



45. Probation services and mental health

Summary

Research suggests that 39% of offenders supervised by probation services have a current mental health condition. Yet mental ill health in the probation caseload is, for the most part, unrecognised and untreated. Moreover, many more people with mental health needs who currently go to prison on remand and serve short sentences could be better managed in the community with the support of probation services.

The probation service already plays a crucial role in coordinating the elements of support for offenders with multiple needs. By developing a 'whole person' approach, staff can help those on probation secure accommodation or find employment or training as well as helping them access appropriate care and treatment.

Support from health and probation services is key to both diversion and resettlement for offenders with mental

health conditions. Effective diversion arrangements for offenders with mental health problems can help to bring about greater use of the mental health treatment requirement (MHTR) as part of community sentences and reduce reoffending. However probation staff need appropriate training to identify offenders with mental health issues and ensure they get access to effective support.

This briefing paper summarises the current and potential future links between health and probation services relevant to the needs of offenders with mental health conditions. It is based on data collected by the University of Lincoln showing the prevalence of a range of mental health conditions among one probation service caseload and the proportion of those people receiving treatment and support (Brooker *et al.*, 2012).



Probation services overview

The Probation Service is a national service comprising 42 probation areas which are coterminous with police force area boundaries, served by 35 Probation Trusts. The National Probation Service is part of the National Offender Management Service (NOMS). Trusts are funded by NOMS and employ all staff except the Chief Officer; they are accountable to their Boards (comprising up to 15 members appointed by the Secretary of State) for day-to-day operations and financial management, and to NOMS via a Regional Offender Manager, with whom they have service level agreements, for performance against the targets for the offender management.

The work of Probation Trusts is scrutinised by NOMS, which reports independently to UK Government ministers; and by HM Inspectorate of Probation.

The Probation Service has four main roles:

1. To support offenders in prison;
2. To supervise and support offenders serving a community sentence;
3. To supervise and support offenders in the community when they have been released from prison;
4. To write reports for courts to help them in making a decision about sentencing.

Probation in prison

The Probation Service supports offenders in prison to meet certain targets during their sentence. Each prisoner with a sentence of 12 months or more will have a sentence plan with targets to meet. These targets are mostly in relation to their offence and could include:

- Engaging with offending behaviour programmes - these programmes encourage offenders to address why they committed the offence and to prevent them from re-offending in the future.

- Undertaking certain activities e.g. attending education to improve their Maths and English and undertaking certain work within prison to improve their chances of obtaining employment on release.
- Getting help for mental health needs or substance misuse (problems with drugs and alcohol).

Probation staff also help prisoners plan for their release e.g. helping them find somewhere to live. Probation officers within prison are usually known as Offender Supervisors.

Probation in the community

The Probation Service supervises and supports offenders in the community when:

- The court has issued a community order with specific requirements attached to it, such as doing unpaid work, engaging with specific activities e.g. education or training, not going to certain areas, adhering to curfew or undertaking treatment for a mental health condition.
- A prisoner has been given a prison sentence of 12 months or more and been released from prison to serve the remainder of their sentence in the community, under specific licence conditions such as those above.

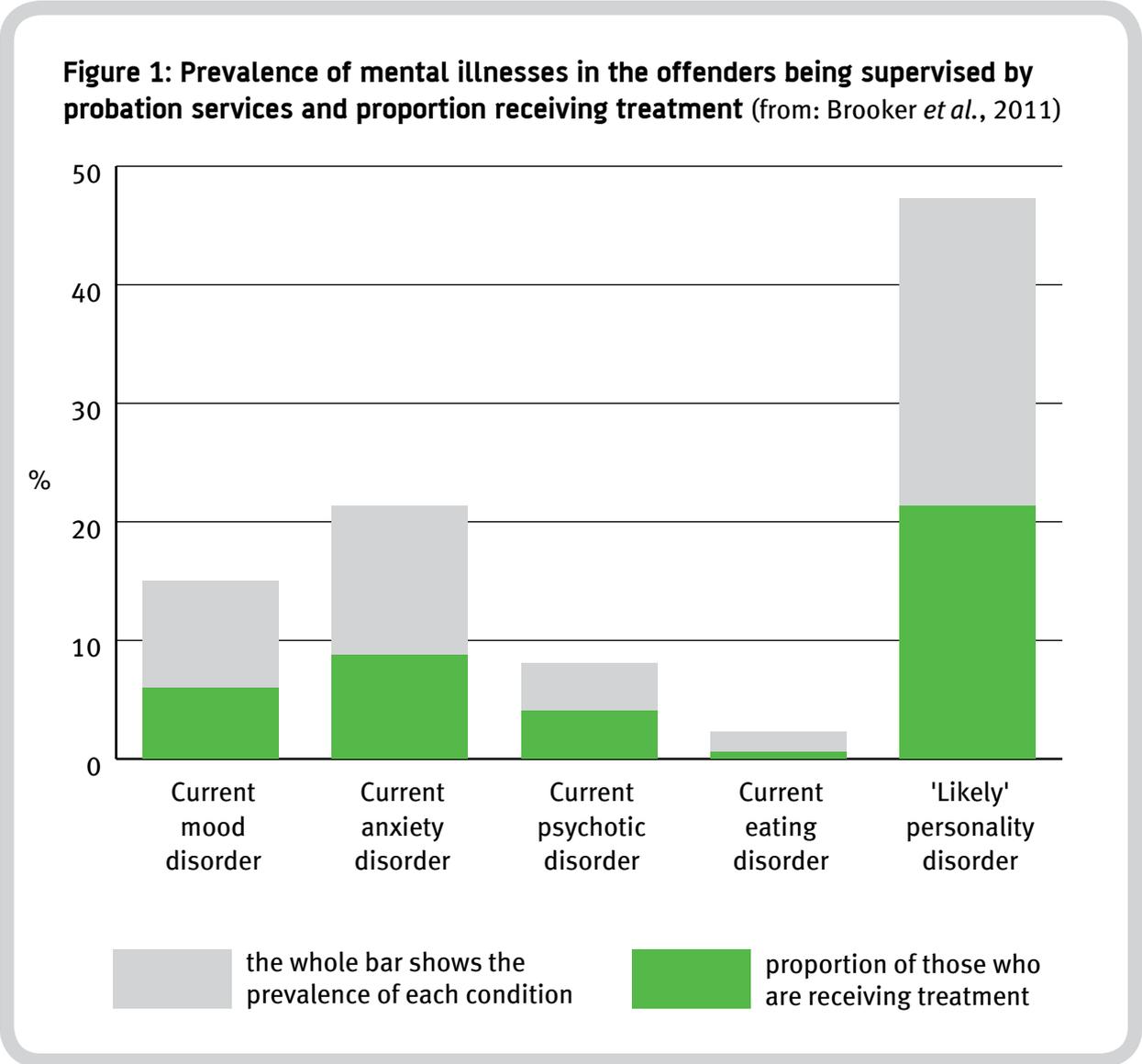
Probation officers in the community are usually known as Offender Managers.

Mental health conditions in the probation caseload

A 2012 report into the prevalence of mental health conditions in the probation population found nearly 4 out of 10 (39%) offenders in contact with probation had a current mental illness (Brooker *et al.*, 2012). One in six had a mood disorder and one in four had an anxiety disorder. Some 11% had a psychotic illness: about ten times the national average. About half had the symptoms of a personality disorder; more than half had the signs of hazardous or harmful alcohol consumption; and 12% had the signs of serious drug misuse.

The researchers found in a previous study that for 53% of those identified as having a current anxiety disorder this was not recorded in the offender’s case file (Brooker *et al.*, 2011). Only half of those with a current psychosis were receiving any support from mental health services (see Figure 1).

And, while 88% of those with both a current and past/lifetime mental disorder, and a drug problem were receiving treatment for their substance misuse, the proportion getting help fell to only 40% of those with both a current and past/lifetime mental disorder and a serious alcohol problem.



Dual diagnosis and multi-morbidity

People with mental health conditions, particularly those in contact with the criminal justice system, rarely ‘just have’ mental health needs and often have multiple health and social problems. Probation has a crucial role in coordinating the elements of support required to address these.

Levels of multi-morbidity (more than one health condition) and dual diagnosis (a co-occurring mental health and substance misuse problem) are known to be high in the prison population. The results of the Lincolnshire study (Brooker *et al.*, 2011) suggest that there is also a very high degree of co-morbidity and dual diagnosis in the probation population.

72% of those surveyed who had a diagnosable mental illness also had a substance misuse problem. Levels of dual diagnosis were higher for use of alcohol than for use of drugs. A further 89% of participants with a current mental illness also had a personality disorder.

Personality Disorder

The Government’s policy is for NOMS and the NHS to improve the management of offenders with personality disorder and the delivery of services to this population through the development of joint operations, predominantly based within the criminal justice system. This should ensure that:

- NOMS and the NHS share the responsibility for offenders with personality disorders;
- Planning and delivery is based on a whole systems approach across the criminal justice system and on the NHS recognising the various stages of an offender’s journey, from conviction, sentence, and community based supervision and resettlement;
- Offenders with personality disorder who present a high risk of serious harm to others are primarily managed through the criminal justice system with the lead role held by Offender Managers;

- Treatment and management is psychologically informed and led by psychologically trained staff and focuses on relationships and the social context in which people live;
- Related Department for Education and Department of Health programmes for young people and families will continue to be joined up with the offender personality disorder pathway to contribute to prevention and breaking the cycle of intergenerational crime;
- In developing services, account is taken of the experiences and perceptions of offenders and staff at the different stages of the pathway. (DH, 2009)

Probation Trusts may have the opportunity to develop their services further to:

- identify those in probation with a personality disorder;
- work with mental health services to target interventions; and
- train probation staff in the recognition and treatment of personality disorder.

However, given that up to 89% of those with a mental illness in probation are also likely to have a personality disorder, there is still insufficient focus on the likely mental health problems that will be experienced by this population.

Suicide

Suicide rates are also known to be higher in the criminal justice population than in the general population (see for example Binswanger *et al.*, 2007). Relatively little research has investigated suicide amongst offenders on probation.

However, a report by the Howard League suggests that suicide accounts for at least one in eight deaths amongst offenders on probation (Howard League, 2012). Recent research has investigated factors associated with suicide

in people subject to probation supervision (Brooker *et al.*, in press). This study concluded that none of the demographic variables entered into the model were statistically related to a high risk of suicide (as opposed to low/no risk), although this finding must be interpreted with caution due to the small sample size in this study.

However, having an anxiety disorder increased an individual's risk of suicide, whilst recurrent depression appeared to act as a protective factor. The extent to which probationers access mainstream mental health services, such as Increasing Access to Psychological Therapies (IAPT) is thus crucial.

Probation staff knowledge of mental health

Offender managers help people access services including through-sentence planning, risk assessment and management plans. Probation staff receive some mental health training, but much of their knowledge is based on experience.

A recent study (Byng *et al.*, 2012) shows that having support from probation officers increases the likelihood of offenders engaging successfully with health and social services. Officers often gain knowledge of local services through experience as few areas have up-to-date directories. Particularly problematic are voluntary sector services which can change frequently due to the time-limited nature of their funding.

Research also suggests that mental health needs are not being recognised by probation services: only 33% of individuals identified as having a psychotic disorder by the study's researchers were also recorded in probation files as having such a disorder (Brooker *et al.*, 2011).

This under-identification could be partly explained by the limited opportunities probation staff have to receive any form of mental health awareness training, with many grades of probation staff receiving no formal training in this area. The Bradley Report (2009) recommended that such training should take place but said little about the details and there has been no subsequent formal investment in this area.

The Mental Health Treatment Requirement (MHTR)

The Mental Health Treatment Requirement (MHTR) is one of 12 possible requirements for all people given a community sentence in England and Wales. Despite the fact that two-fifths of people on community sentences have mental health problems, the MHTR accounts for under 1% of requirements ordered, although it may not be suitable in all cases.

In 2006, the first full year in which the requirement was available, 725 MHTRs were issued as part of a Community Order. In 2009, the number had risen slightly to 809 MHTRs. However, this represented just over 0.3% of the total number of requirements (231,444) issued as part of a Community Order in 2009. Moreover, recent figures suggest that the number of MHTRs has declined, with only 606 issued as part of a Community Order in 2011. These figures demonstrate the underuse of the order since its introduction in 2005, which has been acknowledged in the Government Green Paper *Breaking the Cycle* (Ministry of Justice 2010).

The MHTR enables magistrates and judges to give an offender a sentence which facilitates treatment in the community. Thus in principle the MHTR has the potential to reduce reliance on custody for offenders with mental health conditions. This is particularly important given that prisons are not designed to be therapeutic regimes and that imprisonment can damage mental health (Scott & Moffatt, 2012).

Emerging findings from interviews conducted with health professionals, offenders and probation officers involved in the MHTR (Taylor, 2012) suggest that when used appropriately the MHTR can 'facilitate the transition from chaos to stability' for offenders.

Greater use of the MHTR also has the potential to gradually help reduce the number of breaches of Community Orders, which tend to be high. According to research commissioned by NOMS, the incorrect targeting of

Requirements for issuing an MHTR

In order to issue an MHTR, the court must:

- Be satisfied that the offender's mental health problems require and may be susceptible to treatment, but is not serious enough to warrant making a hospital order or guardianship order under the Mental Health Act 1983.
- Be satisfied that arrangements have been or can be made for treatment.
- Ensure that the offender is willing to comply with the requirement.
- Ensure that any hospital treatment is not given in a high secure psychiatric unit.

requirements for offenders with a lower risk of serious harm can increase, rather than reduce, the likelihood of reoffending (NOMS, 2007). For offenders who require support and treatment for their mental health issues, the MHTR may be the appropriate option and help to increase their chances of future desistance.

There are a number of barriers to using the MHTR, including:

- Uncertainty about which offenders an MHTR is suitable for;
- Poor understanding and awareness of the MHTR among criminal justice and health professionals;
- Difficulties and delays in obtaining the necessary psychiatric report before an MHTR can be issued; and
- A lack of suitable guidance and protocols in place to facilitate its use.

The Government has subsequently shown support for increased use of the MHTR by removing the requirement for a formal psychiatric report. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 makes a significant change to the legal framework for the MHTR. From 3 December, when the relevant provision comes into force, a wider range of health professionals will be able to provide the court with an assessment of an offender's mental health needs for the purposes of making an MHTR. The Act also gives the courts more flexibility in responding to breach of a Community Order. There is concern, however that an increasing focus on the punitive aspect of community sentences could limit sentencers' options by making the punitive elements mandatory in many cases. We are concerned that this may result in offenders being 'set up to fail' as, for offenders with a range of disabilities, making sentences more onerous will create demands they cannot meet.

Liaison and diversion

Diversion can be loosely defined as 'a means of ensuring that people with mental health problems who enter the criminal justice system are identified and directed towards appropriate mental health care, particularly as an alternative to imprisonment' (Sainsbury Centre for Mental Health, 2009). Diversion schemes can also identify and support people with other vulnerabilities such as learning difficulties, and, in its Spending review of 2010, the Government committed to establish national coverage of liaison and diversion services 'subject to business case approval' by 2014 (HM Treasury, 2010).

Properly designed liaison and diversion schemes improve outcomes for individuals and deliver value for money (Sainsbury Centre for Mental Health, 2009) Diverting people towards effective community-based services can improve their mental health and wellbeing, reduce other risks factors, and improve the effectiveness of interventions aimed at other influences on offending.

Investment in diversion could also facilitate the appropriate use of the MHTR. The previous absence of any national policy framework for liaison and diversion means that services have developed in a piecemeal fashion. Some areas have no arrangements at all and others only have minimal coverage; overall, just one-fifth of the potential national caseload was seen by diversion services (Sainsbury Centre for Mental Health, 2009). This often meant that individuals were processed through court without their mental health and other needs being identified, drawing them into custody and missing the chance to get access to support and treatment.

With increased resources, liaison and diversion services should now deal with more cases and ensure that the mental health needs and other vulnerabilities of those in contact with the criminal justice system no longer go unidentified. However, as one recent report noted, it is 'not enough simply to divert individuals with mental health needs to mental health services'. Instead, liaison and diversion teams must work with offenders to help them to take steps to improve their own health as well as providing support for housing, employment and relationship needs (Byng *et al.*, 2012).

The impact of health system reforms

The development of liaison and diversion services will only be effective if local commissioning bodies and authorities ensure there is the necessary support within local areas to which offenders can be diverted.

Health and wellbeing boards in local authorities will have a pivotal role in assessing local needs, agreeing priorities for local health and wellbeing strategies and drawing together different services to respond to people's needs.

While there is no mandatory requirement for criminal justice membership on health and wellbeing boards, police and probation services will have important perspectives that boards should heed. And there is some guidance available on how these services and local bodies should proceed, including that by the Department of Health (2012).

How can probation staff support offenders to access services?

Mental health services

When asked to discuss positive experiences of facilitating access to services for offenders, probation staff in Lincolnshire stated that they valued services with straightforward referral procedures, and services which were able to work flexibly with offenders and take the time to listen to the full range of their needs (Brooker *et al.*, 2011).

Offenders echoed the points about the regimented nature of some current service provision, problems with referral systems resulting in long waiting lists, lack of resources, travel distances, difficulties with communication between agencies and stigma. They also stated that having a poor relationship with probation staff could form a barrier to service access, and in some cases pointed to their own unwillingness to ask for/accept help with health problems.

Research by Peninsula Medical School (Byng *et al.*, 2012) identified a number of factors which encouraged or helped offenders to access services. These included:

- joint meetings between probation staff, the offender and health workers;
- services guaranteeing confidentiality;
- co-location of probation and mental health services;
- clear communication within and between agencies and
- a good relationship between the offender and probation staff.

Many offenders also discussed the benefit of having ongoing support from the Probation Service and the benefit of the flexible approach taken by probation. They also talked about the advantages of probation staff knowing a worker within the service which they wished to refer to – so that there was an identified point of contact.

Supporting offenders into employment

The barriers to employment for people with mental health conditions are well documented but for those with mental health needs in the criminal justice system the barriers are even higher.

These barriers include discrimination, disempowerment, lack of up-to-date skills, lack of self confidence, no recent track record of employment and a lack of skilled support to help overcome these disadvantages.

Enabling a person with a history of offending to get and keep a job is probably the most effective intervention anyone can make to prevent reoffending and improve their chances of leading a better life. Yet less than one-third of released prisoners have a job or a place in training or education to go to. Being in paid work has an important role in improving mental health, addressing social need and reducing reoffending.

Research shows that placement in real employment with ongoing support (Samele *et al.*, 2009) has real potential to achieve employment for offenders. Currently, people with mental health problems are often likely to be excluded from employment schemes. Probation services should consider routes into employment as a routine part of sentence planning, making any reasonable adjustments that may be necessary for offenders who have mental health needs.

Conclusion

39% of offenders supervised by probation services have a current mental health condition and, furthermore, not all these problems are identified by probation staff. This leads to difficulties accessing mental health services, drug and especially alcohol services. The high levels of personality disorder within probation services have started to be recognised but gaining access to meaningful services remains difficult.

This briefing paper has highlighted the crucial role that probation services might play for those on their caseloads with mental health problems. There is a large agenda to address if improvements are to be made in this area:

- Probation staff need the fundamental skills to recognise mental health problems currently their qualifying training does not provide them with these skills.
- Local health needs assessments are then required that outline the ways in which probationers can access mainstream services.
- Clinical Commissioning Groups (CCGs) need to ensure that a full range of services are provided and accessible.

But in many areas, probation staff only have observer status on health and wellbeing boards when they should be integral to all discussions about drug and alcohol, mental health and personality disorder service provision. Our full recommendations follow.

Recommendations

Recommendations for probation services

- Probation staff should receive appropriate and ongoing training to identify offenders with mental health issues and support them to access services.
- Probation trusts can support the development of clear protocols to support effective joint working between professionals from health and criminal justice services.
- Probation services should consider routes into employment as a routine part of sentence planning, making any reasonable adjustments that may be necessary for offenders who have mental health needs.

Recommendations for commissioners

- Clinical Commissioning Groups should work with probation trusts to ensure that there is sufficient provision of services, such as psychological therapy (IAPT) services, to support those with mental health conditions on probation caseloads.
- Health and wellbeing boards in local authorities will have a pivotal role drawing together different services to respond to people's needs. Police and probation services will have important perspectives that boards should heed even though there is no specific requirement for criminal justice membership.

Recommendations for the NHS

- Health services should work flexibly with offenders and take the time to listen to the full range of their needs. Where possible, health services and probation services should be co-located, and staff should work to assure offenders that they can talk about their mental health in confidence.

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Research suggests that 30% of offenders supervised by probation services have a current mental health condition, but mental health in the probation caseload is, for the most part, unrecognised and unmet. However, many more people with mental health needs who currently go to prison on remand and serve short sentences could be better managed in the community with the support of probation services.

The probation service already plays a crucial role in coordinating the elements of support for offenders with multiple needs. By developing a 'whole person' approach, staff can help those on probation secure accommodation or find employment or training as well as helping them access appropriate care and treatment.

Support from health and probation services is key to both diversion and re-orientation for offenders with mental

health conditions. Effective diversion arrangements for offenders with mental health problems can help to bring about greater use of the mental health treatment requirement (MHTR) as part of community sentences and reduce reoffending. However probation staff need appropriate training to identify offenders with mental health issues and ensure they get access to effective support.

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