

## **University of Cambridge**

### **The Health and Safety Executive Committee**

#### **Advisory Body on Work with Offenders and ex-Offenders**

The Health and Safety Executive Committee, in April 2021, endorsed the Report of the Advisory Body (dated March 2021, attached) and agreed to strengthen its recommendations by amending them to read as follows.

### **RECOMMENDATIONS**

1. The leadership of the Learning Together Programme must produce a comprehensive risk of harm assessment and management plan for all participants, whether based inside or outside prison, for approval by a reinforced governance structure. The plan must:
  - a) include an assessment for each activity
  - b) identify the risks in each activity and assess their likelihood and impact
  - c) set out how such risks can be mitigated
  - d) set out the residual risk after mitigation
  - e) be kept under regular review and subject to regular approval and audit
  - f) be published.
2. This risk assessment and management process must be applied to all events, whether based inside or outside prisons.
3. While University-based students are on the programme, any contact with those who have offended must be limited to LT organised activities. This must be reflected in a document that participants sign at the beginning. Any such inadvertent contact must be reported and recorded.
4. University students must inform their Colleges and their Departments or Faculties before they participate in LT programmes. Participation must be subject to full sign off by these bodies (as well as the course administrator). These approvals must be kept on record by the LT course administrator.
5. Both prison-based and University-based students must be made aware of resources external to Learning Together to whom they can report any concerns arising from their participation in programme activities.
6. A new governance structure must be established, which is accountable for the risk-assessed delivery of the programme and the plan above, and to whom Learning Together is accountable. The structure must not have responsibility for the operational delivery of the Learning Together programme.
7. Such a risk governance structure should include individual(s) with some knowledge of criminal justice; it might be an existing part of the University, a new structure within the University, or external to the University.
8. The formation of an interim governance structure to temporarily satisfy the needs identified above could facilitate a phased recommencement of some LT activities, particularly those based inside prisons.

April 2021

## University of Cambridge

### Advisory Body on Work with Offenders and ex-Offenders: Report March 2021

#### Introduction and approach

1. This Advisory Body was populated by the Committee for Benefactions and External and Legal Affairs (CBELA) and launched by the Council of the School of the Humanities and Social Sciences (CSHSS) to undertake one of the recommendations arising from the Report of the Learning Together Reflection Group (LTRG) dated March 2020. Its Terms of Reference and Membership are provided in appendix A.
2. We began work in January 2021, having been tasked with three functions, summarised as follows:
  - a) to advise on the further development of Learning Together's safeguarding and risk assessment processes
  - b) to undertake an audit of all of the Institute of Criminology's work with offenders
  - c) to consider whether to review the safeguarding and risk assessment processes for work with prisoners and ex-offenders across the whole University.
3. We met four times between January and March 2021, received numerous documents, including the LTRG Report, and held conversations, in late February, with the Director of the Institute of Criminology and the two Directors of the Learning Together Programme.
4. We were requested to deliver a report firstly to the Council of the School, and secondly to the University's Health & Safety Executive Committee, before the end of Lent Term 2021. We have so far spent the majority of its time on (a) above, safeguarding and risk, which is the focus of this report. This is therefore an interim report and the development of findings regarding functions (b) and (c) above, if required, will need further work.
5. To approach (b), we received a summary of all the Institute of Criminology's (IoC) current and recent work with offenders and ex-offenders, provided in appendix B. We were unable to verify the completeness or reliability of the information in the time available.
6. Regarding (c), we recognised that there would be merit in reviewing the safeguarding and risk assessment processes of activities with prisoners and ex-offenders that take place across the whole University. We however noted that this extended work would require a longer timescale, so we agreed to focus on the more urgent task this Term.
7. This report thus provides our views of the risk assessments and management processes required for Learning Together in the future. We aimed to avoid making judgements about how these processes were conducted and applied in the past.
8. Learning Together (LT) was established in 2014 as one course offered in one prison. Since that time it has changed considerably. In 2019 it offered fifteen courses in three prisons. In addition, it now aims to establish a 'community' of past students and holds 'alumni' events and community meals outside prisons for that purpose. We noted that over this period the purpose of Learning Together had changed from its origin solely as an action research project to become a significant teaching programme with explicit transformative objectives, whilst still retaining a research element, as the LT team described.

9. An informal network of universities offering autonomous programmes similar to that offered by the University of Cambridge has been established. However, we only considered the activities provided directly by Cambridge Learning Together.
10. The risks of Learning Together have clearly changed since it was established. These changes will reflect the increased scale of the programme and the different locations in which it now takes place. Furthermore, the risks, their management, and the accountability required for research, teaching and other activities differ.
11. Risk may be considered in many ways - ethical, emotional, reputational, financial, performance related and as 'risk of harm' to individuals. In the context of the Reflection Group's report and Learning Together's development, our primary focus was on the risk of harm to students and staff. We recognise that, of course, many people will come into contact with those who have offended in the course of their personal lives and work. The difference here is that Learning Together specifically chooses people who have offended, and who are still under supervision in prison or in the community because of the current risk they have been assessed as posing to others, and introduces them to students as part of the programme it offers.
12. We reviewed the report of the Reflection Group, and agreed with its conclusions relating to Learning Together's risk assessment processes (whilst noting that activities had been paused since then), as follows:
- A draft toolkit of policies, principles, and practices (in development for the wider Learning Together Network under the HMPPS<sup>1</sup> grant) was reviewed, and there is an opportunity for these to be further strengthened. For example, the Reflection Group proposes that there should be:*
- i. more explicit arrangements on co-operation and co-ordination between the University and HMPPS, and how the Learning Together programme benefits from the expertise of the latter on risk management;*
  - ii. introduction of regular audit and continuous, dynamic improvement of the toolkit;*
  - iii. implementation of a procedure for anonymous reporting of concerns, near-misses, or incidents, including an appropriate arms-length process for responding to these;*
  - iv. a detailed needs evaluation for welfare support, and explicit systems to ensure the overall well-being of students and staff involved in the programme;*
  - v. stronger governance for oversight of risk, safety, and well-being.*
- Importantly, the Reflection Group believes that careful consideration should be given to risk assessment for Learning Together community (sometimes referred to as 'alumni') events, which take place outside the prison estate and may include prisoners on temporary release or under licence. Specific protocols need to be developed to address this area of concern.*
13. In parallel with the work of the Advisory Body, a Strategic Advisor was appointed by the University to consider the future organisation of the LT Programme, including its legal structure and contractual arrangements, and its connection to the University.

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<sup>1</sup> Her Majesty's Prison and Probation Service

14. As noted below, the effectiveness of our recommendations on risk assessment and management depend upon there being effective governance processes in place to ensure future accountability for their consistent implementation.
15. The Advisory Body's first task, to 'Advise on the further development of Learning Together's safeguarding and risk assessment processes as outlined in the LTRG Report', was accompanied by the LRTG's suggestion that this advice '*should assure the University that its students and staff are safe...before activities recommence*'.
16. It must however be noted that safety can never be assured. The nature of risk is such that other than by not undertaking an activity at all, no risk assessment and management process can guarantee that the risk will not occur. All risk assessment and mitigation processes must balance the risk against (a) the benefit of undertaking the activity concerned and (b) the disbenefits of not doing so.
17. The next section sets out a framework for risk assessment and safeguarding processes against which Cambridge Learning Together's own process can be compared, and any recommendations for improvement made.

## A risk assessment framework

18. Effective risk *assessment and mitigation* involves four elements:
  - a) The identification and assessment of the risks
  - b) The development of processes to avoid or mitigate those risks
  - c) The consistent implementation of those processes
  - d) Decision making and accountability for these processes
19. *Identification* of risk requires continuous learning from the previous experience of the activity concerned and comparable activities, and the sharing of information and intelligence with other relevant bodies.
20. The *assessment* of risk involves two elements: first, an assessment of the *likelihood* of each risk materialising and the *impact* if it does so. Risks may be 'static' (permanent), or 'dynamic' (varying over time). Risks should be assessed both in relation to the inherent risk of the activity involved and then the 'residual risk' once mitigation has been applied.
21. The development of *processes to avoid or mitigate the risk* may, at one extreme, require not undertaking some or all of the activity that is being assessed. They may also involve controlling the environment in which the activity takes place. In a prison there should be dynamic security provided through positive relationships between staff and prisoners, and procedural security provided by physical and administrative measures. Risk management will also involve the careful selection, training and briefing of those involved in an activity. All risk management processes are likely to require resources - both financial and in terms of staff time - and so a balance is required between the benefit of any process and the costs of implementing it.
22. Once risk management processes have been developed, they must be consistently applied. We know that the most serious incidents in criminal justice settings often occur from low likelihood/high impact risks, where a risk may be poorly managed for a long period of time without adverse consequences, creating complacency, until laws of probability apply and the risk event occurs. To manage dynamic risk, it is important that risk assessment and management processes are kept under review and adapted as the nature of the risk changes.
23. Risk assessment and mitigation processes should be developed by those responsible for the activity concerned. As those people are likely to have a vested interest in the activity taking place, it is important that there is a procedure for approving any risk assessment and management process by a body or individual who is separate from the activity involved and that there is accountability for, and supervision of, the implementation of risk management processes. The higher the level of risk, the more rigorous this *approval, accountability and supervision* needs to be.
24. Although safety can never be assured, it is a value that should be at the centre of services that are striving for positive impacts on individuals. The NHS *Patient Safety Strategy*<sup>2</sup> is an exemplar of an approach that aims for continuous learning and improvement based on two foundations: of a patient safety culture and a patient safety system.

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<sup>2</sup><https://www.england.nhs.uk/patient-safety/the-nhs-patient-safety-strategy/>

## Risk identification for Learning Together

25. LT's vision is fundamentally about education and its transformative potential. Conducting an educational role necessarily entails principles of professional ethics, and these should be articulated and upheld in educational organisations and academic communities. The aim of promoting inclusiveness and collaboration in LT learning communities strengthens rather than negates the need for explicit recognition of the professional standards to be maintained, both during and after undertaking a higher education teaching role.
26. Learning Together has responsibilities that apply to *all* participants (prison-based students and University-based students). It has *additional* responsibilities to University members because, as a part of the University, it has to adhere to University policies concerned with risk and safeguarding for students.
27. This section addresses the risk of harm arising from the interactions of prison-based students (including former prisoners) and University-based students involved in the Cambridge Learning Together programme. Prisoners are in prison because of the harmful behaviours involved in their offending. It is accepted that these behaviours might have deeper causes but here we are concerned with the risks of these behaviours to others.
28. Such behaviours may manifest as violence or manipulative and deceitful interactions with others. Of course, it is to be hoped that the activities and programmes that prisoners are involved in inside prison, and the process of maturation that occurs, will reduce or stop those behaviours.
29. Indeed, and counter intuitively perhaps, the longer a prisoner's sentence, and therefore the more serious their offence, the less likely they are to reoffend after release. For example, the 'proven reoffending rate' for all prisoners released from prison has been reported as 47%. For those released after a sentence of six months or less it is 64%. For those serving determinate sentences of ten years or more or indeterminate mandatory life sentences it is 7% and 4% respectively<sup>3</sup>. This illustrates the point that, as a group, long-term prisoners are less likely to reoffend – “low likelihood” - but that the offences that they do commit are often of *high impact*.
30. Despite the rigour of its processes, about 1% of those the Parole Board has assessed as being safe to release or move to an open prison commit a Serious Further Offence<sup>4</sup>. It would not be unreasonable to assume that the prison-based participants in Learning Together programmes are similar to those the Parole Board has assessed as safe for release – and in one in a hundred of those cases, that assessment was mistaken. The likelihood of potential physical harm from a student inside prison would be of that order at the very most.

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<sup>3</sup><https://www.gov.uk/government/statistics/proven-reoffending-statistics-january-to-march-2018> Table C2a.

<sup>4</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/902631/Parole Board Annual Report Accounts - 19-20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902631/Parole_Board_Annual_Report_Accounts_-_19-20.pdf) p. 23

31. But the risk posed by prison-based students is not just - or primarily - one of physical harm. Manipulative and deceitful behaviour can do great harm to others' well-being and reputation. In 2018/19, 32 prison staff were investigated for having inappropriate relationships with prisoners (Ministry of Justice. Freedom of Information Request 111380. July 2017]. These relationships may be sexual or a 'friendship' involving the officer passing messages, bringing in contraband or other carrying out other 'favours'. The consequences for both parties when these relationships are identified are severe.
32. University-based students may also do harm to prison-based students. It is important to recognise the power imbalance that exists. University-based students go home at the end of the day and have access to material and emotional resources not available to prison-based students. Prisoners will correctly understand that a complaint by a University-based student about one of them will have much more adverse consequences than a complaint about a University student from one who is in prison. We know that prisoners are acutely conscious of the need to avoid any adverse report that may affect a future parole decision. Prison-based students will therefore be careful to avoid complaints and wish to appear compliant.
33. Risks may not arise from conscious misconduct. Prisoners may simply misinterpret signals given innocently by University students or be unaware of how their own behaviour may be misinterpreted. Furthermore, the experience of being in prison, and the accounts by prison-based students of their offences and life histories, may be very disturbing to those from outside. The accounts by University students of their own lives and positive experiences may cause those inside prison envy and regret.
34. In addition to the risks associated with the interaction between prison-based and University-based students, risks arise (as with any other event) from travel and other unrelated incidents in a prison. We judge a high impact risk arising from these causes to be of low likelihood.
35. We set out below our understanding of how these risks arising from the interaction between prison-based and University-based students on the Cambridge Learning Together programme are assessed and managed. We compare this with what we understand to be the practice of other comparable programmes and best practice identified in other relevant activity.
36. It should be noted that the University has sometimes employed the terminology of 'controlled environments' and 'uncontrolled environments' when distinguishing between the nature of the risks that staff or students might face when working away from the University. There is a potential analogy here – though not a perfect one – with the nature of the risks facing staff or students when working alongside 'prisoner students' while they are still in prison (controlled) and working alongside them when outside (uncontrolled) following release. This is relevant when we consider the work of Learning Together and other comparable partnerships.
37. Partnerships enabling joint learning by prison-based students and University-based students now exist in the UK, USA and other countries in a number of forms, and Learning Together is one example of such a partnership. The rationale for all of them is that there is a benefit for students - both inside and outside prison - from studying together.

38. However, we note that there are important variations in the thinking of different partnerships. For example, the USA-based network 'Inside-Out' specifically excludes contact outside the classroom<sup>5</sup>:

"Communication between inside and outside students is not permitted outside of the Inside-Out classroom. No further contact is permitted after the course is completed.

39. The Learning Together programme explicitly rejects the Inside-Out approach. Instead, it promotes the additional benefits of the social interaction aspect of studying together, as is implied in their article in the September 2020 Prison Service Journal:

"... in the final section of the paper we conclude by discussing how these findings might advance understandings of the role and significance of interpersonal relationships; we argue, as does Murthy [does] in the quote introducing this article, that the interpersonal elements of learning may be key to individuals forging 'a better path forwards'. In closing, we reflect on some of the structures, policies and practices that might enable or frustrate the unleashing of the 'magic' of the interpersonal through education in our prisons and universities."

Ruth Armstrong *et al*, 'The learning happens in the interaction': exploring the 'magic' of the interpersonal in Learning Together, *Prison Service Journal* 250, 38ff

40. Our understanding from reviewing some of the other past documentation of Learning Together and other comparable partnerships, is that the processes for managing joint learning inside prisons are relatively well-established; however, the processes for managing joint activities outside prison that involve former prison-based students are not well established. We therefore deal with them separately.

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<sup>5</sup> <http://www.insideoutcenter.org/students.html> (on Prospective Students) accessed 8/2/21



## Processes for managing learning inside prisons

41. We have viewed relevant information that we could find from Inside-Out USA, from the Prisoner Education Trust, HM Inspectorate of Prisons and Royal Holloway University of London, concerning how 'outside students' and other 'lay' visitors should behave when undertaking work or study inside prisons. We note, for example, that Royal Holloway requires the student to sign an undertaking, and it is explicit that the student will not be permitted to make the visit without having done so.
42. In most respects, suitable guidance is provided in the existing Student Policy and Student Compact that Learning Together has already established jointly with HMPPS for students, based outside, visiting HMP Whitemoor. All such policies cover 'What to Expect' (when visiting a prison), and the need to comply with all the security requirements of the prison (what to bring and what not to bring, and appropriate dress).
43. The LT/Whitemoor Policy and Compact usefully go further. There is an induction session for the University students, and there is a substantial section on 'Communication, which usefully introduces many important themes about how to interact in the context of shared learning and discussion in the prison. It also warns the University student against sharing personal information or contact details with prison-based students. Supporting this, the Student Compact contains an undertaking to be signed by the University student which concludes:

"I undertake to participate in the course respectfully at all times, in ways that comply with equal opportunity and health and safety policies of the University of Cambridge and HMP Whitemoor. In communicating with other people on the course I will use an institutional address (e.g. a prison or University address) and will not exchange personal details (e.g. date of birth or home address)."
44. In relation to the initial joint studying to be done inside the prison, the content of this Student Policy and Compact is broadly satisfactory. The LT Directors informed us that they have a similar Policy and Compact for each of the prisons in which they work. We have not assessed the processes which ensure the Policy is applied.
45. The LT Directors told us they were committed to continuing progression of these agreements through regular audits. With regard to monitoring and responding to student concerns, they also thought that procedures should be improved through routine recording and having a central register within the University. They described a need for professional supervision and support, and if LT was part of a Community Interest Company they would wish to have an Advisory Board overseeing a safeguarding policy.
46. There remains the risk of psychological harm to participants entering prisons. We know that participants in activities across the criminal justice sector may be reluctant to state they are upset by what they see or hear. Whilst we recognise that the Learning Together Directors are aware of emotional risks that can arise, and of their role in providing advice and guidance to University-based students when needed, we are not confident that current arrangements to monitor and manage possible risks of psychological harm are sufficient. For this reason, participants should have clear guidance about where they can raise concerns and obtain support outside Learning Together structures if they are uncomfortable or upset.

## Processes for managing learning and other interactions outside prison

47. Unlike most comparable partnerships, LT encourages interaction beyond the shared 'classroom', as is clear from the Student Policy (indeed the *PSJ* article also strongly implies this):

“We are always happy to offer informal guidance and support about keeping in touch both during courses and after courses have ended.”
48. This would seem to enable the potential “benefits of social interaction” explicitly espoused by the Learning Together approach. However, alongside the new potential benefits come the potential for different risks, and most especially after the previously prison-based student is at liberty following completion of his/her sentence.
49. This makes considerations of risk as outlined earlier even more apposite. The power imbalance in the human interactions becomes much less obvious, but there continues to be such an imbalance. On the one hand, the former University-based student has considerably higher social status and few personal restrictions, while the former prison student may well have restrictions imposed under a post-release licence. On the other hand, there is also the clear potential for ‘low likelihood but high impact’ violent, manipulative or deceitful actions by a person who has previously committed a serious offence and then navigated a long sentence in custody.
50. In principle, and most of the time in practice too, it is at least possible to navigate these power imbalances that arise for individuals coming out of prison in their interactions with Probation, with other rehabilitative projects, with employers and in their social relationships with family and friends. In principle, the latter could include former students of Learning Together who are University-based – but the difference with these is that the duty of care for such former students continues to reside with those running the LT programme.
51. The other relationships referred to above are professional relationships subject to some form of supervision, and to which principles of professional ethics apply, so the relationship and the risks arising from it are kept under review by a third party. Our concern was how these relationships between former LT students are viewed, whether ‘professional’ (broadly defined) or a friendship/collegiate relationship and so not subject to supervision. Our view was that as the relationship has been deliberately established by the Learning Together programme, to have a rehabilitative effect, it should therefore be regarded as a professional relationship and supervised accordingly.
52. For this reason, it again becomes necessary for there to be processes for managing both the continuing risks and the new risks that now arise. It should further be noted that even if the governance of the programme were to be reconstituted, perhaps to distance it from either the University in general or the IoC in particular, the duty of care would continue to exist for whoever was formally responsible for the programme – and would probably continue for the University too, where the former LT participant was continuing as a University student.

53. Accordingly, decisions have to be made about how the potential risk of harm to former University-based LT students should be managed. Processes to mitigate those risks – to contain them at an ‘acceptable’ level (since risk cannot be eliminated) – have to be devised, and then made subject to systems that ensure that they are always implemented sufficiently well. If the residual risks are still considered unacceptable to those who are in the position of having the duty of care, then logically the ‘activity’ would officially have to cease altogether.
54. We noted, for example, that the University does not appear to be consistently informed about students from Departments or Colleges outside the IoC, who are participating in Learning Together activities, involving contact with people who have offended. This information is important if the risks of such contact are to be effectively managed.
55. Two necessary and connected aspects of the risk management processes for LT are: clarity about the roles and responsibilities of HMPPS for risk assessment and management; and, liaison between LT and HMPPS in respect of both prison-based students and ex-prisoners in the community. For example, there need to be systems and mutual trust in place to ensure that there is appropriate disclosure to LT if HMPPS, or on occasion the Police, develop concerns that a prison-based student or ex-prisoner student may pose a significant risk to others in the LT community. There also needs to be further consideration of liaison and safeguarding arrangements in respect of ex-prisoner students in the community who are not on licence.
56. As context for its work, we were interested to understand the extent to which Learning Together encompassed education of those who have offended, and students, versus research undertaken by the Directors of LT. The overarching conclusion is that because LT has developed from a research project to include a strong social justice programme, its culture has shifted, and it therefore requires a different approach to risk assessment, to include an expansion of its risk framework and the framework’s governance.
57. Alongside LT’s Action Research, the Directors emphasised the transformative value of relationships, and the opportunities for continued learning and progression provided by the programme. But the current University Risk Policy, updated in January 2019, only makes rudimentary reference to risk and safeguarding for activities other than research. There was, for example, no provision for consideration of emotional wellbeing.
58. We were most concerned about the potential for development of personal relationships between individuals who had offended, and students or staff; this area requires particular care for safeguarding, risk assessment, and the maintenance of professional boundaries, during and beyond LT activities.
59. We were also concerned about the informal events associated with Learning Together, and noted that, as far as we could establish, other similar programmes did not operate in this way.
60. We recognised that the scrutiny, management and governance of these less-tangible risks was not currently an area of strength in the University. We agreed there was need for processes for recording concerns, support and supervision for the Directors and LT staff, as well as taught and research students, and a cycle of audit. There was also a need to develop and implement processes for review, continuous learning, approval, and accountability for all risks, as detailed at the beginning of this report.

61. Whether the Learning Together programme remains part of the University or is established outside it, the University continues to have a duty of care and responsibility to ensure the risks of harm to any of its students participating in Learning Together activities are effectively assessed and managed, and to advise students accordingly.
62. The framework at the beginning of this report noted that all risk management processes are likely to require resources; the implementation of the enhanced safeguarding and risk assessment processes outlined above will be dependent on investment.

## RECOMMENDATIONS

63. The Advisory Body recommends that the following are put in place to manage risk of harm, before the Cambridge Learning Together Programme recommences.
64. The leadership of the Learning Together Programme should produce a comprehensive risk of harm assessment and management plan for all participants, whether based inside or outside prison, for approval by a reinforced governance structure. The plan should:
  - a) include an assessment for each activity
  - b) identify the risks in each activity and assess their likelihood and impact
  - c) set out how such risks can be mitigated
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  - e) be kept under regular review and subject to regular approval and audit
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68. Both prison-based and University-based students should be made aware of resources external to Learning Together to whom they can report any concerns arising from their participation in programme activities.
69. A new governance structure should be established, which is accountable for the risk-assessed delivery of the programme and the plan above, and to whom Learning Together is accountable. The structure should not have responsibility for the operational delivery of the Learning Together programme.
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71. The formation of an interim governance structure to temporarily satisfy the needs identified above could facilitate a phased recommencement of some LT activities, particularly those based inside prisons.

Advisory Body  
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12 March 2021