



Public Prosecution Service
Belfast Chambers
93 Chichester Street
BELFAST
BT1 3JR

9th May 2018

PPS Policy Consultation: Offenders with a Mental Disorder

Dear Sir/Madam.

I am writing to advise you that the PPS's Policy and Information Unit is to commence the development of a new policy in respect of offenders with a mental disorder.

The term 'offenders with a mental disorder' is used to describe a person who has a disability or disorder of the mind, as defined by the Mental Health (Northern Ireland) Order 1986, and who has committed or is suspected of committing a criminal offence. This term covers a broad range of disabilities and disorders. Any such condition may be relevant at various stages of the prosecution process, including:

- The decision to prosecute or divert;
- Fitness to plead; and
- Sentencing / disposal.

The PPS is committed to ensuring that this policy reflects best practice and procedure in this area. Therefore at the outset of the process, we are keen to engage with stakeholders in order to ascertain views on a range of issues around our approach. We will also consider the potential implications of the Mental Capacity (Northern Ireland) Act 2016, in terms of PPS policy and procedures.

As a starting point I would invite you to complete the attached template (see Annex A below) which sets out a number of the key themes. This is not an exhaustive list and you may wish to comment, for example, on other emerging mental health issues as identified by your organisation.

Please note that not all of the headings may be directly relevant to your particular organisation, but we would welcome your initial thoughts on any or all of these areas.

I would be grateful if you could submit your completed return by **Friday 8th June 2018**. If we have not heard from you by that date, we will assume you have no comments to make at this stage. However there will of course be further opportunities to comment on the draft policy when available.

If you require any further information regarding this initiative, or any of the areas covered at Annex A, please do not hesitate to contact our office, either by telephone on 02890 897100 or by email to info@ppsni.gsi.gov.uk.

Once you have submitted a return, we will be happy to meet to discuss any of the matters raised.

Your assistance is greatly appreciated.

Yours sincerely,

Dr Richard Scullion
Head of Policy and Information
Public Prosecution Service

Annex A: Policy Consultation - Offenders with a Mental Disorder

Organisation:	Probation Board for Northern Ireland
Name and Contact Details:	Dr Geraldine O'Hare Email: geraldine.o'hare@pbni.gsi.gov.uk Tel: 028 90 262484
Would you like to meet with a member of the PPS Policy Team to discuss the issues raised in this return?	

Ref	Issue	Comment
1.	Offenders with a mental disorder – general issues in respect of the prosecution process	
2.	PPS handling of cases in which the offender has a mental disorder	Recognition of the significant stress experienced by those who have a mental disorder and are going through the court system. (Stress/vulnerability model) More support is required for them pre sentence
3.	The decision to prosecute or not prosecute – availability and use of information regarding the offender's mental health	Consideration of the clients overall presentation. If there is no previous offending and no evidence of anti-social traits, then should be consideration of a decision not to prosecute.
4.	Consideration of repeat offenders	
5.	Fitness to plead – balancing the needs of the offender and the public interest	Rather than request psychiatric report from independent psychiatrists, requesting the name of the overseeing psychiatrist (should there be one) for their opinion would provide a more comprehensive overview of this clients needs.

6.	<p>Use of alternatives to prosecution, including:</p> <ul style="list-style-type: none"> • Cautions • Informed warnings • Youth conferencing 	<p>As per feedback in no.4 - Consideration of the clients overall presentation. If there is no previous offending and no evidence of anti-social traits then there should be consideration of decision not to prosecute.</p>
7.	<p>In respect of PPS policy and procedures:</p> <ul style="list-style-type: none"> - Consideration of offenders with a recognised psychiatric illness - Consideration of offenders with a learning disability - Consideration of offenders with other disorders (e.g. personality disorder, autism etc.) 	
8.	<p>Youth offenders with a mental disorder</p>	
9.	<p>Use of independent medical reports by the PPS / use of expert evidence</p>	<p>Independent medical reports /expert evidence are vital and of key importance in cases whereby the client is not linked into community psychiatric services. However , often the recommendations at the end are vague and follow up care is not followed up by the independent psychiatrist, For example if they recommend that engagement with psychiatric services is required , then they should contact the necessary trust/team and make them aware of this client and the recommendation. This would prevent a delay in services and also provide a more consistent level of support</p>

		throughout the court case.
10.	Prosecution of persons detained in hospital (where offending took place elsewhere)	
11.	Prosecution of persons where offending took place in a hospital where the offender is detained	Exploration of whether or not other internal procedures to deal with specific behaviours can be dealt with (warning system, or prison style disciplinary process) to avoid further prosecution/conviction.
12.	Prosecutions where the offender is already receiving treatment that the court is likely to order on conviction	Consideration of whether a conviction is then required, if they are compliant with their treatment. However consideration of whether or not they offended due to other factors would need to be taken into consideration (a) substance misuse (b) personality disorder (c) length of time since client committed an offence and is convicted (over 10 years etc)
13.	Any relevant training which could be offered to PPS by the different stakeholders	<ul style="list-style-type: none"> - Personality Disorder as a recognised mental disorder when considering sectioning of a client (N.I in comparison to rest of UK)) - Autism Spectrum Disorders
14.	Any potential impact of the Mental Capacity Act (NI) 2016	
15.	Court process/experience	Use of specially trained dog in CJS as per USA model. In North America they use 'court dogs' to support vulnerable victims and witnesses from initial interviews to the actual court case. Research has found dogs have reduced stress and increased comfort to victims (Spurrin and Mozava 2017). This model could be mapped onto use with clients who have a mental disorder and are going through the court system, with

		the aim to reduce stress.
16.	Other issues of interest/ concern	PBNI are often contacted with regards provide information and guidance on mental health disposal (STO, hospital orders etc) We are not a mental health body and this information should be sourced from the overseeing psychiatrist.

Please return by 1st June 2018 to:

By email

julie.hatton@ppsni.gsi.gov.uk

By post

**Julie Hatton
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Policy and Information Unit
Public Prosecution Service
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