National Offender Management Service

Mental Health Treatment Requirements

Guidance on Supporting Integrated Delivery

Contents

Executive Summary

The Mental Health Treatment Requirement (MHTR) is one of three possible treatment requirements which may be made part of a Community Order.[1] The MHTR is intended for the sentencing of offenders convicted of an offence(s) which is below the threshold for a custodial sentence and who have a mental health problem which does not require secure in-patient treatment.

There is a low uptake nationally of the MHTR, comprising less than 1% of all requirements of orders.[2] This is despite evidence which shows the incidence of mental health problems among offenders is known to be higher than in the general population.[3] Engagement with practitioners has identified a number of issues which are seen as potential or real obstacles to the MHTR being used more effectively in supporting offenders being diverted from custody, thus positively impact on reoffending.

The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, made changes to the mental health assessment process for MHTRs. Advice was first issued by NOMS to Probation Trusts on the LASPO changes in 2012 and this advice paper is incorporated into this document.

This (non-statutory) guidance seeks to provide support to service commissioning and provider agencies so that appropriate mental health service provision and inter-agency partnerships enable MHTR delivery locally.

Guidance is given on the roles, responsibilities and contributions of the agencies involved in the commissioning and delivery of the MHTR, specifically:

- Sentencers
- Health Agencies
- Mental Health Assessment
- Probation Providers

The complexities of inter-agency roles, contributions, responsibilities and relationships necessary to deliver MHTRs effectively are addressed and clarified. A series of flow diagrams with accompanying narrative can be found in *Annex A* to graphically represent the interactions and roles of those involved in the provision and delivery of MHTR services and supervision.

The guidance reflects the changes to responsibility for probation services in England and Wales from 2014 resulting from the Government's Transforming Rehabilitation reforms and the Offender Rehabilitation Act 2014. Information on who to contact for further information is also included.

[1] See www.justice.gov.uk/downloads/about/noms/work-with-partners/supporting-community-order-treatment-requirements.pdf
[2] Source: MoJ, Offender Management Caseload Statistics, January-March 2013
[3] See for example www.gov.uk/government/uploads/system/uploads/attachment_data/file/298297/cmo-report-2012.pdf chapter 3 Health and Justice

Introduction

Community Orders were introduced as a sentencing option in April 2005, as one of the provisions of the Criminal Justice Act 2003. These replaced the earlier community sentence for adult offenders.

The Act provides for thirteen possible requirements to be made part of a Community Order or Suspended Sentence Order. The Mental Health Treatment Requirement (MHTR) is one of three treatment based requirements along with the Drug Rehabilitation Requirement (DRR) and Alcohol Treatment Requirement (ATR).

The numbers of MHTRs made during recent years has ranged from 1,100 in 2009 to fewer than 800 in 2012/13, against a total average number of community and suspended sentence orders in excess of 183,000 during that year. This means the MHTR represents less than 1% of all Community Order and Suspended Sentence Orders made, whilst levels of mental health problems among offenders are known to be much higher, for example one study of offenders on the probation caseload found:

49% of probationers had a previous psychiatric diagnosis and 19% had multiple diagnoses. A mental health need was identified in 92% and 71% had a history of substance misuse[4]

The purpose of this document is to provide guidance around the use of the MHTR for those working both in mental health and criminal justice agencies against a backdrop of the impacts of changes to justice legislation, health service commissioning and the changes to delivery of offender management services which flow from the Government's Transforming Rehabilitation reforms.

On June 1 2014 Probation Trusts in England and Wales were replaced by the National Probation Service (NPS) and 21 Community Rehabilitation Companies (CRC), with one CRC covering the whole of Wales. The NPS will be responsible for all court work, risk assessments and supervising high risk and public protection cases. The CRCs will be responsible for the management of low to medium risk offenders including planning and providing through the gate services for all offenders serving more than one day in prison. For the purpose of this guidance the term probation services applies to services carried out by both the NPS and CRCs.

The guidance aims to support practical mental health service delivery and support to offenders in the community. It has been jointly developed by NOMS, the Ministry of Justice, Department of Health, NHS England and Public Health England and sets out arrangements for commissioning,

[4] Cohen et al (1999) *Working in partnership with probation: the first 2 years of a mental health worker scheme in a probation service in Wandsworth* Psychiatric Bulletin 23:405-408

funding, joint working and staff training responsibilities as well as clarifying the suggested roles and contributions of the agencies involved.

Helen – Milton Keynes MHTR Demonstrator Project

Helen was arrested on a charge of assault. At court she was assessed under "the arrest referral scheme" in Milton Keynes. A needs assessment was completed prior to the Magistrates Court hearing, and identified that Helen had feelings of low mood, anxiety and difficulty coping with previous trauma. Helen was found guilty of assault and with consent was assessed and deemed suitable for an MHTR, a letter signed by the clinician was given to the court duty officer who included this information as part of the overall report to the Magistrates Court prior to sentencing. With Helen's agreement the report recommended that she was to be given a 12 month supervision order with an MHTR order of six to 12 treatment sessions.

The order was granted and Helen engaged with the psychosocial interventions programme within the MHTR pathway immediately.

Helen had significant issues during her childhood that had never been addressed. Symptoms included; feeling anxious, overwhelmed and self-harm behaviours, excessive alcohol use leading to poor anger management. She was also poorly integrated socially and was mistrustful of support agencies.

Helen engaged well in her therapy sessions, dealing with the issues currently facing her. She has given examples of how she can manage similar future situations, thereby demonstrating learning as a result of the MHTR. In commenting on the treatment content, Helen said 'I have never had [goal setting] explained so that I understand how to use it in my daily life'.

P3 commented "Helen was identified to us prior to court, so that we could conduct an assessment promptly, and the strong communication between all agencies ensured that the most suitable proposal and treatment plan was identified for her".

St Andrew's commented that "being located in the probation offices which are connected to the court hugely improves communication and the speed with which suitability for MHTR can be assessed. The service meets an obvious need, with many offenders presenting with mental health difficulties, and the uptake so far has been positive".

The Mental Health Treatment Requirement Demonstrator site was launched in April 2014 by the Thames Valley Probation Service in Milton Keynes in partnership with P3, a charity specialising in court link work, and the mental health charity, St Andrew's.

Legal Framework

The MHTR was introduced as a sentencing option in April 2005, as one of the provisions of the Criminal Justice Act 2003. The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 made changes to the administration of the MHTR by amending provisions linked to the Criminal Justice Act 2003 and the Mental Health Act 1983.

The LASPO Act sought to make it easier for courts to use the MHTR as part of a Community Order or suspended sentence order by simplifying the assessment process and ensuring that those who require community based treatment receive it as early as possible. The Act removed the requirement in the Criminal Justice Act 2003 that evidence of an offender's need for mental health treatment is given to a court by a Section 12 registered medical practitioner.

This change means that the courts may seek views and assessments from a broader range of suitably trained mental health professionals. The intention is to ensure that courts receive appropriate advice and individuals' mental health assessments more quickly, thus reducing the avoidable financial and time costs of using the MHTR as part of a suspended sentence or community sentence.

The Offender Rehabilitation Act 2014 made changes to how probation services are delivered. From June 2014, Probation Trusts were replaced with a new National Probation Service (NPS), and 21 Community Rehabilitation Companies (CRC). In the new probation environment, NPS manage court services and high risk cases, while CRCs manage low and medium risk offenders, working in custody and the community.

The NPS are therefore responsible for recommending an MHTR to the courts in advance of the sentencing. If accepted the Offender management of the requirement is carried out by either the NPS or CRC, depending on the risk assessment of the offender.

Challenges Delivering the MHTR

An MHTR may be applied to a Community Order or Suspended Sentence Order in cases where a court is satisfied that a defendant suffers mental health issues which are treatable in the community, and where suitable treatment and support is available to enable the MHTR to be delivered in the community.[5]

Where offenders with mental health issues would otherwise be eligible or benefit from a MHTR however, it can be difficult to gain the agreement of a registered practitioner to access mental health services and offenders may be reluctant to acknowledge that they have mental health problems. Additionally, research has found that some mental health workers were considered to be 'not interested' and 'reluctant to have anybody tied up to an order'.[6]

In 2009, the Sainsbury Centre for Mental Health published 'A Missed Opportunity' which suggested a number of barriers to its effective use.[7] These included a lack of suitable mental health community services in some places; poor processes at the court stage to ensure assessments are readily available to magistrates; unwillingness on the part both of offenders and of psychiatric services; and poor liaison between probation and community mental health treatment providers.

NOMS issued guidance to Probation Trusts in November 2012 on the use of the ATR, DRR and MHTR in light of the changes to legislation including how the three requirements may be used in support of each other. This was updated in 2013 for a wider audience. [8]

It became clear during the development of this guidance that the intended benefits of changes to MHTRs introduced by the LASPO Act 2012 would not be fully realised unless guidance on local delivery, roles, contributions and partnerships between the agencies involved, was issued. This is intended to support and guide professionals with responsibility in this area on how to improve access to, and delivery of, mental health treatment to offenders in the community. Improving use of the MHTR is a key goal in terms of both reducing reoffending rates as well as addressing the poor health outcomes experienced by this group of offenders.

In preparing this guidance, some of the key challenges raised by practitioners in delivering the MHTR included:;

- Lack of supporting guidance on delivering the MHTR
- Access to appropriate mental health services

[5] See www.legislation.gov.uk/ukpga/2003/44/section/207
[6] Mair, G., and Mills, H. (2009) The Community Order and the Suspended Sentence Order Three Years On: The views and experiences of probation officers and offenders, Centre for Crime and Justice Studies: London
[7] A Missed Opportunity: Community Sentences and the Mental Health Treatment Requirement'. Khamon, Samele and Rutherford. Sainsbury Centre for Mental Health 2009.
[8] See www.justice.gov.uk/downloads/about/noms/work-with-partners/supporting-community-order-treatment-requirements.pdf

- Inconsistent engagement locally between the relevant agencies which have contact with offenders
- Delays in processes of assessment and waiting lists for services
- The need to improve understanding of the purpose of, and target group for the MHTR
- The need for continuous engagement between criminal justice agencies and health commissioners and treatment providers on all issues of offender health in community
- The need for greater understanding of issues of offender consent and stigma attached to mental health treatment.

Addressing the key challenges which act as obstacles to MHTR delivery requires proactive action to improve availability of mental health services and increase shared understanding and integrated delivery jointly by criminal justice and health agencies.

AW - West Midlands Probation and Anawim Project

AW was supervised on a Suspended Sentence Order, with an Attendance Requirement, Supervision for a period of 12 months and a Mental Health Treatment Requirement for a period of 12 months. The order was given to AW for an offence of Cruelty/Neglect to a Child, against her young son. The major risk factor identified at the time of the offence was the defendant's diagnosis of Paranoid Schizophrenia. She was experiencing hallucinations and hearing voices, telling her to harm her children.

AW engaged well with her Order and fully completed the requirement to attend the Anawim women's centre. She reported that attending courses and engaging with support at the centre, dramatically improved her confidence and self-esteem and enabled her to develop more effective coping skills in order to manage her problems more effectively. It reduced her isolation, enabled her to socialise with other women with whom she gained support and friendship from and provided her with opportunities to achieve her own goals. AW stated that she was going to continue to be involved with groups within her own community in order to maintain this in the future.

AW engaged fully with the Mental Health Treatment Requirement and attended every appointment offered to her. Her mental health was stable at the point of termination and was no longer having a negative impact on her thinking and behaviour. Through engagement with professionals, AW was able to develop a good insight into how her mental health impacted on her offence and recognised the need to maintain this stability in order to reduce the risk of harm posed to her children in the future. At the end of the order, she undertook a review assessment with the CPN on the Anawim project.

As a direct result of her progress on the Order and ongoing information sharing and liaison between professionals, the four children were able to remain at home with AW and her husband. The children were initially registered on a child protection plan, but this was reduced to a Child In Need plan towards the end of her Order. Due to the MHTR, her CPN was directed to attend these meetings and this improved information sharing between agencies.

Since the completion of the order AW has committed no further offences and due to the level of stability achieved by working with AW and her family, the children have all remained in the family home.

MHTR Integrated Delivery Model

Partnership, Contributions and Responsibilities

Delivery of an effective MHTR requires close multi-agency partnership working as part of an integrated delivery model. Each agency involved should be fully aware of their statutory duties and how their contribution supports combines with other agencies to deliver an effective order.

Annex B sets out the suggested roles of key agencies in supporting delivery of an MHTR. Taken together these are designed to set out an integrated delivery model. The remainder of this section explores the key roles and contributions of different agencies to this model.

Clerks of the Court and Sentencers

Under section 207 of the Criminal Justice Act 2003, a Mental Health Treatment Requirement (MHTR) is available to the courts as a sentencing option for adult offenders for offences committed on or after 4 April 2005.

Before making an MHTR, the court must be satisfied that:

1. The mental condition of the offender requires treatment and may be helped by treatment, but does not warrant making a hospital or guardianship order (within the meaning of the Mental Health Act 1983)

2. Arrangements have been or can be made for the offender to receive treatment as specified in the order

3. The offender agrees to undergo treatment for their mental health condition

The MHTR is intended as a sentencing option for offenders who suffer from a low to medium level mental health problem which is assessed as being treatable in the community. Specifically this means those offenders who do not require secure in-patient treatment and whose offending behaviour may be positively affected by mental health intervention in the community. This will be dependent upon the recommendations of the mental health assessment.

An MHTR cannot be made without the legally required assessment. LASPO 2012 removed the requirement that the mental health assessment is made by a section 12 registered medical practitioner but does not specify who may make the assessment.

A range of suitable mental health professionals are available to the court to provide assessment. It is recommended that in place of the Section 12 medical practitioner that the court agrees to take advice or assessment from a suitably recognised (by the court) or qualified mental health practitioner. This may be for example, a mental health practitioner who is a member of the

Community Mental Health Team, a community psychiatric nurse, a psychologist or forensic psychologist or similarly recognised and qualified mental health practitioner.

Pre-sentence reports may advise courts of alternative suitably qualified mental health practitioners who can undertake the assessment. The final decision is at the discretion of the court however along with responsibility for making the appropriate arrangements for appointing mental health assessors.

The following process checklist for pre-sentence reports (PSR) is recommended to clarify the suitability of a defendant for an MHTR:

- Consent of defendant to assessment and treatment
- Outline of presenting issues and/or symptoms
- Screening tool assessment information
- Treatment Plan, including details of treatment provider
- Identification and availability of appropriate treatment
- Details of Mental Health Assessor and overall medical sign-off/clinical support authority.

In accepting an MHTR the court must be satisfied that any assessment of mental health of the defendant continues to focus on the risk to self or the public, of violence and of reoffending while the activities specified in the MHTR are undertaken.

Treatment may be provided in an independent hospital or care home (within the meaning of the Care Standards Act 2000), a hospital (within the meaning of the Mental Health Act 1983), or as a non-resident patient at a place specified in the order.

The MHTR can be used in relation to any mental health issue including personality disorders. This includes any mental health condition which is susceptible to treatment such as low level depression or anxiety. The type of treatment is not defined and can cover a wide range of interventions. Treatment should be based on the offender being assessed as able to be treated for their mental health problem either in a community setting or as an out patient in a non-secure setting. Options in a community setting could include Community or Forensic Mental Health Teams and GP Practices as well as voluntary organisations.

The use of the MHTR does not preclude the use of other supportive Community Orders such as the Drug Rehabilitation Requirement for example where a defendant has a dual diagnosis.

Sentencers are encouraged to access appropriate training and development to support the enactment of LASPO 2012 and in particular how it affects community sentences, including MHTRs.

Consent

Consensual agreement between the defendant and the court is a condition of the use of an MHTR. This means the consent of the defendant to be treated for their mental health issues.

An issue for obtaining consent for treatment from defendants arises out of stigma. Public acknowledgement of a mental health condition is still perceived to carry social stigma which may hinder the consensual uptake of an MHTR by offenders. To prevent the need for public acknowledgement of mental health problems which may lead to refusal to accept an MHTR, the court may choose to have the details of the MHTR agreed in private prior to the court hearing. The offender manager, health professional and the defendant can agree inclusion of a requirement and the court may then subsequently ratify this agreement without further details being disclosed in open court.

The importance of early intervention with the offender on issues of stigma and consent cannot be overstated. If possible this should be raised in their first contact with the criminal justice system which is likely to be in police custody. In England a Liaison & Diversion service or similar can assess, advise and support the offender to understand how their consent may be given outside of court proceedings and not be publicly declared, thereby avoiding unnecessary exposure of their personal challenges with mental health. The result of this early intervention can inform the proceedings which follow should the case proceed to court.

GP registration provides additional support to offender management and treatment access. The National Probation Service is responsible for preparing pre-sentence reports to ensure in advance that the court is advised on this matter and that CRCs are aware of further support needed to assist an offender gaining access to primary care services.

Enforcement of an MHTR by probation is concerned with breaching the conditions of the order but not the treatment itself. An MHTR is not court ordered treatment it is treatment entered into by an individual and endorsed by the court. Enforced mental health treatment may only be made under an appropriate section order of the Mental Health Act 1983, which should not be confused with the MHTR or other Community Orders.

Mark - St Andrew's

Mark has autism spectrum disorder. He has been using alcohol long term as means of coping causing risk to his physical and mental health. He uses drugs sporadically, mostly smoking cannabis but more recently he had tried heroin for the first time.

Following an initial assessment and screening he was referred to the MHTR pathway. It was clear that Mark needed alternative treatment and support to move him away from offending behaviours. A MHTR was granted alongside a supervision order for 12 months and an Alcohol Treatment Requirement order.

Due to Mark's lack of engagement there was a need to work on his motivation and engagement. There were a number of barriers and basic needs identified which formed part of integrated care package:

- Claiming the right benefits, paying off debts, budget management and buying new clothes helped Mark regain his lost confidence. His self-esteem improved and he was able to spend more time with his family.

- Mark found it difficult to travel and attend city centre locations due to the trauma of previous attacks on him in public spaces. It was important for him to feel safe by using alternative modes of transport and being accompanied on initial meetings with his GP for example.

- Mark had not previously received support for his autism. He was encouraged to get in touch with a social worker specialising in care for autism. The social worker commented positively about Mark's attendance and outcomes.

Mark was diagnosed with Asperger's syndrome, experienced a low mood and anxiety every day, and that he self-medicates with alcohol and self harms as a means of coping. He displayed signs of paranoia, was anxious and associates his low moods with thoughts that everything had gone wrong in life.

As part of the MHTR Mark attended emotion regulation sessions and relates the content to his own experiences and emotions. At the beginning of the therapy, Mark expressed a desire to know more about how his Asperger's affects him and how he could cope. Future sessions will introduce coping strategies to Mark in place of substances or self-harm and explore lifestyle changes.

St Andrew's said "Mark's overall anxiety and depression has improved which has aided his confidence and overall ability to deal with problems on a daily basis".

P3 was delighted with Mark's progress and said "Mark has been known to us for a long time and his attendance with probation historically has been very poor. We were able to assist with this as part of Mark's overall case support and it has dramatically improved his attendance thus avoiding any breach action which would have resulted in further appearances at court".

Health Agencies

Responsibility for commissioning mental health services for the general population **in England** (including offenders in the community) transferred on April 1 2013 from Primary Care Trusts (PCTs) to Clinical Commissioning Groups (CCG). Responsibility for Health **in Wales** is a devolved to the Welsh Government. Health commissioners should seek to ensure that offender mental health treatment is explicitly detailed in contracts.

Mental health services which support the treatment element of MHTRs are not specifically commissioned for offenders. Instead, offenders are intended to access the same mental health treatment services commissioned for the general population.

The NHS Mandate[9], for England, states that "The NHS Commissioning Board's **objective** is to make partnership a success" and that "The NHS and its public sector partners need to work together to help one another to achieve their objectives". The Mandate specifically identifies prisons, the police and criminal justice agencies as key partners.

In Wales, delivery of the MHTR will need to be agreed between the Local Health Board and probation services to achieve integrated service delivery to support the court order. The role of community based mental health teams will be critical in ensuring that arrangements are in place for the MHTR to be used as a viable community sentence. The nature and type of services required varies and will need to be set out in relation to each case.

The NHS therefore has a vital role to play in the commissioning of services and the delivery of MHTRs and health agencies are encouraged to put in place arrangements so that:

- Clinical Commissioning Groups (CCG) and Local Health Boards in Wales work to support the Court Service by providing timely assessments of offenders who may be mentally ill, by making available NHS staff who have received the appropriate training as outlined in the Mental Health Assessment section of this guidance. CCGs should also seek to ensure that appropriate community mental health services are commissioned locally and are accessible to the entire population including offenders

- Community Mental Health teams work in partnership with providers of probation services as well as mental health service providers, to align the provision of mental health services and management in the community of those people who are subject to an MHTR

- Clinical Commissioning Groups (CCGs) and Local Health Boards in Wales should work to ensure that GP registration is promoted with offenders in the community and that GP practices provide such mental health treatment, dependent on local provision, as may be specified in an MHTR and available at a given GP Practice. Health commissioners should seek to ensure that offenders are not excluded from accessing services and ideally ensure offender mental health treatment is explicitly detailed in contracts

- Public Health England/Wales has a key role in disseminating the evidence base to inform commissioning and delivery of services, while local Directors of Public Health play an

[9] The Mandate: A mandate from the Government to the NHS Commissioning Board" http://mandate.dh.gov.uk/

integral part in local commissioning (in England through their statutory role in Health & Wellbeing Boards).

In England, Health and Wellbeing Boards (HWB) are central to partnership working between Local Authorities, Clinical Commissioning Groups (CCG) and local partners including Police and Crime Commissioners, local providers of probation services, and prisons. HWBs should have a thorough understanding of local needs, including the cost of offending to health services as well as the needs of mentally ill offenders in their locality and must ensure that these are taken into account in Joint Strategic Needs Assessments[10], Joint Health and Wellbeing Strategies and the mental health services which are commissioned as a result of these documents.

Local health and criminal justice agencies are encouraged to continuously engage with each other in order to develop the partnership working arrangements necessary to ensure that services fully considers the needs of local populations including offenders.

Criminal justice agencies should seek to engage with local health commissioning arrangements to ensure access to mental health services which support the MHTR being made available to courts as a viable community sentence option.

CCGs and Local Health Boards are encouraged to engage with local criminal justice agencies to ensure their commissioning activities and service design facilitate treatment access by offenders to enable the courts to consider an MHTR.

Mental health service providers may come from a range of settings, including Community Mental Health Teams, Mental Health Trusts, GP Practices and the voluntary sector.

Public Health England and Wales should be aware of the requirements of the MHTR and support local agencies to share and apply best practice.

Providers of Probation Services

Probation supervision of offenders subject to a MHTR may be delivered by either the National Probation Service (NPS) or Community Rehabilitation Company (CRC). The NPS are responsible for the pre-sentence report process which recommends an MHTR for all offenders irrespective of who then supervises the order.

Probation providers must ensure that the proposed MHTR meets the treatment needs of the individual offender and sentencing requirements of the court. Care must be taken to ensure that there is sufficient time for an individual to engage in effective treatment and that provision can be successfully delivered within that time.

[10] For guidance on Joint Strategic Needs Assessments, see http://JSNA.dh.gov.uk

In Wales, consideration should be given to the preparation of a collective 'memorandum of understanding' between probation services in Wales and each of the Local Health Boards which set out the requirements and expectations on each party in relation to the delivery of MHTR.

Probation providers should ensure that the role of the probation is understood by the mental health treatment provider to ensure that the requirement is delivered and that breaches of the conditions specified in the order are properly managed. The probation provider's role includes, for example:

- Supervising the offender's attendance at the specified treatment activity appointments
- responding appropriately to the offenders' failure to comply with the terms of the MHTR
- managing breach or recall to court activity
- maintaining day-to-day communication with mental health treatment providers.

Offender management staff are reminded that the MHTR is intended as a supportive Community Order - it seeks to support an offender with their mental health issues in order to improve their prospects of reducing reoffending. As such, management of breach is at the discretion of the officer of probation. The officer must therefore have an established relationship with the treatment provider so as to inform decisions about breach or other interventions to support the offender whilst under the MHTR.

Staff working with offenders are guided to develop comprehensive knowledge of local mental health treatment options so as to recommend the appropriate source of mental health assessments as well as mental health treatment options. These should include GP based mental health treatment, community mental health treatment as well as forensic mental health options. Access to local mental health treatment schemes such as those under Improving Access to Psychological Therapies schemes (IAPTS) should also be considered. Similarly, consideration should be given to the more holistic needs of the offender (housing, employment, training, etc). It may be most appropriate to combine a mental health treatment requirement with the support of other care provider agencies.

CRC and NPS staff should seek to ensure that changes to health and justice service delivery are well understood by local partners. It is vital that both the NPS and CRCs seek to influence the availability and accessibility of suitable treatment to meet offender need through their contributions to local commissioning plans and processes. Both organisations should ensure that appropriate information is gathered on the health needs of the offenders they are responsible for supervising to support this process.

In addition, probation providers have a key role to promote the treatment needs of offenders with mental health problems to local commissioners, outlining the importance of the availability of suitable mainstream mental health treatment to enable the courts to be able to use MHTRs in line with demand. This will require that probation providers establish and maintain close working

partnerships with local commissioners and providers of health and mental health services and full engagement with the processes and fora which facilitate delivery of these services.

Any provider of probation services who has concerns about the mental health of anyone on their caseload not subject to a treatment requirement or subsequent to the commencement of an order should advise/support the individual to make an appointment with their registered GP who can make a referral to appropriate mental health treatment specialists.

The details of how a MHTR is expected to function, including who is responsible for specific parts of service delivery, is set out in the Support Delivery of Mental Health Treatment Requirement service specification.[11]

Mental Health Assessments

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 made changes to the mental health assessment process, specifically removing the requirement for assessments to be made exclusively by Mental Health Act (1983) Section 12 medical practitioners. Assessment may now be provided by any appropriately and locally agreed mental health qualified personnel.

Emphasis should be placed on continuous engagement between mental health treatment providers, health service commissioners and providers of probation to ensure that appropriate mental health assessments and treatment services are integrated around the delivery of treatment to support offenders on Community Orders requiring mental health treatment. In summary:

- Locally approved mental health professionals should be recognised by officers of probation and sentencers as demonstrating sufficient skill, training and competence to provide a mental health assessment of offenders for use by courts in sentencing
- Officers of Probation Providers (NPS), in completing pre-sentence reports should recommend local known mental health professions to courts who are suitably qualified to provide the mental health assessment appropriate for the needs of the MHTR
- The range of suitably qualified professionals recognised as MH assessors should mitigate the time and cost pressures previously experienced in securing mental health assessments for sentencing.

[11] See www.gov.uk/government/collections/noms-directory-of-service-specifications

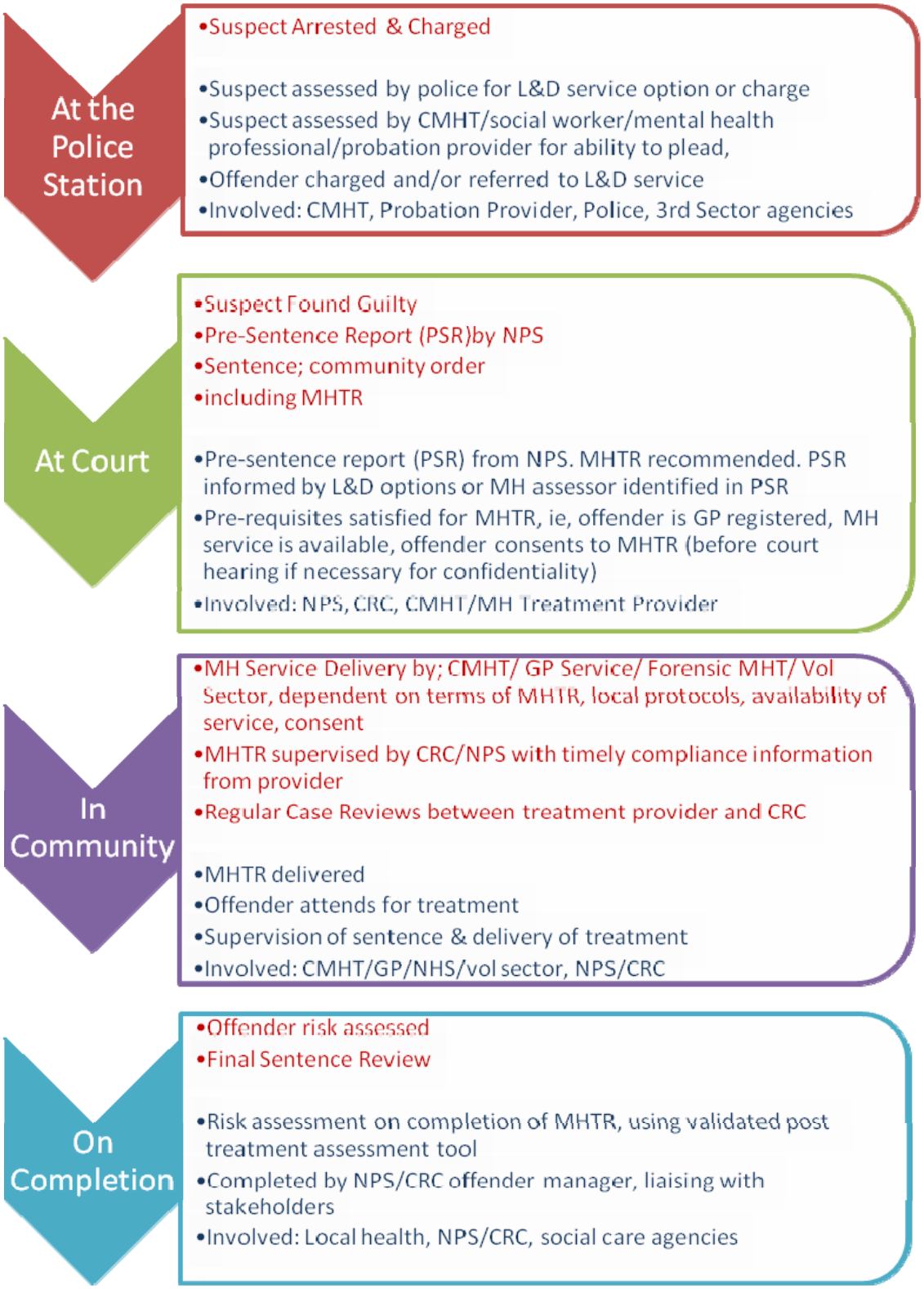
Further Information

For more information about this guidance or the integrated delivery of Mental Health Treatment Requirements, please contact:

Ken Elliot
Senior Co-commissioning Manager - Community
Health and Wellbeing Co-commissioning
Directorate of Commissioning and Commercial
National Offender Management Service
3rd Floor
Clive House
70 Petty France
London
SW1H 9EX

Email: health.co-commissioning@noms.gsi.gov.uk

Mental Health Treatment Requirement (MHTR) Pathway



Arrest

The suspect is arrested and charged at the police station. This is the beginning stage of the offender journey. Depending on the offence, the offender may be offered the option of referral to a Liaison & Diversion service instead of proceeding to court.

Pre-Sentence Report (PSR)

A PSR is completed by the National Probation Service (NPS) before a case comes to court. This report refers to information gathered by the NPS on the offender which will indicate the suitability of the MHTR for the offender as well as whether or not the eligibility criteria for the MHTR are met. This includes registration with a GP, offender consent and availability of appropriate mental health treatment service. The PSR also indicates to the court, the suitable team or individual available to complete the MH Assessment for the court.

Mental Health Assessment

A mental health assessment is a pre-requisite of the MHTR being used as a Community Order. Since the introduction of LASPO 2012, this assessment may be provided by any suitably qualified mental health professional agreed by the court. This may be any suitably trained mental health professional working either for the CRC, local health or social care agency. For example, the assessor may be a suitably qualified approved social worker or community psychiatric nurse, with experience of working with offenders. The court is free to decide on the suitability of the assessing professional.

Mental Health Service Provision and Delivery

The MHTR is intended as a community sentence where it is felt that mental health intervention will support the offender to maintain and achieve reduced risk of reoffending, whether directly or indirectly.

The MHTR is intended for offenders suffering low to medium mental health issues. As such the mental health services required are provided through ordinary community mental health service provision. Offenders in community are entitled to access and avail of these services in the same way as the general population.

The mental health services required to enable the MHTR to be delivered come from the local mental health service agencies commissioned in England by the local Clinical Commissioning Group (CCG). In England, the need for these services is specified in the local Joint Strategic Needs Assessment (JSNA), which Health and Wellbeing Boards (HWB) are required to produce to inform local health service commissioning by the CCG, Local Authority and NHS England. .

Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS)

Comprehensive guidance on this process is available at:
http://webarchive.nationalarchives.gov.uk/20130805112926/http:/healthandcare.dh.gov.uk/jsnas-jhwss-guidance-published/

In ensuring that the MHTR is available to the courts, it is vital that the NPS and CRC are properly linked to the HWB and its processes. As providers of probation services are not a statutory member of the HWB they will need to influence local commissioning through links with local partners and partnership arrangements such as the Community Safety Partnership, local Healthwatch or the Director of Public Health (DPH). Both Healthwatch and Directors of Public Health are statutory members of the HWB and have a remit to ensure that the needs of all service users are represented at the HWB.

Offender Consent

The MHTR may only be used where the offender gives consent to participate in treatment. Therefore, probation and mental health service providers must ensure they work together in such a way as to provide the relevant supervision and treatment options, supporting the offender and each other in the process.

This will include; good working partnerships between local GPs, NPS/CRC, DPH, Community Mental Health Teams (CMHT), Healthwatch and the agencies and fora which influence health service commissioning.

Local protocols should be agreed to ensure appropriate risk management of offenders and clarity of agreed roles and responsibilities of the health and criminal justice contributors in delivering the elements of the MHTR.

Offender Management

Probation providers are responsible for delivering offender management aspect of the MHTR on behalf of the court. The CMHT or mental health delivery agency is responsible for delivering the mental health treatment component of the MHTR. This will require that inter agency protocols are agreed which specify the responsibilities and actions taken in cases where for example an offender is non-compliant with treatment or absent.

Offender Health Needs Assessment (OHNA)

An OHNA is an important and useful means of ensuring that the overall picture of health needs is clarified and provided locally to the CCG as the health commissioning body.

This may be carried out in partnership locally by the CRC and Director of Public health with the support of Healthwatch or local authority. Ideally it forms part of the overall JSNA process.

However, it is an important responsibility of Directors of Public health, Healthwatch and HWBs to ensure that the JSNA process appropriately takes account of the needs of the local offender population as members of the community.

In support of an MHTR, this will enable the HWB and CCG to commission the CMHT or local mental health delivery agencies to provide the services needed to deliver the mental health service components of these Community Orders.

Annex B

Roles of the Key Agencies in Supporting MHTRs

NOMS Co-commissioning	National Probation Service (NPS)	Community Rehabilitation Company (CRC)	England; Clinical Commissioning Groups Wales: NOMS Director & Local Health Boards	Mental Health Service Provider
• Setting the specification for the offender management of MHTRs • Producing multi-agency guidance in the use of requirements • Commissioning the offender management element of MHTRs from NPS and CRCs • Seeking assurance around quality and delivery	• Understanding current treatment provision in the local area • Arranging placement for treatment with a treatment provider prior to completing the PSR • Providing advice to the Court through PSR of eligibility and appropriateness of MHTR including arranging appropriate mental health input • Assessing risk level of offender for case allocation • Funding and delivering offender management of MHTR for high risk cases • Exchanging information with treatment providers • Considering breach for failure to comply with MHTR • Contributing information about the treatment needs of offenders to Clinical Commissioning Groups	• Funding and delivering offender management of MHTRs for medium and low risk cases • Referring issues of risk or non-compliance to NPS for breach proceedings • Providing information about current provision and barriers to effective delivery to NPS to inform future service commissioning	• Commissioning of mental health services to meet the needs of the local population including offenders • Providing guidance on effective practice • Seeking assurance around quality and delivery • Understanding the mental health service needs of the entire local population including offenders • Promoting mental health services which have been commissioned to local partners including NPS and CRCs	• Promoting local services available with partners including NPS and CRCs • Providing an assessment to NPS on an offender's suitability for an MHTR • Agreeing placements for offenders on MHTR with NPS as part of a PSR • Delivering the treatment elements of MHTRs • Exchanging case information with the CRC/NPS

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Health, Wellbeing & Substance Misuse Co-commissioning Team - NOMS

National Offender Management Service (NOMS)
Clive House
70 Petty France
London
SW1H 9EX