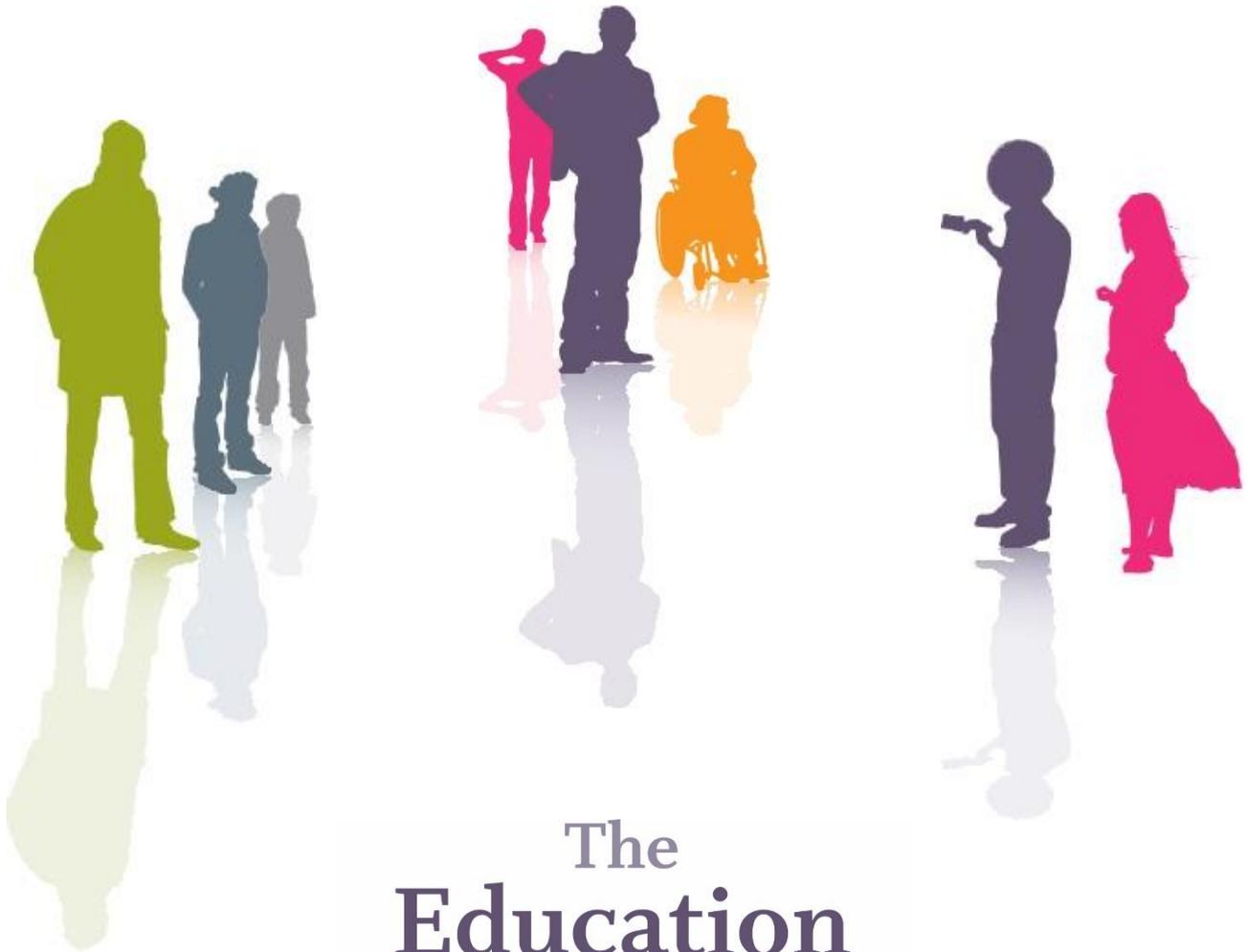


Improving Access to Offender Learning in the Community

2014



The
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& Training
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Improving Access to Offender Learning in the Community

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Disclaimer

This guidance note does not replace the law, or seek to provide a full and complete explanation of legal duties. For further information about safeguarding email the Education and Training Foundation at safeguarding@lsis.org.uk.

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Improving access to offender learning in the community

Introduction

As part of the Ministry of Justice's Transforming Rehabilitation reforms, from early 2015, a new suite of providers will deliver a new 'through the gate' services to prisoners, and to offenders supervised in the community. Community Rehabilitation Companies will have responsibility for the management of the majority of offenders in the community with the exception of high risk offenders who will be managed by the National Probation Service.

Enabling offenders to improve their skills and secure employment is at the heart of the government's strategy to reduce re-offending. The Green Paper [Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders](#) (MoJ 2010) put employment at the centre of a menu of interventions designed to support the rehabilitation of offenders. [Making Prisons Work: Skills for Rehabilitation](#) (BIS/MoJ 2011) set out the coalition government's proposed reforms for offender learning.

The importance of employment in reducing offending has placed a greater emphasis on the need to develop offenders' employability and vocational skills. There is now a significant emphasis on developing the key, underpinning skills of maths and English at the start of an offenders' sentence and the vocational skills demanded by employers in the areas to which prisoners are to be released as they are coming to the end of their sentence.

Developing an effective menu of learning opportunities for offenders in the community can present the Probation Service and learning and skills providers with a number of unique challenges.

Offenders often have 'chaotic lifestyles' and multiple needs, which can result in barriers to participation in learning provision. At the same time, the Probation Service and learning and skills providers need to develop effective multi-agency working practices to overcome the barriers to participation and secure the best outcomes for their offender service users.

Who is this guidance note for?

The content of this guidance note will be of particular interest to:

- further education colleges, providers of adult, community and work-based learning
- staff responsible for the planning, co-ordination and management of offender learning opportunities
- practitioners involved in the delivery of offender learning programmes
- staff new to working with offender learners.

What does this guidance note contain?

This guidance note has a focus on offenders (aged 18 and over) serving sentences in the community under the supervision of the Probation Service. It identifies some of the barriers offenders may face and provides signposting to information and ideas to improve access to learning and skills provision.

Each barrier is presented with a summary of the issue to be resolved, followed by information and signposting to help support and improve practice.

The guidance note also includes:

- an introduction to the provisions of the Rehabilitation of Offenders Act 1974 and the Legal Aid, Sentencing & Punishment of Offenders Act 2012
- information and signposting to the Disclosure and Barring Service (DBS)
- examples of risk assessment documents produced by Leicester College.

How do offenders enter learning and skills provision in the community?

Offenders enter learning and skills provision in a variety of ways. Most offenders will be referred by the Probation Service, Jobcentre Plus or the National Careers Service to learning and skills provision following an assessment of their learning and employability needs. Some offenders will have a Community Payback (unpaid work) requirement as part of their community sentence which could include learning and skills activity. Ex-offenders (offenders who have completed a community or custodial sentence) may apply direct to a learning provider or be referred to learning and skills provision by a range of public, private and voluntary support agencies.

Further information

For more information about the role of the Probation Service and Community Sentences go to the Ministry of Justice website www.justice.gov.uk.

What barriers to learning do offenders face?

Previous research¹ has identified a number of barriers to participation, which can be summarised as:

- personal barriers relating to the individual needs, feelings, attitudes, aspirations and perceptions of the offender;
- organisational barriers relating to the way learning and skills provision for offenders is planned, managed, promoted and delivered.

What can be done to mitigate the personal barriers?

Issue 1: Offenders may not regard learning as a priority, particularly where other factors, such as substance misuse and mental health issues, need to be addressed.

Offenders are not a homogenous group and the personal barriers they face will differ greatly from person to person. Adults in the criminal justice system are, however, likely to have multiple needs. These needs have been categorised by the National Offender Management Services as falling within one or more of the 7 reducing reoffending pathways:

1. Education, training and employment
2. Accommodation and support
3. Health
4. Drugs and alcohol misuse
5. Finance, benefits and debts
6. Children and families
7. Attitudes, thinking and behaviour

There are two additional pathways for women:

8. support for women who have been abused, raped or who have experienced domestic violence and
9. support for women who have been involved in prostitution

The Probation Service will assess the wider rehabilitation needs of the offender and make a decision whether these needs can be dealt with either alongside or before referral to learning and skills provision.

¹ Findings from focus group held to discuss offender learning. Participants included Probation Service staff and learning and skills providers May 2011

The Regional Employ-Ability Challenge (REACH) initiative, jointly funded by National Offender Management Service Co-financing Organisation and the European Social Fund (ESF), targeted offenders with multiple needs and who require an intensive package of rehabilitation and employability support.

The programme had a focus on engaging groups of offenders who face additional barriers to learning and employment, including:

- women
- black and minority ethnic groups
- offenders with learning disabilities and other health needs
- offenders over 50 years
- young people not in education, employment or training (NEET).

REACH programmes adopted a multi-agency holistic approach and promote the use of peer mentors to provide a package of employability and training support for offenders in the community.

The AIM Partnership was an ESF-funded project led by West Mercia Probation Trust. It provided a diverse range of support for offenders and their families, and included work with housing associations and learning and skills providers.

Whilst these projects have now finished the partnerships are continuing to build on the work already undertaken. Following the re-organisation of the Probation Service, examples of current practice will be added to the Foundation's Offender Learning Exhibition Site (<http://offender-learning.excellencegateway.org.uk/>)

Further information

For more information read the AIM Partnership review (http://www.westmerciaprobation.org.uk/document/Page/aim_presentation3.pdf)

Issue 2: Offenders can have poor motivation and negative attitudes to learning.

The City and Guilds research report *Outside Chances: Offender Learning in the Community* (January 2011) suggests that motivation and attitude to learning can be improved by:

- explaining the benefits of learning
- shifting the focus from 'what can't you do?' to 'what would you like to be good at?'
- talking about other offenders' achievements
- ensuring assessments reflect learning needs and realistic aspirations
- providing a range of learning opportunities (not just basic skills) and clear progression routes
- using peer or volunteer mentors to support the learning journey.

Further information

City & Guilds Centre for Skills Development (www.skillsdevelopment.org.uk/).
City and Guilds **CPD toolkit** for those teaching offenders in the community

Issue 3: Offenders are often reluctant to enter a mainstream learning environment, e.g. a further education college campus.

Preparing offenders for the transition to a more formal learning environment can be achieved by:

- providing first step learning opportunities delivered at probation service premises or other discrete locations
- organising college visits prior to progression to a mainstream learning environment
- offering short taster courses as an introduction to a wider range of learning opportunities
- using learning mentors to support the transition to a mainstream learning provision

For example, one of the prisons in the North East has good relationships with the local colleges, with college staff visiting prison staff and vice versa. Prisoners are supported in contacting the college prior to enrolment to disclose offences. An interview/visit is then arranged to meet tutors prior to enrolment. Training placements, community unpaid work and work placements are arranged through the prison's Training Employment Group.

Whilst many offenders may be reluctant to enter mainstream learning there are also instances of where an offender is keen to continue a course that they have been attending before entering a prison. For example, another prison in the North East received a request from an offender, during a National Careers Service initial interview, to continue a course they had been attending at a local college. He was asked to sign a disclaimer to allow the establishment to contact the college to explain his circumstances. Once relevant information from the college was received, this was discussed with key individuals including the Security Department, the Offender Learning and Skills Service provider and the Offender Management Unit. All were in agreement that he should be allowed the opportunity to complete his Diploma.

Issue 4: Offenders often have a history of under-achievement at school and need intensive English, mathematics and ICT support.

Improving prisoners' English and maths is a priority as this increases the likelihood of future employment when released. The Government has introduced mandatory assessments of maths and English for all newly-received prisoners. Intensive maths and English courses are also available in prisons, based on the Army's model, particularly to address the needs of prisoners serving short sentences.

Encouraging and enabling offenders to engage with learning opportunities requires a commitment to adopting innovative and effective approaches to the planning and delivery of learning opportunities.

The Excellence Gateway provides access to a wide range of information and resources related to developing maths (<http://maths.excellencegateway.org.uk/>) and English (<http://english.excellencegateway.org.uk/>).

For example:

Developing Speaking and Listening Skills

(www.excellencegateway.org.uk/content/eg5488) – A support pack for staff working with offenders. This pack provides an extensive resource to develop speaking and listening skills and will support staff working with offenders for whom English is a first language. It was originally written in 2006 and was refreshed in 2012.

These materials are for staff working with offenders in all areas, including those where employment, rehabilitation and learning take place. The pack can be used by staff in custodial and community settings across the age range of both adults and young people irrespective of their role and the context of their work.

Special Educational Needs and Disability exhibition site

(<http://send.excellencegateway.org.uk/>)

This exhibition site brings together some of the most effective SEND materials available on the Excellence Gateway as well as additional material and will be of interest to practitioners, managers and leaders across the sector. This includes a range of **case studies, reports** and examples of **effective practice**.

Positive Practice, Positive Outcomes

In addition, the Department of Health publication, Positive Practice, Positive Outcomes – A Handbook for professionals in the Criminal Justice System working with offenders with Learning Disabilities (2011) highlights the impact of poor communication skills and provides some useful practical tips and techniques for working with offenders.

(<http://tinyurl.com/Positive-Practice>)

CPD Framework for Teaching Offender Learners in the Community

City and Guilds has produced a toolkit providing CPD for those teaching offenders in the community, including sections on supporting literacy and numeracy.

(www.skillsdevelopment.org/cpd_toolkit.aspx#.U_2lj6OEzJW).

Issue 5: Offenders don't always know how or when to disclose information about their conviction(s).

A criminal record can act as an additional barrier to engaging in learning and employment opportunities. The Rehabilitation of Offenders Act 1974 (ROA) removes some of these barriers by enabling certain criminal convictions to become 'spent' after a specified 'rehabilitation period'. In practice this means ex-offenders are not obliged to reveal their criminal convictions after their rehabilitation period has been completed.

The Rehabilitation of Offenders Act 1974 was updated in March 2014 through the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). The changes mean that, unless a prison sentence is for more than 4 years or the sentence is a public protection sentence, the majority of people will not need to declare their conviction after a certain time period.

For certain jobs and volunteering opportunities, offenders will still have to declare their conviction even if it is 'spent' e.g.

- working with children and other vulnerable groups
- working in professions associated with the justice system

At the present time, learners on courses that involve a work placement with young/vulnerable people are required to disclose spent and unspent convictions including any reprimands, final warnings and cautions.

NACRO support organisations to strike a balance between the issues around safeguarding and enabling ex-offenders to have equal access to education, training and employment opportunities (see issue 11).

Further information

For a guide to the changes to the Rehabilitation Order Act visit the Unlock website (<http://hub.unlock.org.uk/knowledgebase/spent-now-brief-guide-changes-roa/>).

NACRO resettlement advice service (www.nacro.org.uk/what-we-do/resettlement-advice-service/support-for-organisations).

Issue 6: Offenders have expressed concerns about the possibility of acts of retaliation/victimisation if their offence(s) becomes known in the local community.

Learning and skills providers should inform offenders that their personal information is kept confidential and only used in compliance with Data Protection legislation.

At Leicester College information about offender learners is shared with members of staff on a 'need to know' basis. In practice this means members of staff are provided with information which relates directly to:

- learning support needs
- other support needs relating to learning difficulties and/or disabilities
- any special conditions that have been applied to the learning programme, work placement and/or learning environment as a requirement to mitigate risk.

Information is delivered ‘face to face’ with the member of staff and a summary of action points provided via email at the end of the meeting.

Further information

For information about the Data Protection Act 1998 see the Legislation website (www.legislation.gov.uk/ukpga/1998/29/contents).

What can be done to mitigate the organisational barriers?

Issue 7: What can be done to secure a successful match between referrals from the probation service and college admission procedures?

The success of learning and skills provision for offenders in the community depends heavily on creating and maintaining positive working partnerships. Designated staff from the Probation Service, Jobcentre Plus, the National Careers Service, and learning and skills providers should:

- agree protocols for referring offenders to learning and skills provision
- agree key roles and responsibilities for each organisation
- establish communication procedures and share information in compliance with Data Protection legislation, e.g. establish an Information Sharing Protocol
- use a cross-organisation management approach to steer the planning, development and delivery of learning opportunities for offenders
- identify opportunities to deliver cross-agency staff training programmes
- explore opportunities to co-locate staff from different agencies.

Further information

For more information, see [Leicester College’s Service Level Agreement](#)

Issue 8: How do learning providers ensure offenders do not make inappropriate ‘disclosures’ or ‘brag’ about their offences and criminal behaviour in the learning environment?

Admission and induction procedures should ensure **all** learners understand what constitutes acceptable behaviour in the learning environment. In addition, at Leicester College, as part of the risk assessment process (see p15), the risk assessment manager discusses with learners the issue of what constitutes appropriate disclosure. Due to the success of the risk assessment process less than 1% of learners who have been risk assessed are later involved in a disciplinary.

Issue 9: How do learning providers prevent poor attendance and achievement rates from affecting their organisation’s funding?

Court appearances and restrictions on activities can have an impact on an offender’s record of attendance and achievements. Learning and skills providers can take steps to reduce the impact of absenteeism by:

- creating a positive working relationship with Probation staff to ensure supervision schedules and other appointments do not clash with learning programmes
- offering offenders short courses and courses delivered on a roll-on, roll-off basis
- using learning mentors to work with students and tutors to address and overcome the impact of poor attendance.

Issue 10: How can learning providers meet the cost of offenders’ additional support needs?

Learning and skills providers have access to funds to support learners who need additional support. Offenders attending Skills Funding Agency provision are treated in exactly the same way as any other learner. The provisions of the Equality Act 2010 require all service providers to make reasonable adjustments to ensure disabled people are not put at a substantial disadvantage compared to other learners. A key measure in the Act, the public sector Equality Duty, came into force in April 2011. The Equality Duty has three aims: to eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

Further information

For information about the Equality Act and the public sector Equality Duty visit (www.gov.uk/equality-act-2010-guidance)

For more information on funding see the Skills Funding Agency website (www.skillsfundingagency.bis.gov.uk/providers/programmes/11dd).

Issue 11: How can learning providers balance an offender’s right to learn with their organisation’s safeguarding responsibilities?

Every organisation has a legal duty to safeguard children and adults from harmful and/ or abusive activities. This means having an ‘effective safeguarding system, where harm or the risk of harm is identified, acted upon effectively and ultimately prevented’ (Changes to disclosure and barring: What you need to Know, HM Government 2012). Organisations need to ensure they understand their legal responsibilities and have policies and procedures in place to safeguard all their service users, members of staff and visitors.

The information that follows provides an introduction to safeguarding and examples of policies and procedures that have been employed by a learning provider in relation to working with offender learners.

The Safeguarding Vulnerable Groups Act 2006 provided the legislative framework for the introduction of the Independent Safeguarding Authority (ISA). Following the government’s review of the Vetting and Barring scheme (Vetting and Barring Scheme Remodelling Review, Home Office, February 2011), in December 2012 the ISA and the Criminal Records Bureau (CRB) merged to form the new Disclosure and Barring Service (DBS).

In September 2012 changes to disclosure and barring were introduced by the Government. The changes include ‘scaling back regulated activity to focus on work which involves close and unsupervised contact with vulnerable groups including children’.

From March 2013 changes have been implemented that affect those seeking employment or work placement in specific areas e.g. involving vulnerable groups.

Leicester College balances its offer and safeguarding duties by informing prospective students through the College’s course information and admissions process if the course they are applying for is subject to an Enhanced DBS Disclosure. This will usually be where as part of the course they will be required to attend work placement with vulnerable groups. Students will also be informed at their course interview about Disclosure and DBS checks.

Further information

For more information about the changes to ‘regulated activity’ and the Disclosure and Barring Service see the Gov.uk website (www.gov.uk/government/organisations/disclosure-and-barring-service).

Safeguarding legislation

The duty to ‘safeguard’ sits within, and is informed by, a wide range of other legal responsibilities and policy directives designed to protect children and adults. These currently include:

Core legislation	Other legislation	Broader policy context
Safeguarding Vulnerable Groups Act (2006) and Children Acts.	Employment law (to cover work-based learning), Equality and Diversity, Equality Act 2010 and Health and Safety.	Vetting and Barring Scheme Remodelling Review (2011).
Department for Health Regulated activity (adults). The definition of ‘regulated activity’ (adults) as defined by the Safeguarding Vulnerable Groups Act 2006 from 10 September 2012.		Changes to disclosure and barring: What you need to know. (HM Government 2012).
		Rehabilitation of Offenders Act 1974.
		Protection of Freedoms Act 2012.

Safeguarding policy and practice

Effective safeguarding practice involves identifying potential risks and taking action to prevent harm. The inspection framework (2012) for providers of further education and skills places a strong emphasis on keeping learners safe by including the judgment:

- Leaders and managers safeguard all learners (under Effectiveness of leadership and management)

The Foundation’s **Safeguarding and Safer Recruitment in FE 2014** online tool provides a flexible way of learning, more about safeguarding and what organisations in the FE sector need to do to ensure all learners are kept safe. Using video, audio and interactive activities, the resource takes the user through five modules. This is followed by two assessments.

Further information

For additional Foundation toolkits including the Leadership Toolkit for Offender Learning visit (www.foundationonline.org.uk)

Risk assessment process

Conducting risk assessments is a key component of safeguarding procedures. At Leicester College all learners are asked to declare if they have an unspent criminal record, any pending court cases or if they are charged with any criminal offence either at application stage or during their course. Students applying for a course that involves a work placement with vulnerable groups are also required to disclose 'spent' and 'unspent' convictions, cautions, warnings, reprimands and final warnings which would not be filtered in line with current guidance as part of the college's admissions policy.

If a learner declares a previous/current conviction which is not spent on their application form (or 'spent' and 'unspent' for a course which involves a work placement with vulnerable groups) a risk assessment process is triggered. The purpose of risk assessment is to identify and assess any applicant whose declared record of offences indicates they could be a risk to themselves, other students, staff, visitors or the College environment.

In deciding whether a prospective student poses a risk for a specific programme of study, the Risk Assessment Team consider each applicant's individual circumstances in a fair and objective way. The risk assessment includes interviewing the prospective learner and obtaining additional information (references) from a range of other relevant agencies including the:

- Probation Service
- Youth Offending Service
- Multi-agency Public Protection Arrangements (MAPPA)
- Specialist personnel providing rehabilitation support.

The risk assessment process is conducted within the context of gathering a range of information about the learner and their learning needs, including:

- a description of the previous offences
- the person's age at the time and how long ago the offence/s were
- was it an isolated incident, or part of a pattern
- background of the student, including family support
- a risk and support reference from the Probation Service, Public Protection Team, or Youth Offending Service requesting the level of risk on a number of areas; details on the work they did with them and whether they would support their application to College (consent is obtained to contact the agencies).

Risk Assessment data is classed as ‘sensitive data’ and as such is treated with additional data protection safeguards, information is only shared with relevant staff on a need to know basis. All students are made aware of how their data is handled, stored and retained.

Once a risk assessment has been completed and analysed, a safeguarding manager will decide whether to:

- accept the learner
- refuse admission (the learner has the opportunity to appeal)
- transfer the learner to another course
- refer the learner for support (involving work with internal teams and external agencies to provide mentors, mental health support, counselling and disability support)
- defer entry to a later date and/or apply conditions to manage the learner’s needs and mitigate any potential risks.

In addition, some learning and skills providers highlight all risk assessed learners on their database records. This ensures information is available (in compliance with Data Protection legislation) across the organisation and is a useful additional safeguard for organisations operating via multiple locations.

Further information

For examples of risk assessment procedures and documentation used by Leicester College go to:

- [Leicester College Risk Assessment - Students - Criminal Convictions Policy 2014](#)
- [Leicester College Declaration of Previous Current Convictions Form 2014](#)
- [Leicester College Risk Assessment Information to Students 2014](#)
- [Leicester College Risk Assessment Interview Main Document 2014](#)
- [Leicester College Risk Assessment Interview Information to Students 2014](#)
- [Leicester College Risk Assessment – Students - Reference Form 2014](#)

Summary – The Key Elements of Effective Practice

Improving offenders' access to mainstream learning and skills provision can result in benefits to the individual but also the wider social and economic community.

Ensuring offenders in the community get the right provision, at the right place and at the right time requires:

- a multi-agency approach to strategic planning at a local level (involving the Probation Service, the National Careers Service, learning and skills providers and Jobcentre Plus)
- effective referral and communication protocols between agencies
- safeguarding policies and procedures, including risk assessments that safeguard offenders, other learners and staff
- assessments that accurately identify learning and support needs
- flexible learning programmes that reflect learners' aspirations, linked to realistic employment opportunities
- admission and induction procedures that support good behaviour
- access to appropriate learning support provision
- links to volunteering opportunities and/or work experience.

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About the Education and Training Foundation:

Set up to improve professionalism and standards in the further education and skills sector, the Education and Training Foundation sets professional standards and provides support to ensure learners benefit from a well-qualified, effective and up-to-date professional workforce supported by good leadership, management and governance.

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