

Royal College of Psychiatrists Consultation Response



DATE: 2 March 2011

RESPONSE OF: THE ROYAL COLLEGE OF PSYCHIATRISTS

RESPONSE TO: Breaking the cycle: Effective punishment, rehabilitation and sentencing of offenders

The Royal College of Psychiatrists is the leading medical authority on mental health in the United Kingdom and is the professional and educational organisation for doctors specialising in psychiatry.

We are pleased to respond to this consultation. This consultation was prepared by the Forensic faculty and the General and Community faculty at the College.

This consultation was approved by: Dr Ola Junaid-Associate Registrar

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Consultation response

The Royal College of Psychiatrists is pleased to be contributing to this review of the basic elements of punishment, rehabilitation and sentencing of offenders.

We have restricted ourselves to comments to consultation questions where we feel we have the most to offer.

We are pleased to see the recognition in the paper of the need for effective multi agency working and it is our belief that this will be an essential underpinning in offering more effective management to offenders with mental health problems.

Chapter 1 – Punishment & Payback

The emphasis on work and training is welcome given the fact that fulfilling work clearly supports good mental health and unemployment is associated with increased mental ill health. In relation to new developments it will be important for offenders in the community and prison not to be excluded from work and employment initiatives on account of mental health problems but to be supported to participate by attention to their individual needs. This aspect requires particular attention at the contracting stage as some providers of employment projects may exclude mental health service users.

The concept of making prisons places of industry is not altogether a new one. HMP Coldingley was opened as a purpose built industrial prison but does not function in that way now. It would be interesting to learn the lessons as to how that occurred. From a mental health perspective the value in prisoners maintaining skills of employment and being productive is most clearly seen in Category D prisons where prisoners are able to obtain work outside the prison. Perhaps this could be extended to selected prisoners from Category C prisons as well.

Question 1 – How should we achieve our aims of making prisons places of hard work and discipline?

The aim of introducing a full working week is supported. For those prisoners with the additional handicap of significant mental health problems a modified working week should also be available with a balance of work related and therapeutic activities so that they are not excluded from rehabilitation. Contracts should reflect the need for social inclusion within the prison environment.

Question 2 – How should we best use the expertise and innovation of the private and voluntary sectors to help develop working prisons?

When the expertise and innovation of the private and voluntary sectors is used the service should ensure that the initiatives are available to all sectors of the population including those with mental health problems and learning disability. Private and voluntary sector bidders should be specifically asked to provide a socially inclusive model with exclusion only in the most exceptional circumstances.

Question 3 – How can we make it possible for more prisoners to make reparation, including to victims and communities?

Mental health options allow a significant reparative element as mentally disordered offenders take responsibility for understanding and complying with their mental health treatment and associated reduction in risk and re-offending. There should be greater awareness within the Courts and general public that these options e.g. Section 37/41 are associated with re-offending rates that are far less than equivalent custodial sentences.

Question 4 – No comment.

Question 5 – No comment.

Question 6 – No comment.

Question 7 – How should we seek to deliver Community Payback in partnership with organisations' outside government?

While these questions are not specifically related to mental health, but we believe that offenders with mental health problems and mild learning disability

should not be excluded, but be offered bespoke packages of support so that they can be included in Community Payback. Similarly this should be specified in contracting with providers.

Victims Engaging with Criminal Justice

The issues regarding victims are of greater relevance to the forensic faculty of the Royal College of Psychiatrists. We would support the statement that the victims need to be more effectively engaged with the Criminal Justice System. The statement in para 77 regarding victim personal statements seems at odds with the fact that the sentencing process in an English court is perhaps much closer to that of an inquisitorial approach than an adversarial one. We would suggest that it should remain this way.

In relation to serious offences associated with severe mental illness it would be helpful for victim liaison workers to develop a sophisticated understanding of mental health treatment options and the security these offer the victim when appropriately used.

From the work that forensic psychiatrists undertake with victims of crime, it is clear to us that victims are not a single type of person who requires a standardised response from the Criminal Justice System. We would advocate that victims should be treated on an individual basis which would include being empowered by being given information at a very early stage so that they can choose whether to take up services available to them. There is no mention in the section on victims about the fact that many will suffer from post traumatic stress disorders related to their crime.

Chapter 2 – Rehabilitating Offenders to Reduce Crime

The concept of the Integrated Offender Management approach as described in Para 88 seems to us a good idea. It was not clear whether there was an intention to link the Integrated Offender Management with the National Diversion System for people with mental health problems. In our view this would be a very positive proposal.

Question 8 – What can Central Government do to help remove barriers to implement an integrated approach to managing offenders?

If the proposed integrated offender management and diversion schemes for people with mental health problems were closely linked or even fully integrated, with the authority and expertise to draw in all the relevant agencies to work together in a timely way.

Questions 9 and 10 - are not applicable to our response.

Para's 89-103 regarding rehabilitating offenders with drug problems are clearly of relevance to the forensic faculty. The proposal in Para 91-92 regarding drug free wings in prisons are to be welcomed. We would also support the pilot drug recovery wings in prison which are planned to start in June 2011. However, we would note that the timescale for reviewing the pilot's progress of June 2012 does seem a little short.

Question 11 – How can we use the Pilot Drug Recovery Wings to develop better continuity care between custody and the community?

We would suggest that if the team suggested by the Bradley Report linking all areas of criminal Justice and mental health liaison were in place, that these would greatly facilitate the continuity of care between custody and community as proposed in this document.

Question 12 – no comment

Question 13 – How best can we support those in the community with a drug treatment need, using a graduated approach to the level of residential support, including a specific approach for women?

It is likely that this type of service will require significant numbers of staff to deliver it which in the present economic climate may be a challenge to resource. However if this is to work, it will require staff working in a co-ordinated way across a variety of social, housing and health services.

Question 14 – no comment

Questions 15-18 inclusive – do not address issues relating to mentally disordered offenders

Question 19 – How can we ensure that existing good practice can inform the programme of Mental Health Liaison and Diversion Pilot Projects for Adults and Young People?

The College would strongly support pilot projects for diversion; however the question raised by any new diversion scheme is where will prisoners with mental health problems be diverted to? Therefore how can you free up facilities for such people including beds in secure hospitals, supported housing, and access to mainstream Community Mental Health Services?

There is a substantial degree of inequality in current criminal justice liaison both in prison and operations in custody suites and courts. Often there is no meaningful service whatsoever at a court and prison mental health in reach teams vary in structure, remit and resourcing enormously even within the same part of the prison estate. The question asks about “existing good

practice" being disseminated. We would contend that existing good practice has not been objectively identified or established and that a national survey of provision could be very usefully undertaken. This could be done via the Royal College of Psychiatrists but it would be useful to triangulate this with surveys conducted through the court service or probation services. Once "good" has been identified - although it is unlikely many services will be collecting data that can be meaningfully translated into outcomes - a generic model can be drawn up and disseminated.

Question 20 – How can we best meet our ambition for a national roll out of the Mental Health Liaison and Diversion Service?

The seeds of the answer to this are in the comments under question 19 above - identify what "good" looks like, draw up the model, disseminate it and ensure that there are robust commissioning arrangements in place to support delivery of the appropriate model.

The experience of relevant psychiatrists across the country suggests that a great opportunity has already been missed in regard to the development of this national service. Projects were set up several years ago which have now been subject to cuts by local PCTs even though they were aware that such services were strongly advocated by Lord Bradley in his report and that successive governments supported their introduction. Therefore it would appear that considerable work would need to be done to catch up with the situation that existed only one or two years ago.

Question 21 – How can we reshape services to provide more effective treatment for those offenders with severe forms of personality disorder?

The proposals in Paras 125 and 126 do not seem to add anything new to what is already known regarding the future of DSPD (dangerous and severe

personality disorder) Treatment Units both in prisons and secure hospitals. There would also need to be significantly more detail regarding the statements around “additional psychological support” and what is exactly meant by this and the proposal that this would be offered to both prisons and community services. We will await with interest the implementation plan which will be subject to a separate consultation by the Department of Health and Ministry of Justice.

Given the high proportion of individuals with personality disorder in prison and in contact with the criminal justice system, it is not clear that the current strategy of targeting the most severe with expensive resources is going to be the most effective in reducing overall levels of risk or offer the best chance of improving the cost utility of therapeutic interventions and benefit for the individual. Much low level, informal but never the less helpful interventions are offered routinely in many prisons by staff who have either learnt “on the job” or through training how to manage disturbed behaviour, help individuals develop better capacity for tolerating and dealing with their internal emotional world and improving the individuals’ capacity for meaningful and personal relationships. Such work is often done on “poor copers” units or wings for vulnerable individuals e.g. Beaufort wing at YOI Portland. The staff employs consistently bounded approaches to individuals with troublesome behaviour, often routed in disturbed personality, based on principles on non reinforcement of undesirable behaviour and positive reinforcement of desirable behaviour and an atmosphere of general positive regard together with a consistency and the formation of a meaningful relationship with a named officer. There is no reason that this approach could not be delivered in every prison which takes sentenced prisoners.

We do recognise that some prisoners with personality disorder will need more than a behavioural approach but there is no reason that this could not be delivered in tandem for those who are thought to be most in need of it. There is also a considerable degree of work done with prisoners with personality

disorder by local prison mental health in reach teams and work should be undertaken to get some understanding of the resources being delivered in this way and their effectiveness.

Chapter 3 – Payment by Results

Our comments on this chapter are restricted to those areas which are relevant to mentally disordered offenders.

The main involvement of mental health services would be in providing treatment as part of community sentences. It is questionable, how any relevant outcomes could be measured for these and in particular we would not support any suggestion that there was a direct correlation between treating an offender's mental illness and reducing their reoffending.

Question 22 – Do you agree that the best way of commissioning Payment by Results for Community Sentences is to integrate it within a wider contract which includes ensuring the delivery of the sentence?

The role of Mental Health Services within this would mainly be linked to the MAPPA (Multi-agency public protection arrangements) agreements that are already in place between Mental Health Trusts and local criminal justice services.

Question 23 – 31 – no comment

Chapter 4 – Sentencing Reform

The following are comments regarding the proposals within this chapter, as we did not think that the consultation questions posed were relevant to us.

Paras 165 - 172

We would support the proposal to simplify the sentencing framework which currently applies for offenders. Along with making it easier for the public to understand, it would also assist professionals such as psychiatrists who are often asked to provide an opinion in relation to mental disorder offenders during sentencing. We would want to see the current legislation that allows mitigating factors to be raised, which can include whether the offender suffers from a mental disorder or disability to be maintained.

Paras 175 -176

Whilst supporting the proposal to improve the understanding around the home detention curfew scheme, we would recommend that offenders with mental disorders be given specific considerations within this scheme. Also that detention in the community could take into consideration other community placements such as hostels or supported accommodation.

Paras 183 -193

We support the proposal that indeterminate sentences of imprisonment for public protection (IPP) should only be available for the most dangerous of offenders. Forensic psychiatrists have experience of working with increasing numbers of prisoners subject to these sentences including some who suffer from enduring mental disorders. However, we would suggest that as well as restricting the sentence to those who would otherwise have merited a determinate sentence of at least 10 years, that consideration is given to the imminence of the risk. This factor is given considerable thought in assessing whether individuals meet either high or very high risk categories of MAPPA. We

would support the proposal that extended sentence for public protection could still be used for offenders who might not meet the threshold for the IPP but yet are convicted of serious offences.

Para 197

We agree with the proposal to give courts more flexibility in how they use suspended sentences and the ability to extend them for periods longer than 12 months. We believe this could be particularly relevant to those suffering with mental disorder and other problems such as drug and alcohol misuse. The flexibility afforded through that sentencing might be helpful in planning and delivering more effective treatment and supervision in the community.

Paras 202 - 206

We would agree with the proposal to give more freedom to the providers in their ability to tailor interventions to offenders rather than them being prescriptive, as defined within the currently Community Sentences Act. The intention to replace multiple requirements in a community order for those having complex health needs (mental health, drug and/or alcohol addictions) with a more generic health treatment might afford better flexibility in engaging offenders in these programmes. The fact of the low level of use of the current mental health treatment requirements of community sentences is perhaps more understandable to forensic psychiatrists. The fact that the legislation requires a full psychiatric report, we believe, may have contributed to this. A more flexible approach to the assessment might be more effective. Also, we would recommend that when an offender has been previously in contact with a specific mental health service, that the appropriate clinician from the team should be contacted to provide a brief report for the court.

Paras 207 - 213

For offenders suffering from mental illness, the proposal of making offenders more liable for the financial consequences of offending needs to be looked at carefully. This is to ensure that any such measure does not compromise their

already precarious social circumstances which may have a further harmful effect on their mental health.

Chapter 5 – Youth Justice

Question 48 – How can we simplify the out of court disposal framework for young people?

It is a fact that most young people who come into the Criminal Justice System will already have committed a large number of offences before the offence for which they are being sentenced. The YOT are involved at a very late stage in the process and therefore are less able to be involved in primary prevention. Primary prevention has more to do with the links of health visitors, CAMHS, Sure Start, parenting, education, and the Local Authority.

Question 49 – How can we best use restorative justice approaches to prevent offending by young people and ensuring they make amends?

Any Restorative Justice approach needs to have a clear outcome both to promote engagement and to reduce future offending risk for the young person as well as making amends/payback to the victim/society. It would be essential to equip the people who work with young people with the necessary skills and capabilities to undertake this work.

Question 50 – No comment.

Question 51 – How can we succeed in reducing the need for custodial remand for young people?

It would be essential to ensure good mental health in-reach services into custodial centres. There is a clear need to demonstrate that sentencing options are effective if they wish to be effectively enforced. In order to achieve a reduction in the need for a custodial remand, there needs to be a corresponding increase in non custodial options and improved access to community mental health services.

Question 52 – How do you think we can best incentivise partners to prevent young offending?

To achieve this, there needs to be a greater focus on outcomes (including education/employment outcomes) rather than the process.

Question 53 – No comment.

Question 54 – No comment.

Question 55 – How can the functions of the Youth Justice Board best be delivered by the Ministry of Justice?

We would propose that the functions of the Youth Justice Board should continue to be embedded within the policy that is focused on children and young people rather than focused on the Criminal Justice System.

Chapter 6 –Working with communities to reduce crime

This chapter appears to have little relevance to Mental Health Services and therefore we have not commented on Questions 56-59.

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