent crime in England, Scotland or Wales who have suffered physical or mental injury. Barrister Laura Begley considers the implications of its most recent changes.**

The Criminal Injuries Compensation Scheme 2012 applies to applications for compensation for injuries arising out of a crime of violence lodged on or after 27 November 2012. It has introduced a marked tightening of eligibility criteria. The object of the Scheme has always been to provide compensation in circumstances where applicants could prove that they were innocent victims of violence. It remains a feature of the Scheme that the victim had reported the crime to the police or a relevant authority (eg. a school or prison) and co-operated with the police or authority in bringing the assailant or abuser to justice. There has also always been provision for an award to be reduced because of the conduct of the victim, for example provocation at the time of the offence or unrelated but undesirable conduct, whether before or after the criminal injury was inflicted, eg. previous convictions of the victim, or conduct such as not paying taxes.

**Tightening the rules**

The 2012 Scheme introduced stringent eligibility criteria in addition to a more draconian approach in terms of assessing compensation. For example:

- There is a new condition of residency for eligibility (paragraph 10), supplemented by complex rules. Previously, if the incident had occurred within the UK, it did not matter whether the victim was a resident or not.
- The condition of reporting has been substantially restricted and a report must now be made to the police, not another appropriate authority. Therefore, an assault in a psychiatric ward, in prison or at a school must be reported to the police no matter how vulnerable the assailant or victim may be. If not, the claim will be refused. Paragraph 22 does state that ‘the effect of the incident on the applicant was such that it could not reasonably



# Compensation for innocent victims of violent crime

have been reported earlier’, with the age and capacity of the victim to be taken into account in order to assist more vulnerable victims including those with acquired brain injuries.

- More significantly, an award will not be made to an applicant who on the date of their application has a conviction for an offence which resulted in any sentence greater than a fine or a conditional discharge, unless there are exceptional reasons not to withhold or reduce it. It is not yet clear what may constitute an exceptional reason.

**Brain injury and the 2012 Scheme**

The connection between acquired head injuries and behaviour that may be impulsive, disinhibited, aggressive and occasionally unlawful is reasonably well documented and much will depend on the facts of each case. Similarly, victims of sexual and physical abuse, especially childhood abuse, often, for different reasons, engage in unlawful conduct which they may not have committed were it not for their history of abuse. It seems likely that those least able to articulate the argument that their injury has affected their behaviour and may have led to offending behaviour post assault, will find themselves in the invidious position of having to try to persuade the Criminal Injuries

Compensation Authority that their case is exceptional, or a solicitor that he or she should take their case on in such circumstances.

There are no reported cases on the 2012 Scheme to date. It remains to be seen if an attempt to define ‘exceptional reasons’ will be made in the victim’s favour or whether a full attack on this or other provisions of the Scheme by way of judicial review application will be made.



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# Education

## and potential offending behaviours

**For the majority of children who have a mild to moderate acquired brain injury (ABI) – whether diagnosed or not – school is often their primary place of rehabilitation. Louise Wilkinson of the Child Brain Injury Trust considers how the education system must put in place measures to identify and support the children affected.**

Despite many published articles and books, there continues to be a lack of knowledge about ABI within the education system in the UK, and there is no evidence to show that there are any formal training opportunities for those in non-medical professions who work with children and young people, such as in education and youth offending.

Many education professionals report working with a child with learning or behavioural difficulties, but they couldn't put their finger on what the diagnosis might be. Manifestations of an ABI are similar to those of children with Attention Deficit Hyperactivity Disorder (ADHD) or those within the autistic spectrum

and other learning disabilities, and this can sometimes lead to misdiagnosis with ABI being overlooked. This brings about even greater problems because the support that a child or young person with an ABI needs in school is very different to children with other special educational needs (SEN).

Because the brain is not fully mature until a person reaches their mid 20s, the cognitive, behavioural, psychological and emotional manifestations of childhood ABI may take some time to become apparent as the brain develops. Behavioural, social and emotional issues are usually the most pronounced effects, and whilst schools may state that they understand brain injury they will not generally accept the 'behaviour' issues that may come with it.

### **Brain development and learning**

The frontal lobes, which enable our higher levels of emotional behaviour and cognition, are the final part of the brain to mature. This means that when the brain demands greater thinking and analysing skills during the

latter stages of education, the young person struggles within the learning environment and there is little or no support in the classroom, which leads to behaviour issues – either avoidance of difficult tasks or frustration over not being able to complete tasks. Behaviour problems at this point can often lead to exclusion.

The disinhibited behaviours that frequently accompany ABI can mean these young people are more likely to take risks generally and have particular difficulties with social competence including problem solving, making sound judgements and understanding consequences. Coupled with other common issues associated with brain injury, this sets the scene for an uneasy future. Unfortunately, one of the consequences of exclusion is a greater likelihood of a young person gravitating towards unsuitable friendships and being drawn into committing criminal or anti-social behaviour and entering the criminal justice system **(See Figure 1)**.

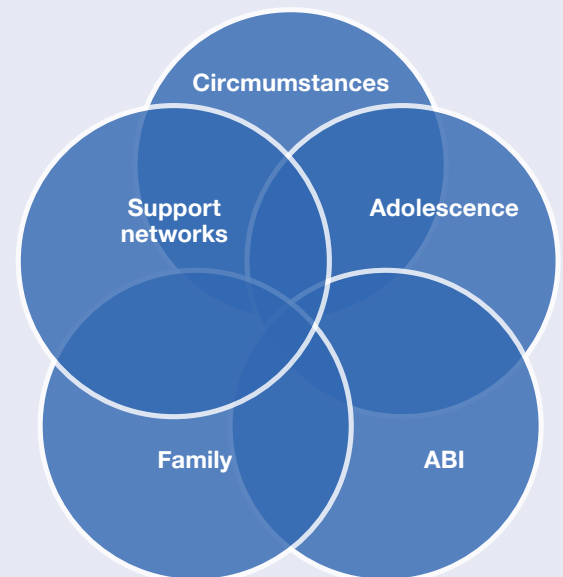
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**Figure 1:  
The funnel effect**



Source: Child Brain Injury Trust

**Figure 2:  
Contributing factors to offending**



Once there, the focus is more likely to be on their offending rehabilitation rather than neurological rehabilitation.

### Complex contributing factors

Of course, an ABI itself is not a marker for criminal behaviour and in the context of crime; many other factors must be taken into account. Young offenders often have a complex and challenging set of environmental and mental health care needs that can account for some of their offending attitudes and behaviours even before an ABI becomes part of the mix as shown in **Figure 2 above**:

- **Circumstances:** family circumstances affect how a young person feels about themselves and how they perceive others. For instance they might be affected by the death of a parent, divorce, financial issues or relocation.
- **Adolescence:** this transitional time is a challenge in itself with issues of high risk-taking behaviour, poor judgement, drugs, alcohol and peer influence.

- **Family:** the type of family unit that the young person lives in affects their behaviours and perceptions. For example, if they are living with a single parent, absent parent or parent in prison.
- **Support networks:** how well supported and understood outside of the family unit is the young person? Do they have people supporting them who have knowledge and understanding of ABI?

There is also the question of whether the family has the capability, capacity or indeed the inclination to support the young person.

One must also acknowledge vulnerability due to typical manifestations of ABI, which include:

- issues of low self-esteem and gravitation towards unsuitable friendship groups
- poor social awareness
- possible over sexualised behaviours
- lack of impulse control and consequential thinking

The social demography for risk of ABI is almost a mirror on the social demography for risk of offending (*Yates, Williams et al. 2006*). Many young offenders have at least one or more of these risks. Add an ABI and you have a volcanic eruption waiting to happen.

### Shortcomings within the justice system

Currently within the justice system, interventions do not take account of any neurological difficulties that may have a direct impact on the outcome of the intervention.

For example:

- Young offenders must often abide by community orders, which require them to attend certain places at certain times. Some offenders with ABI will have fundamental problems with poor planning and organisational skills. As a result, they forget to turn up, breach the order and are at risk of a custodial sentence.
- Cognitive Behavioural Therapy (CBT) is a commonly used therapeutic model in this client group, but this is not always a suitable approach for those with cognitive processing difficulties.

- 'Restorative justice' is often used with young offenders, but some people with ABI can have little or no empathy and often lack consequential thinking, so this approach can also cause further problems.
- Custodial sentences might be considered 'ideal environments' for people with ABI in as much as they are told where to go, what to do, when to eat etc. However this may cause difficulties on release from custody.
- Probation services are unlikely to be aware of ABI and the enormous difficulties the person is likely to face, leading to a higher risk of re-offending.
- a new Comprehensive Health and Assessment Tool (CHAT) which is being rolled out within the secure estate for young offenders that will help identify any neurological difficulties a young offender may have
- changes within the Children and Families Bill 2014 to include neurological conditions within SEN
- greater overall awareness of the issues of and related links between ABI and offending behaviours within the youth justice system



**Louise Wilkinson** is Information and Learning Manager at the Child Brain Injury Trust (CBIT) and has trained over 7,000 education, health and social care professionals on the issues of childhood ABI. She co-founded the Criminal Justice and Acquired Brain Injury Interest Group (CJABIIG) in 2011, which has influenced many areas within the judiciary and Government, increasing awareness of those with an ABI within the justice system.

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As described in **Figure 1**, young offenders with undiagnosed ABI may be at higher risk of continued offending and entering the adult offending system. However, great strides have been made to address this since the inception of the Criminal Justice and Acquired Brain Injury Interest Group in 2011 including:

What is still needed is greater awareness of this hidden disability amongst those who have a huge impact on the future of children and young people – their educators. Therefore, early intervention, preferably within the education system, is vital to help this vulnerable group, together with early screening for adult offenders. This could help reduce the numbers given custodial sentences and may also assist in reducing repeat offending.



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# Defenceless: the profound impact of brain injury

**Inappropriate behaviour may be the only sign of someone with a brain injury. Defence lawyer Martin Bourne and personal injury specialist Jonathan Phillips consider how the criminal justice system assesses brain injury – and finds it wanting.**



An acquired brain injury (ABI) can have a profound impact on personality, levels of understanding and the ability to work, maintain relationships and live independently. People who experience an ABI are affected in different ways: some become impatient, demanding or rude, others may lose the ability to process information or rationalise as they once could. A brain injured person may also develop anti-social traits and behaviours which are at least outwardly criminal, leading to police action and ultimately a Court appearance.

Given that ABI is often 'invisible' with no physical disabilities or symptoms, professionals in the criminal justice system are no more likely to appreciate that an offender's behaviour is the result of a brain injury than the innocent victims of their crime. Sadly, some of the behaviours that result from a brain injury do not inspire sympathy, even from medical professionals, and an insufficient grasp of the offender's history can result in a misdiagnosis of personality disorder. Without information about its cause, there is often little empathy or understanding.

In the absence of a supporter at Court who knows and can explain something of the accused's history, information about the brain injury may not come to light until that person has appeared before the Court several times. In some cases, only when the Court is considering imposing a prison sentence will pre-sentence investigations reveal a brain injury and its profound effects.

## Defence defined by capacity

Brain injury can affect an individual's level of understanding to the extent that they may simply not appreciate that their alleged actions are both legally and morally wrong. In such cases there may be a defence of insanity, which thankfully no longer spells indefinite detention. More commonly, someone lacking sufficient mental capacity to understand the process and provide meaningful instructions to his or her solicitor might be adjudged 'unfit to plead'. Whether the accused is unfit to plead or insane, they may be detained in hospital if their condition is susceptible to treatment. Brain injury, which is very different from mental illnesses such as schizophrenia and depression, may not be. The likely outcome of proceedings in that case is supervision in the community.

## Lack of appropriate support

The need for the court service to complete cases as quickly as possible means the kind of investigation that would reveal ABI rarely takes place. The National Offender Management Service (formerly the probation service) used to determine the history of defendants and get to the root of their problems – medical or otherwise – but its service has been decimated in recent years and can no longer be relied on to provide the safeguard it once did.

Unfortunately, for now, the key to effective representation is external support. Experienced defence solicitors may identify traits connected to ABI and subsequently investigate a defendant's

medical history, but they are not trained to do so. And many vulnerable defendants find themselves represented by less experienced – less expensive – solicitors without the skills to recognise the effects of ABI. Either way, the defence must rely on the backing of a friend or family member who knows the accused's medical history and how a brain injury has affected their behaviour. Hardly an ideal scenario.



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