Ministry of JUSTICE

# Good practice guidance: commissioning, administering and producing psychiatric reports for sentencing

## Prepared for:
## Her Majesty's Court Service

**Prepared by: Rosie McLeod, Anna Sweeting, Lucy Joyce, Roger Evans and Claire Barkley, BMRB Social Part of BMRB Limited (British Market Research Bureau) BMRB/RM/4510-8615**

September 2010

HER MAJESTY'S COURTS SERVICE hmcs

# Improving the structure and content of psychiatric reports for sentencing

## Research to develop good practice guidance

**Rosie McLeod, Anna Sweeting, TNS-BMRB**
**and Roger Evans, Liverpool John Moores University**

**This information is also available on the Ministry of Justice website:**
**www.justice.gov.uk/publications/research.htm**

*Analytical Services exists to improve policy making, decision taking and practice by the Ministry of Justice. It does this by providing robust, timely and relevant data and advice drawn from research and analysis undertaken by the department's analysts and by the wider research community.*

## Disclaimer

The views expressed are those of the authors and are not necessarily shared by the Ministry of Justice (nor do they represent Government policy).


First Published 2010
ISBN: 978-1-84099-402-5

# Contents

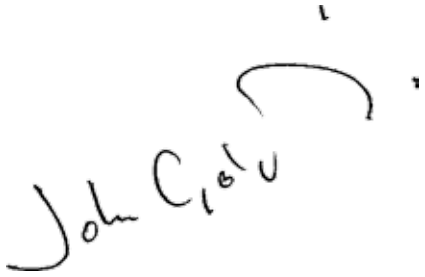
# Foreword

We are very pleased to introduce this good practice guide, which we hope you will find helpful when dealing with requests for court psychiatric reports.

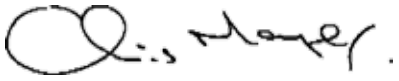
The guide is designed to promote the wealth of identified good practice from magistrates, judiciary, court staff, psychiatrists and the health sector across England and Wales.

It aims to provide practical advice on the commissioning, administration and production of court psychiatric reports.

We are grateful to the many people who have contributed towards the publication of this guide, particularly to members of the steering group and to those key stakeholders who provided valuable material at a series of focus groups held in autumn 2009.



**Lord Justice Goldring**
Senior Presiding Judge
for England and Wales



**Chris Mayer CBE**
Chief Executive,
Her Majesty's Court Service

# Introduction

This document provides good practice guidance for the commissioning, administration and production of psychiatric reports for sentencing in criminal courts. The guidance is designed to help psychiatrists, the judiciary and court staff. It is not intended to be prescriptive but to enable practitioners to reflect critically on their practice to ensure that it is of the highest quality.

The guidance was produced following consultation about views on current and 'ideal' best practice. It forms part of a programme of work by Her Majesty's Courts Service aimed at improving provision for mentally disordered offenders within the Criminal Justice System. This programme includes the development of mental health liaison court services and service level agreements with National Health Service (NHS) Trusts for the provision of psychiatric reports.

## How to use the guidance:

The guidance is divided into three main sections. Practitioners can refer directly to the section relevant to their own work.

1. **Commissioning** – Ordering reports.

2. **Administration** – for court staff in producing letters of instruction.

3. **Production** – for psychiatrists in the preparation of reports.

These sections provide an outline of the process, and a description of tasks undertaken as best practice. In the appendices of the guidance, pro formas are provided which give a suggested structure to the documents which practitioners use in their roles. These are designed to be applied directly in practice, or used as a reference point. They are intended to assist the smooth working of the courts, and to enable production of reports of the highest quality.

# 1 Commissioning

## 1.1 Introduction

Reports may be commissioned by the magistrates' courts and the Crown Court through Her Majesty's Courts Service when a defendant is considered possibly to have a mental disorder and an expert medical opinion is necessary to assist sentencing. The purpose of such a report is to provide professional evidence to inform the magistrate or judge on how to balance the need for mentally disordered offenders to receive specialist mental treatment with an appropriate disposal proportionate to the nature and severity of their offence(s). These procedures do not apply to family courts.

## 1.2 Background to psychiatric reports for sentencing

The court sentences: a psychiatrist can provide advice. A psychiatric report may help the sentencer to consider how effective different sentencing options may be in terms of the treatment of the mentally disordered offender, and the management of any risk to the public. Sentencers will look to the psychiatric report to inform them whether the defendant is mentally disordered for the purposes of the Mental Health Act 1983.[1]

### Risk assessments

A central function of forensic psychiatry is assessing risk in general, and risk to other people, whereas, generally speaking, the emphasis of a general psychiatrist's work is in assessing risk to the individual.

A psychiatrist can assess the mental health needs of an offender and advise on risk management which may assist the courts in sentencing. For example, in relation to an indeterminate sentence with Imprisonment for Public Protection (IPP), a psychiatrist can advise the courts on risk factors associated with significant harm to the public, but ultimate sentencing discretion lies with the court.

### Limitations of risk assessments

Based on a meeting with the offender, a psychiatric risk assessment tends to provide a short-term assessment of risk, and it is very difficult to predict further into the future. Past offences are considered to be the best predictor of future reoffending, so it is essential that the psychiatrist has access to the offender's criminal records.

As a personal choice, certain psychiatrists use structured risk assessment tools when assessing the offender, but this will not affect the strength of their opinion, which remains subjective. This is because risk assessment tools only have predictive power when applied

1 One caveat to the single definition of mental disorder is introduced by Section 1 (2A) of the 1983 Act. This provides that people who are learning-disabled are not mentally disordered for purposes of most provisions of the Act by reason of that disability alone unless it is associated with abnormally aggressive or seriously irresponsible behaviour.

to groups, and not individuals. Although statistical information may describe and predict group activity, it cannot tell us which individual member of a group will do what, and so it cannot be used as a predictor for individual circumstances.

### Treatment

Whilst the primary emphasis of medical practitioners is on their duty of care to the patient, in writing a court report, this is not the only priority; the risk to the public and the duty to the court are also central to the assessment and medical recommendations made for the offender. Forensic psychiatrists are trained with a more explicit duty to protect the public.

By examining the patient's psychiatric history and assessing his/her current mental state, a psychiatrist can advise the courts whether the mental health of the person affected their behaviour with regard to the index offence. In cases of a severe mental disorder, it could be advised that hospital is more appropriate than imprisonment, or that treatment in the community should be a requirement of a community order.

The psychiatrist must be explicit as to how treatment will make a difference, and what the exit service as well as the entry point into hospital would be. This is important for the court to understand the circumstances in which the offender would be discharged.

## 1.3 Determining whether a report is required

This is a matter for the judiciary to decide. However several other practitioners and information sources can assist the Bench and Judiciary in deciding if a full report should be ordered. For example criminal justice mental health teams or the pre sentence report could be used.

### Criminal justice mental health services

Where an offender already has an established diagnosis, a criminal justice mental health service may be able to advise the court what services may be available, and will be essential for practical arrangements and responses to relevant problems. Section 12 approved mental health practitioners can give evidence in court. A forensic psychiatrist can be a point of reference or will signpost to the appropriate party.

### Use of the pre-sentence report

In writing a pre-sentence report (PSR), probation officers may identify the need for a medical opinion, and suggest to the court that a psychiatric report may be necessary. A PSR itself can provide an assessment of risk to the public and staff as well as an assessment of risk of self-harm. The probation officer may be able to make referrals to resources including community mental health services. This assessment applies different criteria for risk to those of psychiatry, and will not substitute a psychiatric opinion. The reports can be complementary in assisting sentencing and may be all that is required for certain mental disorders. However, a PSR may be quite brief, and the value of the PSR as a document may depend on the level of co-operation of the offender in producing it.

## 1.4 Sentencing options using psychiatric reports for mentally disordered offenders[2]

The courts have powers to:

- inform their sentencing decision by remanding in hospital for a medical report or treatment, or making an interim hospital order;
- order detention for treatment in hospital in lieu of prison; or
- combine hospital treatment with a prison sentence, by making a hospital direction.

Further details on the discretionary powers of the judiciary can be found in Appendix 5: Overview of sentencing options.

### Custodial sentences

Section 157 of the Criminal Justice Act 2003 requires the court to obtain and consider a medical report before passing any custodial sentence on a person who is, or appears to be, 'mentally disordered'. The report must be made by a registered medical practitioner who is approved for the purposes of Section 12 of the Mental Health Act 1983. It also requires the court to consider any other information on the offender's mental disorder, and the likely effect of a custodial sentence on that disorder and on any possible treatment for it.

### Disposals under Part III of the Mental Health Act 1983

To detain any person under the Act for treatment, the decision maker must be satisfied that medical treatment is available to that person, which is not only clinically appropriate to his/her condition but also to his/her personal circumstances. To make a psychiatric disposal with a hospital order, the court must have evidence from two medical practitioners, one of whom is Section 12 approved, including confirmation that a hospital bed and a package of care appropriate to that individual is available.

### Remand powers

**Section 35 remand for a report:** The Crown Court may remand an accused person to hospital for a report on his/her medical condition, if he/she is charged with, but not yet sentenced for, an offence punishable with imprisonment, except where the penalty is fixed by law. The power is similarly available to magistrates for a defendant convicted of an offence punishable on summary conviction with imprisonment, or who has been charged with such an offence if the court is satisfied that he/she did the act or made the omission charged or who consents to the order. This requires a single medical opinion from a medical practitioner, approved under Section 12 of the 1983 Act, that the defendant is 'mentally disordered' and that it would be impracticable for such a report to be made if he/she were remanded on bail.

2 For further guidance, see the Ministry of Justice's Guidance for the court on remand and sentencing powers for mentally disordered offenders: http://www.mentalhealthunit.com/Resources/mha%202007%20court%20guidance%20may.doc

The approved clinician who would be responsible for making the report or some other person representing the managers of the hospital must provide evidence that arrangements have been made for his/her admission to that hospital within seven days. The maximum duration of the remand is for 12 weeks, with renewal required by the court every 28 days. Renewal can be ordered without the defendant being produced in court, if he/she is represented by counsel or a solicitor with rights of audience.

**Section 36 remand for treatment:** The Crown Court may remand an accused person to detention in hospital for treatment, if satisfied on the written or oral evidence of two medical practitioners that he/she is suffering from a mental disorder of a nature or degree which makes it appropriate for him/her to be detained in hospital for medical treatment, and appropriate medical treatment is available. One of the medical practitioners must be approved under Section 12 of the Mental Health Act 1983, the approved clinician being treated as so approved. The duration of remand for treatment is a maximum of 12 weeks, as Section 35 above, with the same conditions for renewal attached.

**Section 38 interim hospital order:** If the court is unsure whether a hospital order is the appropriate disposal, they may make an interim hospital order under Section 38 of the Act for assessment and compulsory treatment. The initial order may not exceed 12 weeks, but is renewable by the court for periods of up to 28 days at time, up to the maximum of twelve months. This requires two medical reports as above, and evidence of arrangements for the offender's admission into hospital within 28 days, as above.

**Section 37 hospital order:** The hospital order is an alternative to a prison sentence, including sentences for public protection under Part 12 of the Criminal Justice Act 2003. It diverts the mentally disordered offender from punishment in the criminal justice system to care and treatment at the discretion of mental health professionals. Section 37(2) (b) provides that the court has to be of the opinion that the hospital order is 'the most suitable method of disposing of the case'. This requires written evidence from two registered medical practitioners, one of whom is approved under Section 12 of the Mental Health Act 1983, that the offender is suffering from mental disorder of a nature or degree which makes it appropriate for him/her to be detained in hospital for treatment and appropriate treatment is available for him/her. The court is further required to be satisfied on the evidence, oral or written, of the approved clinician or hospital manager with overall responsibility for the offender's case that arrangements are in place for admission to hospital within 28 days of the order, pending which the offender may be admitted to a place of safety. It is not an alternative to a life sentence, where this is fixed by law. These disposals are time-limited in the first instance to six months, but can be renewed.

**Section 41 restriction orders:** The Crown Court may add a restriction order to a hospital order where it considers 'having regard to the nature of the offence, the antecedents of the

offender, and the risk of his committing further offences if set at large, that it is necessary for the protection of the public from serious harm to do so'. If, following conviction, the magistrates' court is satisfied that the conditions for making a hospital order under Section 37 are satisfied and that there is a risk of further offending so that, if a hospital order were made, a restriction order should also be made, the case may be committed to the Crown Court under Section 43. The Crown Court may then either make a hospital order with or without a restriction order or deal with the case in any manner in which the magistrates' court could have done. If the magistrates' court considers that unless a hospital order with a restriction order were made, the powers of punishment should be greater than it could impose, it may commit the defendant for sentence under Section 3 of the Powers of Criminal Courts (Sentencing) Act 2000. The effect is to increase the power of imprisonment if the Crown Court does not make a hospital order.

The effect of a restriction order is to convert the hospital order into an indefinite order for detention. It also limits the discretion of the doctor in charge, the responsible clinician, to allow the offender access to the community without the prior consent of the Secretary of State. Discharge of the offender from hospital can only occur with the consent of the Secretary of State for Justice, or by order of the independent First-tier Tribunal (Mental Health). Discharge is also likely to be subject to conditions and to the power of the Secretary of State to recall to hospital in the event of a breach of such conditions or further dangerous behaviour arising from the mental disorder. To make a restriction order, the court must hear oral evidence from one of the doctors providing medical evidence which justifies the hospital order, but the addition of restrictions is at the discretion of the court.

## Prison sentences with hospital direction

**Section 45A hospital direction:** The court can add a hospital direction to a prison sentence for any mentally disordered offender, provided all conditions in section 45A are met. To add a hospital direction, the court should first have considered making a hospital order, and have evidence which would justify a hospital order, but concluded that a prison sentence is necessary. The hospital direction is not available for sentences fixed by law.

**Guardianship orders:** The courts may impose a guardianship order under Section 37. The offender is received into the guardianship of the local social services department or a person (usually a relative) whom the department is willing to accept as a guardian. This imposes an 'authoritative framework' for working with the patient, with compulsory powers to impose care in the community as part of an overall care and treatment plan. It depends upon social services' agreement for taking on arrangements for provision.

## Community orders and suspended sentences

A community order or a suspended sentence of imprisonment must include one or more of the requirements specified in section 177 or section 190 Criminal Justice Act 2003

respectively. This may include a Mental Health Treatment requirement for which the consent of the offender must be obtained. Mental health services may be able to advise the court on the mental health treatment needs of the offender. However, a report by a psychiatrist or chartered psychologist who is approved under Section 12 of the Mental Health Act 1983 is also needed. Treatment may be in the community or as an in-patient and, in the case of the latter, the place may or may not be specified in the order.

Where a Mental Health Treatment Requirement is not appropriate, mental health services may be prepared to provide guidance in writing or give oral evidence in court to provide information on voluntary mental health schemes within the community, and, a supervision or specified activity requirement may be appropriate.

### Diversion sentences

Where the court has decided it is inappropriate to continue proceedings, a civil section may be used to divert the offender to treatment in hospital. These will usually be under Section 2 or Section 3 of the Mental Health Act 1983.

## 1.5 Requesting a report

Court psychiatric reports should be commissioned by the courts. In ordering a report, it is important to ensure that all necessary information is explicitly communicated to the psychiatrist writing the report.

### Requests in the magistrates' court

A pro forma for magistrates' courts' requests for reports can be found in Appendix 1A. This can be filled in by the magistrates with the assistance of a legal advisor, to guide them in determining what is needed from the psychiatric report in order to sentence. The request pro forma can be completed as follows.

- **'Purpose of report'** – a free-form sentence or two on the precise reasons the bench has requested the report.
- **'Sentences under consideration'** – the sentences being considered by the bench. Although the courts should allow psychiatrists to consider all treatment options, it is important for the psychiatrist to be made aware if a custodial sentence is inevitable, and to have some indication of the areas they need to address as a result of this.
- **'Report should address'** – a series of areas with tick boxes which the bench can complete to request specific coverage of, and ensure psychiatrists are explicitly aware of these.
- **'Preferred length'** – this distinguishes between a 'full' and 'summary' report, and provides an indication to psychiatrists of the level of detail the bench is expecting to need for sentencing.

## Requests in the Crown Court

A pro forma for Crown Court judicial requests for reports can be found in Appendix 1B. This can be filled in by the judge, for use by court staff in the production of a letter of instruction. The sections on the pro forma should provide a convenient means of helping guide the commission by court staff, to ensure that psychiatrists get a full and direct communication from the judge as to what is required from the report. A full report should include all the areas covered, but can also prevent provision of unnecessary detail. The request pro forma can be completed as follows.

- 'Purpose of report' – a free-form sentence or two on the precise reasons the judge has requested the report
- 'Report should address' – a series of areas with tick boxes which the judge can complete to request specific coverage of. It is likely that all areas will be required for a full report. This includes 'dangerousness' criterion for IPP consideration, which many psychiatrists do not tend to address unless explicitly requested.
- 'Preferred length' – this distinguishes between a 'full' and 'summary' report, and gives an indication to psychiatrists of the level of detail a judge is expecting to need from the report for sentencing. A full report may be necessary in complex cases, but a summary report may be all that is required in other cases. While the judge cannot know what the report process may uncover, psychiatrists will benefit from this background context, as a judge's preference and expectations should be a steer in determining the type of report produced.

# 2 Court administration of reports

## 2.1 Introduction

This section provides an outline of the administrative tasks for completion by those responsible for administering report commissions. It outlines guidance for:

- determining the appropriate psychiatrist to prepare a report (Section 2.2);
- the provision of a letter of instruction (Section 2.3);
- the administrative tasks to undertake prior to sending the letter of instruction (Section 2.4); and
- the documents for inclusion alongside the letter of instruction (Section 2.5).

## 2.2 Determination of appropriate psychiatrist

It is crucial to the quality and usefulness of the report that the commissioned psychiatrist possesses the appropriate expertise in the areas requested and that he/she is able to provide treatment if the making of a hospital order is under consideration.

### Court liaison with Community Psychiatric Services

Unlike other medical specialities, psychiatry operates in a multi-professional way. Because people work in teams, distribution of power and authority can be spread within the team, so understanding the services is very important for commissioners.

All court areas are able to access Community Mental Health Services. Forensic services concentrate in larger towns and cities, and areas with court assessment and engagement schemes are better served. Commissioners need to know the local service and the level of response which can be expected for report requests. Because local practice is variable, courts need access to contacts within local mental health services. Ideally, services operate within the court buildings and in the police custody suites, and have good links with other mental health teams. The service can be helpful to courts in determining the appropriate local psychiatrist for reports and treatment provision. Where there is no dedicated service, those in the community should be consulted.

The courts should have access to up-to-date contact lists of local community and forensic services or consult a local CPN to assist liaison and determining the appropriate treatment provider.

### Determining the appropriate practitioner for report writing

For specific issues associated with legislation, such as sexual offences and considerations of imprisonment for public protection, a forensic psychiatrist should be commissioned.

For cases in which community sentences are considered, reports should be commissioned from a practitioner from the local area or mental health team where the offender resides, to ensure that there is awareness of services available locally. Psychiatric reports are of limited practical use in treatment planning for sentences, such as a community order with a mental health treatment requirement, if they are obtained from an independent psychiatrist who cannot make a commitment on behalf of local mental health services to provide treatment.

If the offender is female or a young person, risk assessment of these groups may require a different approach. For example, mood instability would be critical in risk management of women, but most available evidence on risk assessments is based on a sample cohort of men. In assessing adolescents, a developmental approach is taken which employs different risk assessment tools, mainly the Structured Assessment of Violent Risk in Youth (SAVRY).

Trainees often produce reports for their more senior psychiatrist, but trainees tend to move on quickly and cannot be the named practitioner. It is important for offender treatment that later practitioners have continued access to the report author and the service is responsible for continuity.

## 2.3 Letters of instruction

A letter of instruction should be sent to the relevant psychiatrist, detailing the case particulars and the requirements of the report. Clear and specific requests within the letter of instruction are vital to the psychiatrist's understanding of the purpose of the report and the reasons for its commission.

A list of all the areas that the report must cover to meet the statutory criteria for sentencing should be clearly indicated in the request, and no questions should be left implicit. This will avoid the need for later clarification or the provision of a report of limited use.

As discussed above, psychiatrists may delegate report writing to trainee registrars. In more complex cases, the commissioner may prefer that the work is undertaken by a more experienced practitioner. If this is the case, it should be stipulated in the letter of instruction. If the commissioner needs to be guided as to the most appropriate practitioner, this should also be stipulated.

See Appendix 2 for a template for letters of instruction for use primarily by the courts. It may be helpful to use a pro forma to ensure coverage of all areas as a matter of procedure. Where a pro forma is not used, a series of specific questions should be given, with the inclusion of all details as provided in the pro forma. Below, the key areas of the pro forma are explained.

- **Details of offender and offence:** the index offence, and all details relevant to the offence should be included following the form provided; this includes the residence of the offender, which is essential to determine his/her local treatment provider. Any details of previous medical history and past offending should be mentioned, with notes provided (see section 2.5).
- **Others involved with the case:** the psychiatrist's liaison with probation and the defence, where they are not the commissioner, is important in ascertaining any details of the case and in making arrangements for interviews and treatment.
- **Report should address:** this section builds upon the report request pro formas provided to the bench and judiciary guiding reports for courts. It provides for all areas which may be necessary to enable the courts to sentence.
- **Preferred length:** a 'summary report' and 'full report', for which the sentencer will have indicated a preference, should guide the psychiatrist to tailor the level of detail in the report to the needs of the court and the specific case.

## 2.4 Administrative tasks to undertake prior to sending the letter of instruction

There are a number of administrative tasks that need to be undertaken prior to sending out the letter of instruction. These are detailed in the box below.

- Consent of the offender to undergo a psychiatric assessment should be sought by the commissioner.
- Agreement of timescales for report delivery should be built into the contract and gained from the psychiatrist prior to confirmation of the commission.
- Access to medical records and arrangements for their delivery to the commissioned psychiatrist should be made. Sending a cheque to the GP alongside the request for photocopied notes speeds this process (only to be provided by the defence commissioner).

## 2.5 Documents for inclusion with the letter of instruction

The following documents should be included alongside the letter of instruction at the point of report commission.

- Case summary/prosecution papers.
- Witness statements.
- Authorisation of access to medical records: general practitioner (GP) and psychiatric records (undertaken by the defence counsel).
- Any other practitioner reports:
  - probation pre-sentence report if produced;
  - any reports used in proceedings.

# 3 Producing reports

## 3.1 Introduction

This section begins by providing a brief overview of the court system and sentencing options, and goes on to provide good practice guidance for psychiatrists on:

- the administrative tasks that need to be undertaken (Section 3.4);
- writing a psychiatric report for sentencing (Section 3.5);
- report content and format (Section 3.6);
- reporting to courts following report submission (Section 3.7); and
- appearing in court to give oral evidence (Section 3.8).

## 3.2 Overview of criminal offences and the court system

Criminal offences are divided into three main categories.

1. **Summary offences** – these are the least serious offences and are tried in the magistrates' court, e.g. driving offences, drunk and disorderly, common assault and criminal damage which has caused less than £5,000 worth of damage.

2. **Triable either way offences** – a middle range, including a wide variety of crimes, e.g. theft, assault occasioning actual bodily harm. These can be tried in either the magistrates' court or The Crown Court, and the offender may be committed to The Crown Court for sentencing if a more severe sentence is thought necessary.

3. **Indictable offences** – these are the more serious crimes and include murder, manslaughter and rape. All indictable offences must be tried at The Crown Court, but the first hearing is dealt with at the magistrates' court. The magistrate will decide if the offender should be given bail. The case is then transferred to The Crown Court.

All criminal cases will first go to the magistrates' court where they are usually heard by a bench of three magistrates assisted by a legal advisor. In addition, about 130 district judges (in magistrates' courts) sit alone. Magistrates cannot normally order sentences of imprisonment that exceed six months (or 12 months for consecutive sentences). About 95% of cases are completed there. The Crown Court will also hear appeals against decisions of magistrates' courts, and deals with cases committed for sentence from magistrates' courts.

## 3.3 Background to sentencing options

See pages ten and eleven and Table 1 in Appendix 5 for courts' remand and sentencing powers for mentally disordered offenders. For guidance to the courts on their powers following implementation of the Mental Health Act 2007, see the Ministry of Justice guidance.[3]

The courts may impose a custodial sentence if a psychiatric report indicates that treatment would not be appropriate.

**Determinate prison sentences:** where significant harm has been caused by the offence and the court believes that an element of punishment is necessary, it will pass a prison sentence. If it does not conclude that the offender is sufficiently dangerous to require an indeterminate sentence or life sentence, and if it does not have the evidence necessary to make a hospital order, then it may make a sentence for a fixed period (a determinate sentence). The essence of the determinate sentence is that the offender will be entitled to release after serving a part of his sentence for punishment, irrespective of the risk of his reoffending.

**Life sentences:** the courts must impose a life sentence on any individual convicted of murder (mandatory life sentence). This is the only sentence available following such a conviction. The court may also impose a life sentence following conviction for other serious offences if it believes it necessary in recognition of the seriousness of the offence and the risk which the offender presents (discretionary life sentence). The essence of the life sentence is that the offender will not be released until he/she has served a 'tariff' period for punishment, and until the Parole Board concludes that his release is safe.

**Imprisonment for public protection:** under Section 225 of the Criminal Justice Act 2003, the courts can impose an indeterminate sentence of IPP when the offender is convicted of one of 153 specified violent or sexual offences (listed in schedule 15 of the Act), and in the court's opinion, poses a significant risk of harm to the public. A hospital order is an alternative to this sentence (Section 37 (1A)(c) of the 1983 Act). Those sentenced to life imprisonment, or an indeterminate sentence of Imprisonment for Public Protection, have no automatic right to be released. Instead, a 'tariff' minimum period of imprisonment must be served. After the tariff, the person remains in prison until released by the Parole Board. This will usually require that they have done the courses necessary to demonstrate reduction of the level of risk to themselves and the public, so that they are ready for release.

The courts employ clear definitions in determining dangerousness criteria. Serious harm is defined by the courts, as "death or personal injury whether that is physical or psychological". The court cannot make a presumption of dangerousness on the basis of previously specified offences.

3 http://www.mentalhealthunit.com/Resources/mha%202007%20court%20guidance%20may.doc

Expert psychiatric evidence has an important role in supporting or challenging an inference of dangerousness, particularly in view of the prevalence and influence of mental disorder on IPP sentencing. Psychiatrists must distinguish between the legal and medical concepts of dangerousness when they are asked to write on this risk for consideration of an IPP. 'Dangerousness' as defined by the provisions of the Criminal Justice Act 2003 is deemed as stemming from the individual, whereas psychiatry defines it as determined by complex interactions between environmental factors and personal variables. This would depend upon the perpetrator, the victim and the particular circumstances. Forensic psychiatrists tend to be commissioned for reports which may lead to an IPP due to their level of specific training in criminal justice.

## 3.4 Administrative tasks

### Preparatory tasks

To ensure the report is prepared with the best resources and circumstances, the following tasks should be undertaken by the commissioned psychiatrist prior to writing the report.

- **Considering appropriate authorship:** on receipt of delivery of instructions, confirmation of appropriate authorship should be assured. Where a psychologist or other mental health practitioner may be appropriate, referrals should be considered. Where a psychiatric report is appropriate, the commissioned practitioner should be the local consultant community or forensic psychiatrist potentially responsible for care and treatment provision. If this is not the case, contact with this individual should be sought and the commission passed on, or provisions made for close liaison.

  It is essential to ensure that the knowledge necessary for the report is within personal expertise. It is fundamental to the role of expert witness in court work that individuals do not stray outside their area of expertise. Reports should only be undertaken with clear confidence in the area, and should be referred to a more appropriately qualified psychiatrist if this is not the case.

- **Timescales:** agreement should be given to produce the report to the stipulated timescales.

- **Receipt of documentation:** all relevant documentation should be received with the letter of instruction – see Section 2.4 above. If letters of instruction do not provide explicit instructions on areas to address in the report, contact the report commissioner to obtain clarification before going further.

  Criminal records are vital to use as a source in assessing risk of reoffending. Where available, a CPN is well placed to access this information.

  Before imposing a custodial sentence, courts are obliged to request and consider a pre-sentence report. If a PSR has been provided, liaison with the authoring probation officer should take place as part of report preparation.

- **Professional liaison:** liaison with probation should take place throughout the preparation of the report to keep the psychiatrist abreast of developments in the case.

  Liaison with the offender's GP or any previous treating psychiatrist is advisable in the collation of notes. The offender's permission for this should be sought.

- **Interview with offender and family members:** additional histories and information should be sought from members of the offender's family. Particularly in cases of more severe mental illness where the offender is psychotic and unable to give a full history themselves, this may be the best source of information. Offender permission must be requested prior to family contact, and information about the case does not need to be provided to the family.

- **Interview with offender:** in gaining informed consent from the offender for interview, it should be emphasised that the report is for the courts and it is not a doctor-patient relationship.

## Formulating treatment recommendations

There are certain general actions to be taken in order for recommendations to convert to useable court actions. Specific actions depend upon the treatment option in question, as detailed below.

- Discussion and consultation with other experts in the field during the formulation of treatment recommendations is common practice and is recommended. General psychiatrists may refer to colleagues trained in forensics for views on style or other suggestions. Particularly in aspects of legislation or cases in which authors have less experience or familiarity, contact with other practitioners should be made to ensure the author's confidence in the fullness and clarity of their understanding of the case.

- If the author is not the relevant treatment provider, liaison with these practitioners is vital to assure authorisation of a bed for hospital orders, or other treatment provision in a community setting is available prior to making any recommendation.

## Tasks if there are no viable treatment options/a custodial sentence is inevitable

- A comprehensive assessment and opinion on how the offender will cope in custody is extremely important, as the courts must be aware of the effects of imprisonment on the mental health condition. Immediately following sentencing and incarceration is a vulnerability 'flashpoint' for offenders, with much higher risks of suicide and incidence of self-harm.

- Care should be taken to ensure that all relevant paperwork reaches the relevant prison and care provider; the report will have material use to them.

### Tasks if considering a hospital order

- If a high-secure bed is being considered, the opinion of a consultant from a high-secure hospital will be necessary and the appropriate admission panel must be consulted. Because admission panels have the power to overturn psychiatric recommendations, this process can cause significant delays to sentencing.
- It is extremely distressing for offenders in need of treatment if they must wait in prison for prolonged periods. If the offender is remanded pending sentence, liaison on appropriate care during this time is essential, particularly in cases where there is risk of harm or suicide.
- If a recommendation for a hospital order is given, the statutory requirement for a second Sec. 12 approved medical practitioner's opinion must be arranged to avoid delays to proceedings. Responsibility for sourcing a second medical opinion varies across court settings, but consideration should be given to the importance of impartiality and independence of both opinions.
- Commissioning provision of beds will depend on the personal address of the offender or their GP, or if they are of no fixed abode, where the offence took place, so this information must be sought before arrangements can be made.

### Tasks if considering a community order with a mental health treatment requirement

- If a treatment requirement as part of a community order is to be recommended, the relevant probation officer's views should be sought before suggesting this treatment. His/her experience of the offender is relevant, and their concurrence with this treatment recommendation is important in order to arrange and implement the order.
- A full assessment and opinion on how the offender will cope in custody is essential.

### Sources that can be used

A number of sources should be consulted and referenced in developing the report. These are: the letter of instruction; previous convictions and criminal record; interview with offender; interviews with family members of the offender; medical records; pre-sentence report and any other reports relevant to the case. Sentencers should be clear that, although commissioning through the NHS is important, the courts may seek professional reports and bed availability from the independent sector if appropriate treatment for the offender is available there.

## 3.5 Writing a report

### General guidelines for writing reports

Psychiatric reports for court sentencing should be clear, succinct and directly address the questions asked.

- **Address the report to the needs of the court:** the purpose of the report is to assist the courts, and should focus on meeting the informational needs of the commissioner. It is important to adapt the psychiatric reporting style to the needs of the court. Where this does not happen, the provision of too much information can be a common problem.
- **Write clearly:** it is helpful to magistrates if reports can be written in language that a lay person can understand. The relevant medico-legal terminology should be applied to the case in hand, and an appendix should be considered for reports where medical terms have not been explained. Legal terminology, such as the difference between affray and an assault, should also be understood and used in writing the report, to ensure total understanding of the case and convenience for the courts.
- **Directly answer the questions:** the report must address all the criteria relevant to the courts to enable sentencing or orders to be made. Familiarity with sentencing options, practical arrangements necessary for treatment provision and all specific issues associated with legislation must be included.
- **Reference sources throughout:** given that an offender may not be reliable in the interview context, it is important to be cautious in interpretation of the account given, and to reference all sources of information throughout the report.
- **State any areas beyond personal expertise:** during reporting, any issues for consideration which are recognised to be beyond the author's own expertise should be clearly stated.
- **Consider an interim report for interim hospital orders:** an interim report with provisional advice and recommendations can assist the psychiatrist and courts in preparation of a Section 37/41 hospital order where the offender resides in hospital on a Section 38 interim order. This keeps courts aware of progress in assessment but will not bind the psychiatrist.

## Report length

It is recognised that length will necessarily vary to some extent according to the complexity of the case, and exact lengths may be arbitrary. This guidance therefore gives 'yardstick' recommendations for approximate lengths of between two to four pages for a 'summary' report and up to eight pages for a 'full' report. The pro forma provides headings for inclusion in both short 'summary' and 'full' reports.

Regardless of the case complexity, the mark of a report of high quality is the synthesis of background into a short summary, with a focus on opinion and medical recommendations. Given the time constraints and focused nature of the sentencing context, only information relevant to the decisions at hand can be of practical value to the courts. However, information contained in the report may be useful for the future care of the offender, particularly in cases where the offender is given a custodial sentence.

### Report structure

A shortened version of a standard forensic format for psychiatric reports should generally be followed; an example template of this structure can be found in Appendix 3. Clear signposting should be used throughout the report to ease navigation for the reader, as reports are used in a context of strict time constraints. In particularly complex cases, approaches to structure may vary to some degree, such as through use of a chronological structure to avoid repetition of information. These decisions depend upon experience and discretion.

## 3.6 Report content and template

The nature and detail of content provided should depend upon that specified within the letter of instruction from the commissioner (see Appendix 2). The guidance below follows the order of sections in a court report for sentencing, highlights the key points for inclusion and issues to bear in mind, in writing the respective section. See Appendix 3 for an example template comprising the following sections.

### Details of offender and offence

- Record of offender's consent to undertake the consultation should be included.
- Offender's consent for the later use of the report should also be recorded where gained.

### Details of psychiatrist

- All reports must attend to every aspect of the statutory criteria as per Part 33 Criminal Procedure Rules – see Appendix 4.
- It is essential to include professional contact details, including a telephone number, to allow arrangements to be made for treatment recommended, or to gain further information.

### Sources of information

- All sources other than the interviewer should be fully referenced in the report, including all interviews, collation of medical notes and court bundles.

### Areas of concern

- The questions to be addressed in the report as requested in the letter of instruction should be included for clarification.

### Personal background

- A very brief summary of the defendant.

## Psychiatric history and current mental disorder

- Court practitioners only need brief offender histories.
- A report for sentencing should contain a summary of information directly relevant to the stated medical opinion, but does not generally need an extended history. The collation of previous medical notes in the report should be avoided, and very lengthy sections are unlikely to be read in their entirety.
- It is recognised that in particularly complex cases or where no previous psychiatric history exists, a fuller history of the individual can be necessary. Information of greater utility to healthcare professionals than to the courts should be included at the discretion of the psychiatrist, according to the particulars of the case.
- A report is not complete without a clear assessment of current mental state, which is a description of the one point in time that the offender was seen. Experts in other fields may need to compare their reports with this section of the document, as it is a core part of the discipline of psychiatry and very hard for other disciplines to do.
- It may be helpful to the clarity of this section to structure the assessment of current mental state by noting the symptoms of the condition in question and list them, reporting whether signs of each symptom were detected.

## Risk assessment

- A risk assessment should cover current risk of reconviction; risk of future harm to self, the public, known individuals, children, staff and fellow prisoners.
- In making a risk assessment, good practice depends upon knowing those factors which are associated with risk, and those which are not. This is a training issue.
- Protective factors, such as coping strategies of the offender for managing risk should be considered, as they may be affected by custodial settings.
- Prognosis is important to risk assessments, in order to take into account the impact of the changes to condition on future behaviour and risk. For example, some illnesses are deteriorating conditions, whereas others are relapsing or remitting, and future recovery or deterioration could lower or raise risk.
- The risk assessment should address how risk might change in future depending on the condition that has been identified and the environment around them.
- It is unusual for a general psychiatrist to conduct structured risk assessments, and the use of tools such as HCR-20 to assist risk assessments among forensic psychiatrists is a matter for personal preference. Where applied, the limitations of these tools should be clearly stated in the report. If applying risk assessment tools, it is essential to be trained in their use.

### Addressing the 'dangerousness' criterion

- It is essential that expert psychiatric evidence addresses risk within the framework and terminology of the Criminal Justice Act 2003.
- The courts are only able to request an opinion based on evidence; they cannot request provision of recommendations on sentence, and the psychiatrist should not feel obliged to go beyond their professional remit.
- Peer support may be helpful to the formation of opinions on dangerousness, particularly where authors have less experience in writing court reports.

### Treatment options, practical details, medical recommendations

- Recommendations for treatment should be unambiguous and clearly justified. It is the psychiatrist's responsibility to offer a clear and actionable opinion, which helps prevent the need to appear in court.
- Seeking a second opinion or advice from another experienced practitioner in the preparation of a report may be helpful in complex cases.
- As previously mentioned, the importance of ensuring bed availability prior to making recommendations cannot be overemphasised.
- The extent to which the treatment may reduce the risk of reoffending should be considered. A treatment may just contain a condition, prevent further deterioration or it may have a reasonable prospect of reducing the risk. This is of interest to the court.

### Appendix

- An appendix of terminology should be provided where this is not explained in the report.

## 3.7 Reporting to courts; steps following report submission

Reports should not be shared among other practitioners before submission to the court for any purposes other than assistance in report preparation.

It may be critical that the report follows the patient if they go to prison. Consent of the courts must be gained for continued NHS use of patients' reports. Consent of the patient must also be gained, with the exception of rare occasions in which it is deemed that serving the best interests of the public overrides the patient's right to confidentiality. It may be critical that the report follows the patient if they go to prison, or that serving the best interests of the public overrides patient rights of confidentiality. While reports are in preparation they tend to be considered to belong to the psychiatrist; when completed, they are for use and ownership by the court. Following sentencing, reports can be seen to pass into the public domain. Reports usually follow people into probation, prison or parole board files.

Ensuring arrangements for going to hospital have been made by the court before leaving court, and that paperwork has been filled in correctly, is a continued responsibility of the psychiatrist.

## 3.8 Appearing in court to give oral evidence

The following tasks should be undertaken by psychiatrists in preparation for giving evidence in court.

- Time to interview the defendant in cells before giving evidence, or any chance to spend time with the patient will show any changes since writing the report.
- Bed availability should be checked before court appearances.
- A clean copy of the report should be taken, with an early arrival to court.

## Further Reading

For general background information on mental disorders, see the Royal College of Psychiatrists' resources:
http://www.rcpsych.ac.uk/mentalhealthinfoforall.aspx

For further information on mental health and offending behaviour, see NACRO's web pages:
http://www.nacro.org.uk/mhu/about/faqs.htm#q1

# Appendix 1A  Pro forma for request: magistrates' court

| Purpose of report | |
|---|---|
| | |
| Approved medical practitioner opinion | ☐ |
| **Sentence(s) under consideration** | **Tick one or more boxes** |
| Community order | ☐ |
| Hospital order: Section 37 | ☐ |
| Interim hospital order: Section 38 | ☐ |
| Guardianship order | ☐ |
| Custodial sentence | ☐ |
| **Report should address** | **Tick one or more boxes** |
| Current mental state | ☐ |
| Relationship of mental state to reoffending | ☐ |
| Risk assessment | ☐ |
| Availability of treatment | ☐ |
| Suitability of treatment | ☐ |
| Consent to treatment | ☐ |
| **Preferred length** | **Tick one box only** |
| Summary report (e.g. two to four pages) | ☐ |
| Full report (e.g. up to eight pages) | ☐ |

# Appendix 1B  Pro forma for request: Crown Court

| Purpose of report | |
|---|---|
| | |
| Approved medical practitioner opinion | ☐ |
| **Report should address** | **Tick one or more boxes** |
| Current mental state | ☐ |
| Relationship of mental state to reoffending | ☐ |
| Risk assessment | ☐ |
| Dangerousness (Criminal Justice Act 2003 criterion) | ☐ |
| Suitability of treatment | ☐ |
| Availability of treatment | ☐ |
| Consent to treatment | ☐ |
| Other (please specify) | ☐ |
| **Preferred length** | **Tick one box only** |
| Summary report (e.g. two to four pages) | ☐ |
| Full report (e.g. up to eight pages) | ☐ |

# Appendix 2 Pro forma for letter of instruction

| Details of offender and offence | |
|---|---|
| Offender | |
| Offence | |
| Particulars of circumstances of offence (including if the offender is of no fixed abode), the place where it was committed, if known | |
| Section under which remand is ordered | |
| Reasons which led the court/ defence to request the report | |
| Address and home circumstances of offender | |
| Current contact address information of offender | |
| Previous medical history of offender and family history, so far as known | |
| Previous conduct, including previous convictions, if known | |

| Others involved with the case | |
|---|---|
| Name & contact details of solicitor | |
| Name & contact details of any probation officer appointed to, or having knowledge of, case | |
| Name and station of police officer concerned with case | |
| A request for a second report has been made to | |

| Report should address | Tick one or more boxes |
|---|---|
| Current mental state | ☐ |
| Relationship of mental state to reoffending | ☐ |
| Risk assessment | ☐ |
| Dangerousness (Criminal Justice Act 2003 criterion) | ☐ |
| Suitability of treatment | ☐ |
| Availability of treatment | ☐ |
| Consent to treatment | ☐ |
| Other (please specify) | ☐ |
| Date for return | |
| | |

# Appendix 3 Pro forma report template

| Details of offender and offence | |
|---|---|
| Offender | |
| Offence | |

| Details of psychiatrist |
|---|
| To cover:<br>− name and contact details, including telephone number<br>− qualification (in particular that psychiatrist is a Section 12 approved doctor)<br>− previous contact with offender |

| Sources of information |
|---|
| To cover: documentation and appointments |

| Areas of concern |
|---|
| To cover: questions for address in letter of instruction |

## Personal background

To cover: brief summary of the offender

## Index offence

To cover: brief summary of psychiatrist's understanding of events

## Psychiatric history and current mental disorder

To cover:

- relevant psychiatric history
- relevant family history
- diagnosis of mental health at current time

## Risk assessment

To cover:

- risk of harm to self or others
- risk of reoffending (including relationship between current mental disorder and reoffending)

## Treatment options

To cover: whether treatment is appropriate

- what the treatment will involve
- what are the components of the treatment are
- how long treatment should continue for
- whether treatment is available
- where the suggested treatment would take place
- confirmation that offender is willing to comply with treatment

## Practical details

Where psychiatrist is the treatment provider:

- details of practitioner for treatment (and frequency of appointments)
- arrangements for liaison with probation

Where psychiatrist is not the treatment provider:

- details of treatment provider to be contacted

## Medical recommendations

# Appendix 4 Criminal Procedure Rules, Part 33: Expert Evidence. Part 33.3: Content of expert's report[4]

All psychiatric reports must cover every aspect of the statutory criteria as per Part 33 Criminal Procedure Rules – see Section 3.6

(1) An expert's report must:

(a) give details of the expert's qualifications, relevant experience and accreditation;

(b) give details of any literature or other information which the expert has relied on in making the report;

(c) contain a statement setting out the substance of all facts given to the expert which are material to the opinions expressed in the report or upon which those opinions are based;

(d) make clear which of the facts stated in the report are within the expert's own knowledge;

(e) say who carried out any examination, measurement, test or experiment which the expert has used for the report and –

(i) give the qualifications, relevant experience and accreditation of that person;

(ii) say whether or not the examination, measurement, test or experiment was carried out under the expert's supervision; and

(iii) summarise the findings on which the expert relies.

(f) where there is a range of opinion on the matters dealt with in the report –

(i) summarise the range of opinion, and

(ii) give reasons for his/her own opinion.

(g) if the expert is not able to give his/her opinion without qualification, state the qualification;

4 http://www.justice.gov.uk/criminal/procrules_fin/contents/rules/part_33.htm

(h) contain a summary of the conclusions reached;

(i) contain a statement that the expert understands his duty to the court, and has complied and will continue to comply with that duty; and

(j) contain the same declaration of truth as a witness statement.

(2) Only sub-paragraphs (i) and (j) of rule 33.3(1) apply to a summary by an expert of his conclusions served in advance of that expert's report.

*[Note. Part 24 contains rules about the disclosure of the substance of expert evidence. Part 27 contains rules about witness statements. Declarations of truth in witness statements are required by Section 9 of the Criminal Justice Act 1967 and section 5B of the Magistrates' Courts Act 1980. A party who accepts another party's expert's conclusions may admit them as facts under Section 10 of the Criminal Justice Act 1967. Evidence of examinations etc. on which an expert relies may be admissible under section 127 of the Criminal Justice Act 2003.]*

# Appendix 5 Overview of sentencing options for mentally disordered offenders

The table on the following pages provides a summary of the sentencing options and mental health disposals available to the bench and to Judges for cases with a psychiatric element.

| Remand and sentencing options | Court sentence available at | Description of sentence | Where sentence should be considered | Information required in order to sentence | Appropriate psychiatrist |
|---|---|---|---|---|---|
| Community order/ Suspended Sentence Order with mental health treatment | Magistrates' and Crown Court | Court directs the offender to undergo treatment, by/ under direction of a medical practitioner or psychologist | Mental state of offender is such that it requires treatment but not such as to warrant the making of a hospital or guardianship order | • Suitability of treatment Treatment available<br>• Provision of detailed treatment plans, so that probation and court staff have sufficient information about what is required of them.<br>• Named supervisor and location to provide treatment | • Community consultant psychiatrist approved for the purposes of Section 12 |
| Guardianship Order | Magistrates' and Crown Court | Offender placed under guardianship of the local Social Services authority for six months, renewable every six months | Evidence the offender has a mental disorder which requires enforceable support for their own protection and for the protection of other people | • Psychiatric report<br>• Confirmation of Social Services' acceptance of the service user<br>• Arrangements for provision of a guardian | • Specialised community consultant psychiatrist, e.g. consultant in learning disability psychiatry<br>• Include two medical recommendations at least one of whom is approved for the purposes of Section 12 |
| Custodial sentence | Magistrates' and Crown Court | No specific treatment arrangements, though any reports may be of use to in-reach prison psychiatrists to provide voluntary treatment | Mental state of offender does not merit treatment as an enforceable component of sentencing | • No treatment appropriate | Medical practitioner |

| Remand and sentencing options | Court sentence available at | Description of sentence | Where sentence should be considered | Information required in order to sentence | Appropriate psychiatrist |
|---|---|---|---|---|---|
| Imprisonment for public protection (IPP) | Crown Court | Indeterminate sentence. Offender to serve tariff | Offender considered to pose a risk of serious harm to the public. Not available for a murder charge. If there is an argument that the offender does not require an IPP, may be important to get psychiatric report<br>If court wants advice on link between dangerousness and mental disorder so judge can decide if IPP appropriate | • Full psychiatric report | |
| Section 35 remand for report | Magistrates' and Crown Court | Remand to hospital for full assessment and report, up to 12 weeks | Evidence offender may be suffering from a mental disorder. Not available for a murder charge | • Full psychiatric report<br>• Evidence of arrangements for admission to hospital within seven days<br>• Section 12 approved medical practitioners' recommendation | • A Section 12 registered medical practitioner, care provider. (But the care provider may also be the section registered medical practitioner) |
| Section 36 Remand for treatment | Crown Court | Remand to hospital for treatment, renewable at 28 day intervals, up to 12 weeks | Evidence offender is suffering from a mental disorder. Not available for a murder charge | • Evidence of arrangements for admission to hospital within seven days<br>• Evidence appropriate medical treatment is available | • Two registered medical practitioners one of whom is approved for the purposes of Section 12; the care provider may also be the registered medical practitioner approved under Section 12 |

| Remand and sentencing options | Court sentence available at | Description of sentence | Where sentence should be considered | Information required in order to sentence | Appropriate psychiatrist |
|---|---|---|---|---|---|
| Section 37 | Magistrates' and Crown Court | Admission to a consenting hospital for 6 months, renewal for a further 6 months, at medical discretion | Evidence offender requires hospital treatment under Sec. 37 MHA | • Full psychiatric report<br>• Confirmation of admission within 28 days | • Two registered medical practitioners one of whom is approved for the purposes of Section 12<br>• Admission panel of secure unit to agree provision |
| Section 38: interim hospital order | Magistrates' and Crown Court | Initial order of 12 weeks, renewable by the courts for 28 days at a time for a maximum of 12 months<br>Where later treatment undecided, may be a trial to determine cooperation with treatment. | Evidence offender requires treatment under Sec. 37 MHA<br>Gives time to develop therapeutic rapport and provide a longitudinal assessment. E.g. trial of therapy, to test outcome. | • Full psychiatric report<br>• Evidence of arrangements for admission to hospital within 28 days | • Two registered medical practitioners one of whom is approved for the purposes of Section 12<br>• Security level of unit determined by nature of risk posed to the public. |
| Section 41 restriction order | Crown Court | Restrictions on discharge from the Sec. 37 order | A hospital order is made and the court considers the offender would pose a risk of serious harm to others if prematurely at large | • Full psychiatric report<br>• Restriction on ability of clinician to discharge the patient.<br>• The mental health equivalent of a life sentence.<br>• Evidence of dangerousness: that it is necessary for the protection of the public from serious harm to make a restriction order on the offender. | • Two registered medical practitioners one of whom is approved for the purposes of Section 12<br>• Oral evidence to the court on dangerousness criterion also required |
| Section 45A hospital direction | Crown Court | Addition of a hospital order to a prison sentence | Evidence offender requires hospital treatment under Section 37 | • Evidence arrangements have been made for admission to hospital within 28 days<br>• 2 medical reports confirming the offender is mentally disordered | • Two registered medical practitioners one of whom is approved for the purposes of Section 12, ideally including the care provider |