

Policy Document Control Page

Title

Title: Victims Policy

Version: 3

Reference Number: CL87

Keywords

Victim, domestic violence, crime, probation, police, abuse, leave, discharge, rights.

Supersedes

Supersedes: Version 2

Description of Amendment(s): Updated in line with the 2015 MHA Code of Practice

Originator

Originated By: Mental Health Law Manager, Consultant Psychiatrist, Specialist Placement Co-ordinator, Divisional Clinical Pathway Manager

Designation: Mental Health Law Scrutiny Group

Equality Analysis Assessment (EAA) Process

Equality Relevance Assessment Undertaken by:

ERA undertaken on:

ERA approved by EAA Work group on:

Where policy deemed relevant to equality-

EAA undertaken by: Mia Majid

EAA undertaken on: 03/01/2016

EA approved by EAA work group on 03/01/2016

Approval and Ratification

Referred for approval by: Mental Health Law Manager

Date of Referral: October 2016

Approved by: Mental Health Law Scrutiny Group

Approval Date: May 2016

Date Ratified by Executive Directors: 16th May 2016

Executive Director Lead: Medical Director

Circulation

Issue Date: 17th May 2016

Circulated by: Performance and Information

Issued to: An e-copy of this policy is sent to all wards and departments

Policy to be uploaded to the Trust's External Website? YES

Review

Review Date: October 2018

Responsibility of: Mental Health Law Manager

Designation: Behalf of Mental Health Law Scrutiny Group

This policy is to be disseminated to all relevant staff.

This policy must be posted on the Intranet.

Date Posted: 17th May 2016

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GUIDING PRINCIPLES

It is essential that all those undertaking the functions under the Mental Health Act 1983 (MHA) understand the five sets of overarching principles which should always be considered when making decisions in relation to care, support or treatment provided under the Act.

The five overarching principles are:

Least restrictive option and maximising independence

Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.

Empowerment and involvement

Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.

Respect and dignity

Patients, their families and carers should be treated with respect and dignity and listened to by professionals.

Purpose and effectiveness

Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.

Efficiency and equity

Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

All decisions must be lawful and informed by good professional practice. Lawfulness necessarily includes compliance with the Human Rights Act 1998 (HRA) and Equality Act 2010.

All five sets of principles are of equal importance, and should inform any decision made under the Act. The weight given to each principle in reaching a particular decision will need to be balanced in different ways according to the circumstances and nature of each particular decision.

Any decision to depart from the directions of the policy and the Code of Practice must be justified and documented accordingly in the patient's case notes. Staff should be aware that there is a statutory duty for these reasons to be cogent and appropriate in individual circumstances.

1. INTRODUCTION

- 1.1 The Trust is committed to ensuring that patients' and victims' rights are promoted and protected; and that the Trust complies with its legal and statutory requirements. To ensure staff are able to do this whilst understanding how to apply and perform their duties under legislation such as the Mental Health Act 1983 (MHA) and the Domestic Violence Crime and Victims Act 2004 (DVCV) this policy sets out the processes that need to be followed and in place across the Trust.
- 1.2 The Trust acknowledges that in order to maintain effective working relationships with the external agencies affected by this policy we must have clear processes in place.

2. AIMS OF THE POLICY

- 2.1 The aim of this policy is to ensure adequate and appropriate actions are taken by staff when patients are affected by the legislative requirements of the MHA and DVCV in relation to victims.
- 2.2 All ward and community-based staff with a responsibility for the care and/or treatment of this group of patients¹ must have a clear and structured response to any occasions where actions must be taken to satisfy the MHA and DVCV.
- 2.3 This policy complements (and should be read in conjunction with) the following Trust policies:
- Section 17 (Leave of Absence) Policy (CL7)
 - Community Treatment Order Policy (CL32)
 - The Care Programme Approach Policy (CL3)
 - Report Writing & Attendance at Mental Health Review Tribunals & Hospital Managers Hearings Policy (CL33)
 - Mental Capacity Act Guidance
 - Confidentiality Policy (CO4)
 - Patients Absent Without Leave (AWOL) Policy (CL6)
 - Section 132, 132A & 133– Provision of Information to detained patients & Nearest Relatives (CL36)
- 2.4 The policy has been produced in order to facilitate compliance with the Trust's statutory duties enabling victims of serious violent and sexual offences. Under the Domestic Violence, Crime and Victims Act, 2004 and the Mental Health Act, 1983 victims of serious violent and sexual offences have the right to receive certain information about key stages in a part 3 patient's (mentally disordered offenders) progress and treatment. Victims may also engage with the Victim Contact Scheme (VCS). These rights fall upon:

¹ Offenders who are detained in hospital under Part 3 of the MHA and who are subject to special restrictions (restricted patients), including those who have been conditionally discharged. Offenders detained in hospital under Part 3 who are not subject to special restrictions (unrestricted patients) including those who are then discharged from hospital onto Community Treatment Orders.

- Providers of probation services: to identify eligible victims and, with their consent, to pass on their details to Hospital Managers;
- Hospital Managers: to give information to victims and to pass on any representations they make;
- Responsible Clinicians: to inform Hospital Managers if they are considering discharge of an unrestricted patient, or considering discharge subject to the conditions of Community Treatment Order;
- Approved Mental Health Professionals: to consider victims' representations when considering a proposal for Community Treatment Order; and
- NHS Bodies: responsible for patients placed in independent hospitals, when considering discharge, including patients subject to Community Treatment Order.

3. SCOPE

This policy applies to:

- 3.1 All patients who meet the criteria under the DVCV (See Identifying Patients section of this policy).
- 3.2 All patients who have been a victim of a crime that meets the criteria under the DVCV (See Identifying Patients section of this policy).
- 3.3 All staff employed by or seconded to Pennine Care NHS Foundation Trust.

4. ROLES & RESPONSIBILITIES

- 4.1 The Medical Director is responsible for ensuring the requirements of this policy are adhered to via the Mental Health Law Scrutiny Group.
- 4.2 Governance Managers are responsible for escalating issues to the MHLSG for investigation and monitoring the use of this policy in the local boroughs.
- 4.3 Lead Managers, Team Supervisors, Health and Social Care Staff are responsible for the implementation of the policy and in particular, for the recognition and management of the required processes as laid out within this policy.
- 4.4 Responsible Clinicians will retain responsibility for requirements to be carried out under the DVCV although some duties may be delegated to other staff including the Mental Health Law Offices.
- 4.5 It is the responsibility of all health and social care staff to ensure they are familiar with their individual responsibilities within this policy. Staff also have a duty to report concerns regarding the process to the rest of the care team or their line managers for further investigation.
- 4.6 The Mental Health Law Team will support staff responsible for applying this policy where requested. Any learning requirements escalated to the MHL Team or MHL Manager through the monitoring/application of this policy will be escalated to the Mental Health Law Scrutiny Group.

4.7 The Mental Health Law Offices will be responsible for ensuring victims this policy applies to are flagged up to the appropriate staff and others as laid out within this policy.

4.8 The Hospital Managers have the following responsibilities:

- To identify any patients who are 'Chapter 2²' patients for the purposes of ensuring that the responsibilities are discharged;
- To keep records of victims who have asked to make representations and/or receive information;
- To invite and pass representations from victims to the responsible clinician (and also to the approved mental health professional when a Community Treatment Order is under (CTO) consideration);
- To provide information to victims about patients discharged by the responsible clinician, hospital managers and mental health tribunal, including decisions not to renew detention and/or to discharge under treatment Community Treatment Order. In the case of Community Treatment Order, this information includes any variation of conditions, revocation or extension of the Community Treatment Order;
- To provide additional information to victims about proposals for leave of absence, absconding or transfer to another hospital, all subject to the general principles of confidentiality and Caldicott approval;
- Informing the managers of a hospital (including independent hospitals or a care home), to which the patient is transferred, of existing information relating to victim's rights in each case, and to inform the victim of the details of transfer.

These responsibilities will be delegated to the MHL Offices to carry out on a day-to-day basis.

4.9 Responsible Clinicians will have the following responsibilities:

- To inform the hospital managers, in advance, if they are considering discharging, discharging onto CTO or varying the conditions of an existing Community Treatment Order (although any decision to discharge should not be unduly delayed for the purpose of allowing a victim to make representations);
- To consider any representations made by the victim about the conditions to be included in a community treatment order, including any representations about variation of existing conditions; and
- To inform the hospital managers of any other event about which the victim will have a right to receive information i.e. expiry of detention, decision not to renew detention or extend CTO, variation of condition(s) of CTO or revocation of CTO.

4.10 All staff have a responsibility to follow Trust policies.

² Under Chapter 2 of Part 3 of the Domestic Violence, Crime and Victims Act 2004 ("the 2004 Act") victims of specified offences of a sexual or violent nature are afforded rights to receive certain information, and to make representations, about the release of the offender from prison or from detention under the Mental Health Act 1983 ("the 1983 Act").

5. DEFINITIONS

5.1 Responsible Clinician

The approved clinician with overall responsibility for a patient's case. Certain decisions (such as renewing a patient's detention or placing a patient on a community treatment order) can only be taken by the responsible clinician.

5.2 Approved Mental Health Professional

A social worker or other professional approved by a local social services authority (LSSA) to carry out a variety of functions under the Act.

5.3 Victim Liaison Officer

Working within probation services and offering support to the victims of crime.

5.4 Mental Health Tribunal (MHT)

A judicial body which has the power to discharge patients from detention, Community Treatment Order, Guardianship and conditional discharge.

5.5 Hospital Managers

The organisation (or individual) responsible for the operation of the Act in a particular hospital (e.g. an NHS trust, an NHS foundation trust or the owners of an independent hospital). Hospital managers have various functions under the Act, which include the power to discharge a patient. In practice, most of the hospital managers' decisions are taken on their behalf by individuals (or groups of individuals) authorised by the hospital managers to do so. This can include clinical staff. Hospital managers' decisions about discharge are normally delegated to a "managers' panel" of three or more people.

5.6 Restricted Patients

A Part 3 patient who, following criminal proceedings, is made subject to a restriction order under section 41 of the Act, to a limitation direction under section 45A or to a restriction direction under section 49. The order or direction will be imposed on an offender where it appears that it is necessary to protect the public from serious harm. One of the effects of the restrictions imposed by these sections is that restricted patients cannot be given leave of absence or be transferred to another hospital without the consent of the Secretary of State for Justice, and only the Tribunal can discharge them without the Secretary of State's agreement. See also Unrestricted Part 3 patient.

5.7 Unrestricted Patients

A patient subject to a hospital order or guardianship order under Part 3 of the Act, or who has been transferred from prison to detention in hospital under that Part, who is not also subject to a restriction order or direction. For the most part, unrestricted patients are treated in the same way as Part 2 patients, although they cannot be discharged by their nearest relative. See also Restricted patient.

5.8 Domestic Violence, Crime and Victims Act 2004

An Act that introduced new powers for the police and courts to deal with offenders, while improving support and protection that victims receive.

5.9 Probation Services

The Probation Service provide probation supervision, community service, offending behaviour programmes and specialist support services, to both adult and young offenders, which aim to stop them committing further offences

5.10 Multi Agency Public Protection Arrangements

MAPPA are a set of arrangements to manage the risk posed by certain sexual and violent offenders. They bring together the Police, Probation and Prison Services into what is known as the MAPPA. A number of other agencies are under a Duty to Co-operate with MAPPA. These include: Children's Services, Adult Social Services, Health Trusts and Authorities, Youth Offending Teams, local housing authorities and certain registered social landlords, Jobcentre Plus, and electronic monitoring providers.

6. IDENTIFYING PATIENTS

6.1 Cases will continue to be identified through the usual routes: primarily the police, joint police and Crown Prosecution Service Witness Care Units but also via family liaison officers (in cases where there has been a death), Probation staff at courts or Probation case management systems. Probation victim liaison teams must check whether the mental health disposal has a restriction order or direction attached or whether the offender is an unrestricted patient. This is necessary to ensure that victims are offered the correct form of victim contact service, via VLOs (restricted patients) or hospital managers (unrestricted patients).

6.2 Existing Probation Service guidance should continue to be used to determine who will be regarded as the victim or person acting on behalf of the victim in each particular case. If Pennine Care staff need to staff seek advice about the interpretation of eligibility, assistance should be given by Probation staff, but it should be noted that the statutory responsibility for defining relevant victims of unrestricted patients will rest with our hospital managers. Existing arrangements about the transfer of responsibility for victim contact in cases where the victim or family live outside the area of the sentencing court, or the hospital where the offender is located, will apply.

6.3 When a victim or their family has indicated that they wish to take up the offer of statutory victim contact, the victim's contact details will be passed from the probation services to the Mental Health Law Office of the hospital named in the hospital order or transfer direction

6.4 As a supporting measure the Mental Health Law Offices will identify patients who have committed an offence upon admission to the Mental Health Unit and will notify the care team.

6.5 When the assessment is carried out prior to admission it is the responsibility of all involved in that assessment to try to establish whether the patient will be affected by this policy and to ensure this is communicated with the Mental Health Law Office in advance of admission if possible.

6.6 Victims will be entitled to the rights in cases where a patient, who has committed one of the specified violent or sexual offences, is detained in hospital under:

- A hospital order (Section 37);
- A hospital and limitation direction, if the associated prison sentence is for 12 months or more (Section 45A);
- A transfer direction, if the associated prison sentence is for twelve months or more (Section 47); and
- Hospital Orders and Transfer Directions which were originally subject to restrictions, but the restrictions or direction have been lifted.

The entitlement will continue to apply when such patients are conditionally discharged or discharged subject to Community Treatment Order (CTO).

7. SUPPORTING PATIENTS WHO ARE VICTIMS

7.1 Where a patient has been identified as a victim that this policy is applied to staff will ensure they have completed the following:

- Offered guidance and support
- Offered to work with the Victim Liaison Officer and sought clarity on the type of information that is to be shared
- Sought further information from the Mental Health Law Offices if in doubt of the effect of this legislation

8. PROCESS WHEN THE PATIENT HAS COMMITTED AN OFFENCE

8.1 In the event of the following

- If the team are considering discharge
- If the team are considering Community Treatment Order
- If the patient has made an application to or been referred to the tribunal
- If the patient has appealed to or is being reviewed for renewal by the Hospital Managers
- If the team are considering a change to conditions of a patients Community Treatment Order

8.2 The Responsible Clinician will make sure the Mental Health Law Office is informed and they will work with the VLO's to provide information to the victim as appropriate.

8.3 Some decisions to disclose information are left to the Hospital Managers discretion including;

- Leave of Absence
- Absent Without Leave
- Transfer of patients
- All other information that may be considered in the light of all circumstances of the case

8.4 In practice the Responsible Clinician will decide whether it is appropriate to release this information and will inform the Mental Health Law Office.

9. INFORMATION TO BE GIVEN TO PATIENTS

9.1 It is good practice to ensure the patient knows the effects of the DVCV and what information may be disclosed.

9.2 The use of information about any patient in a healthcare institution is governed by the NHS Code of Practice 2003 and the Code of Practice for the Mental Health Act 1983. These sets of guidelines are consistent with the principles of the Data Protection Act and Human Rights Act and, ordinarily, information about a patient should not be disclosed to a third party such as a victim without the patient's consent.

9.3 However, an exception to this rule is where it can be justified that there is a valid public interest justification, such as where the health and safety of a victim would be put at risk if the information was not disclosed.

9.4 These discussions must be recorded in the patient's medical records and this should be done on a regular basis as appropriate to the patient's capacity to understand and their length of stay on the ward. It will be the Responsible Clinicians duty to ensure this information is provided although in practice this may be performed by another member of the team.

10. TRIBUNAL AND HOSPITAL MANAGERS HEARINGS

10.1 Victims are entitled to make representations to the Ministry of Justice MHU, Pennine Care or Tribunal. The VLO will usually be the most appropriate person to inform the victim of a hearing pending.

10.2 When they have been advised of the timetable for submitting them, the VLO should consult the victim. Any representations should be forwarded to the MHL Office, MHU Caseworker, Tribunal in the same way that they would forward representations about a standard prisoner's licence conditions to the Parole Board.

10.3 Where the patient is the victim and a current inpatient the team must ensure

- Leave Conditions (nurse/RC),
- Support prior to the hearing (nurse/Community)

- Documentation available (MHA/Nurse/VLO)
- Travel arrangements (nurse/Community)
- Following the hearing (nurse/Community/VLO)

10.4 Where the patient has committed the offence the Responsible Clinician will work with other members of the team to ascertain documentation including risk plans are in place; giving particular attention to:

- Room arrangements
- Reports
- Disclosure issues
- Contact with VLO/Tribunal/Managers

11. CAPACITY ISSUES

11.1 Where the patient is the victim of or has committed an offence and lacks capacity to understand the implications of the MHA and DVCV the Responsible Clinician should discuss what actions should be taken with the Mental Health Law Office and an agreement or care plan should be placed in the patients note. Further guidance on this may be sought from the Mental Health Law Manager.

12. RESTRICTED PATIENTS WHO COMMITTED OFFENCES PRIOR TO 1 JULY 2005

12.1 The victims of these patients do not have a statutory right to information although the tribunal service may wish to share information Pennine Care would need to make decisions dependent upon the individual facts of the case and this should be done if approached by the VLO.

13. UNRESTRICTED PATIENTS WHO COMMITTED OFFENCES PRIOR TO 03 NOVEMBER 2008

13.1 The victims of these patients do not have a statutory right to information although the tribunal service may wish to share information Pennine Care would need to make decisions dependent upon the individual facts of the case and this should be done if approached by the VLO.

14. DUTIES OF HOSPITALS IN RESPECT OF UNRESTRICTED PART 3 PATIENTS

14.1 In the event of a Part 3 patient being made subject to a hospital order without a restriction order (section 37 of the Act), the National Probation Service (NPS) Victim Liason Unit (VLU) should offer the victim access to the Victim Contact Scheme (VCS). Victims who want to engage with the VCS will have their details passed to the hospital. The responsible clinician (or by agreement, the MHL Office) then becomes responsible for providing information to the victim.

- 14.2 Where a Part 3 patient is transferred from prison to hospital with a restriction order (section 47 and section 49 of the Act), or is transferred without a restriction order as the custodial part of their sentence was about to end (ie they are a 'notional section 37 patient'), they will be treated as an unrestricted patient when they reach their sentence end date (see paragraphs 22.75-22.77 on 'Notional section 37 patients' of the revised 2015 MHA Code of Practice). At this time, if there is a victim identified in the NPS VCS, the VLU will send the victim's details to the hospital. The responsible clinician (or by agreement, the MHL Office) then becomes responsible for providing information to the victim. The VLO should continue to provide updates to the victim until the end of the licence period, even if the patient remains in hospital, and, in particular if they are released on licence.
- 14.3 The probation VLO will pass details of victims who wish to receive information to the hospital, and liaison should then take place between the hospital and the victim. The VLO has no further role so clinical teams and hospital managers should be fully aware of their obligations with respect to the victims of unrestricted patients.
- 14.4 Hospital managers must ensure that the statutory minimum of information is communicated to victims. Statutory information consists of:
- Whether the patient is to be discharged
 - Whether a community treatment order (CTO) is to be made, including allowing the victim to make representations about the conditions attached to the CTO
 - What conditions of the CTO relate to the victim
 - When the CTO ceases
 - When authority to detain the patient expires
 - When the part 3 patient is discharged, including allowing the victim to make representations about discharge conditions, and
 - What conditions of discharge relate to the victim and when these cease.
 - The decision about whether to pass more information to victims than the statutory minimum will be for the relevant hospital manager to decide. The information that can be provided to a victim will be limited if it relates to medical treatment, as this information will be confidential medical information. The usual rules under the Data Protection Act 2004 and guidance in the Code on confidentiality apply.

15. INFORMATION FOR VICTIMS OF PART 3 UNRESTRICTED PATIENTS

- 15.1 The Mental Health Act 2007 included amendments to the DVCVA 2004 to the extent that victims of Part 3 unrestricted patients should be provided with the same level of information as restricted patients in terms of consideration for discharge and the victim's right to make representations with regard to discharge conditions and to be informed of these conditions.

16. ADDITIONAL SUPPORT FOR VICTIMS WHO ARE FAMILY, CARERS OR FRIENDS

- 16.1 Professionals should be particularly mindful that some victims of mental disordered patients may also be the patient's family member, carer, friend, or their nearest relative, and may wish to maintain contact with the patient, including visiting them in hospital. The guidance in relation to enabling contact and visits should be applied equally to these individuals as to other family, friends and carers. Professionals may need to balance the needs and rights of victims who are also family, friends or carers with their needs and rights as victims and/or to reduce the risk of harm arising from contact with the patient. Such victims may require additional support in order for them to maintain contact, and keep them safe, especially if the victim is a child or young person, lacks capacity or has a learning disability or autism.
- 16.2 Hospital managers must ensure that they fulfil the terms specified in the European directive on minimum standards on rights, support and protection of victims of crime in any of their interactions with victims of a Part 3 patient.
- 16.3 There may be a family member, friend and carer who is a victim or for other reasons does not wish to maintain contact or visit, despite a Part 3 patient's wish for them to do so. The rights of the individual victim should be protected and maintained in this and, if appropriate, this should be explained to the patient.

17. MONITORING OF THIS POLICY

- 17.1 The application of this policy will be overseen by the Mental Health Law Scrutiny Group. The processes and principles of this policy where applicable will be included in audits where this is considered appropriate.
- 17.2 Incidents relating to this policy will be recorded under the Mental Health Act category and will be considered on a monthly basis by the Mental Health Law Manager.
- 17.3 Governance Managers and Mental Health Law Offices will make sure issues relating to the application of this policy are recorded and reported to the Mental Health Law Forums with escalation to the Mental Health Law Scrutiny Group if necessary.

18. REFERENCES

Guidance on the extension of victims' rights under the Domestic Violence, Crime and Victims Act 2004 0000Department of Health, Mental Health Act Implementation Team	 DH Guidance.pdf
Guidance for Clinicians – Duties to victims under the Domestic Violence, Crime and Victims Act 2004, Tribunals Service	 guidance-clinician-duty-victims.pdf
The Code of Practice for Victims of Crime, Ministry of Justice 2015.	 code-of-practice-for-victims-of-crime.pdf
Supporting Victims and Witnesses with Mental Health Issues (CPS)	 supporting_victims_and_witnesses_with_n
Supporting Victims and Witnesses with a Learning Disability (CPS)	 supporting_victims_and_witnesses_with_a

Additional support material is available at:

<https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

LIST OF SPECIFIED OFFENCES

Reproduced from Annex C of Probation Circular PC11/2008 issued 23 May 2008

CRIMINAL JUSTICE ACT 2003 – LIST OF SCHEDULE 15 OFFENCES

*Attention is drawn to the fact that the offences are divided into two parts with Part 1 specifying relevant violent offences and Part 2 to sexual offences.

Criminal Justice Act 2003

SCHEDULE 15

- Aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Schedule; or
 - Conspiring to commit an offence so specified; or
 - Attempting to commit an offence so specified.
-

Part I - SPECIFIED VIOLENT OFFENCES

- An attempt to commit murder or a conspiracy to commit murder
- Manslaughter
- Kidnapping
- False imprisonment

Offences Against the Person Act 1861

- Section 4 - Soliciting murder
- Section 16 - Threats to kill
- Section 18 - Wounding with intent to cause grievous bodily harm
- Section 20 - Malicious wounding
- Section 21 - Attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence
- Section 22 - Using chloroform etc. to commit or assist in the committing of any indictable offence
- Section 23 - Maliciously administering poison etc. so as to endanger life or inflict grievous bodily harm
- Section 27 - Abandoning children
- Section 28 - Causing bodily injury by explosives
- Section 29 - Using explosives etc with intent to do grievous bodily harm
- Section 30 - Placing explosives with intent to do bodily harm
- Section 31 - Setting sprung guns etc. with intent to do grievous bodily harm
- Section 32 - Endangering the safety of railway passengers
- Section 35 - Injuring persons by furious driving
- Section 37 - Assaulting an officer preserving a wreck
- Section 38 - Assault with intent to resist arrest
- Section 47 - Assault occasioning actual bodily harm

Explosive Substances Act 1883

- Section 2 - Causing explosion likely to endanger life or property
- Section 3 - Attempt to cause explosion, or making or keeping explosive with intent to endanger life or property

Infant Life (Preservation) Act 1929

- Section 1 - Child destruction

Children and Young Persons Act 1933

- Section 1 - Cruelty to children

Infanticide Act 1938

- Section 1 - Infanticide

Firearms Act 1968

- Section 16 - possession of a firearm with intent to endanger life
- Section 16A - possession of a firearm with intent to cause fear of violence
- Section 17(1) - use of a firearm to resist arrest
- Section 17(2) - possession of a firearm at time of committing or being arrested for an offence specified in schedule 1 to that Act
- Section 18 - carrying a firearm with criminal intent

Theft Act 1968

- Section 8 - Robbery or assault with intent to rob
- Section 9 - Burglary with intent to: (a) inflict grievous bodily harm on a person; or (b) do unlawful damage to a building or anything in it
- Section 10 - Aggravated burglary
- Section 12A - Aggravated vehicle-taking involving an accident which caused the death of any person

Criminal Damage Act 1971

- Section 1 – Arson
- Section 1(2) - Destroying or damaging property other than an offence of arson

Taking of Hostages Act 1982

- Section 1 - Hostage-taking

Aviation Security Act 1982

- Section 1 – Hijacking
- Section 2 - Destroying, damaging or endangering safety of aircraft
- Section 3 - Other acts endangering or likely to endanger safety of aircraft
- Section 4 - Offences in relation to certain dangerous articles

Mental Health Act 1983

- Section 127 - Ill-treatment of patients

Prohibition of Female Circumcision Act 1985 (c. 38)

- Section 1 - Prohibition of female circumcision

Public Order Act 1986

- Section 1 – Riot
- Section 2 - Violent disorder
- Section 3 – Affray

Criminal Justice Act 1988

- Section 134 – Torture

Road Traffic Act 1988

- Section 1 - Causing death by dangerous driving
- Section 3A - Causing death by careless driving when under influence of drink or drugs

Aviation and Maritime Security Act 1990

- Section 1 - Endangering safety at aerodromes
- Section 9 – Hijacking of ships
- Section 10 - Seizing or exercising control of fixed platforms
- Section 11 - Destroying fixed platforms or endangering their safety
- Section 12 - Other acts endangering or likely to endanger safe navigation
- Section 13 - Offences involving threats

Part II of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570)

- Offences relating to Channel Tunnel trains and the tunnel system

Protection from Harassment Act 1997

- Section 4 - Putting people in fear of violence

Crime and Disorder Act 1998

- Section 29 - Racially or religiously aggravated assaults
- Section 31(1)(a) or (b) - Racially or religiously aggravated offences [under section 4 or 4A of the Public Order Act 1986]

International Criminal Court Act 2001

- Section 51 or 52 - Genocide, crimes against humanity, war crimes and related offences, other than one involving murder

Female Genital Mutilation Act 2003

- Section 1 - Female genital mutilation
- Section 2 - Assisting a girl to mutilate her own genitalia
- Section 3 - Assisting a non-UK person to mutilate overseas a girl's genitalia

Domestic Violence, Crime and Victims Act 2004

- Section 5 – Causing or allowing the death of a child or vulnerable adult.

Part II - SPECIFIED SEXUAL OFFENCES

Sexual Offences Act 1956

- Section 1 – Rape
- Section 2 - Procurement of woman by threats
- Section 3 - Procurement of woman by false pretences
- Section 4 - Administering drugs to obtain or facilitate intercourse
- Section 5 - Intercourse with girl under 13
- Section 6 - Intercourse with girl under 16
- Section 7 - Intercourse with a defective
- Section 9 - Procurement of a defective
- Section 10 - Incest by a man
- Section 11 - Incest by a woman
- Section 14 - Indecent assault on a woman
- Section 15 - Indecent assault on a man
- Section 16 - Assault with intent to commit buggery
- Section 17 - Abduction of woman by force or for the sake of her property
- Section 19 - Abduction of unmarried girl under 18 from parent or guardian
- Section 20 - Abduction of unmarried girl under 16 from parent or guardian
- Section 21 - Abduction of defective from parent or guardian
- Section 22 - Causing prostitution of women
- Section 23 - Procreation of girl under 21
- Section 24 - Detention of woman in brothel
- Section 25 - Permitting girl under thirteen to use premises for intercourse
- Section 26 - Permitting girl under sixteen to use premises for intercourse
- Section 27 - Permitting defective to use premises for intercourse
- Section 28 - Causing or encouraging the prostitution of, intercourse with or indecent assault on girl under 16
- Section 29 - Causing or encouraging prostitution of defective
- Section 32 - Soliciting by men
- Section 33 - Keeping a brothel

Mental Health Act 1959

- Section 128 - sexual intercourse with patients

Indecency with Children Act 1960

- Section 1 - indecent conduct towards young child

Sexual Offences Act 1967

- Section 4 - Procuring others to commit homosexual acts
- Section 5 - Living on earnings of male prostitution

Theft Act 1968

- Section 9 - burglary with intent to commit rape

Criminal Law Act 1977

- Section 54 - inciting girl under 16 to have incestuous sexual intercourse

Protection of Children Act 1978

- Section 1 - indecent photographs of children

Customs and Excise Management Act 1979

- Section 170 - penalty for fraudulent evasion of duty etc [in relation to goods prohibited to be imported under section 42 of the **Customs Consolidation Act 1876** (indecent or obscene articles)]

Criminal Justice Act 1988

- Section 160 - possession of indecent photograph of a child

Sexual Offences Act 2003

- Section 1 – Rape
- Section 2 - Assault by penetration
- Section 3 - Sexual assault
- Section 4 - Causing a person to engage in sexual activity without consent
- Section 5 - Rape of a child under 13
- Section 6 - Assault of a child under 13 by penetration
- Section 7 - Sexual assault of a child under 13
- Section 8 - Causing or inciting a child under 13 to engage in sexual activity
- Section 9 - Sexual activity with a child
- Section 10 - Causing or inciting a child to engage in sexual activity
- Section 11 - Engaging in sexual activity in the presence of a child
- Section 12 - Causing a child to watch a sexual act
- Section 13 - Child sex offences committed by children or young persons
- Section 14 - Arranging or facilitating commission of a child sex offence
- Section 15 - Meeting a child following sexual grooming etc.
- Section 16 - Abuse of position of trust: sexual activity with a child
- Section 17 - Abuse of position of trust: causing or inciting a child to engage in sexual activity
- Section 18 - Abuse of position of trust: sexual activity in the presence of a child
- Section 19 - Abuse of position of trust: causing a child to watch a sexual act
- Section 25 - Sexual activity with a child family member
- Section 26 - Inciting a child family member to engage in sexual activity
- Section 30 - Sexual activity with a person with a mental disorder impeding choice

- Section 31 - Causing or inciting a person with a mental disorder impeding choice to engage in sexual activity
- Section 32 - Engaging in sexual activity in the presence of a person with a mental disorder
- Impeding choice
- Section 33 - Causing a person with a mental disorder impeding choice to watch a sexual act
- Section 34 - Inducement, threat or deception to procure sexual activity with a person with a mental disorder
- Section 35 - Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception
- Section 36 - Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder
- Section 37 - Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception
- Section 38 - Care workers: sexual activity with a person with a mental disorder
- Section 39 - Care workers: causing or inciting sexual activity
- Section 40 - Care workers: sexual activity in the presence of a person with a mental disorder
- Section 41 - Care workers: causing a person with a mental disorder to watch a sexual act
- Section 47 - Paying for sexual services of a child
- Section 48 - Causing or inciting child prostitution or pornography
- Section 49 - Controlling a child prostitute or a child involved in pornography
- Section 50 - Arranging or facilitating child prostitution or pornography
- Section 52 - Causing or inciting prostitution for gain
- Section 53 - Controlling prostitution for gain
- Section 57 - Trafficking into the UK for sexual exploitation
- Section 58 - Trafficking within the UK for sexual exploitation
- Section 59 - Trafficking out of the UK for sexual exploitation
- Section 61 - Administering a substance with intent
- Section 62 - Committing an offence with intent to commit a sexual offence
- Section 63 - Trespass with intent to commit a sexual offence
- Section 64 - Sex with an adult relative: penetration
- Section 65 - Sex with an adult relative: consenting to penetration
- Section 66 – Exposure
- Section 67 – Voyeurism
- Section 69 - Intercourse with an animal
- Section 70 - Sexual penetration of a corpse

The majority of offences listed at Schedule 4 of the Criminal Justice and Courts Services Act 2000 are included in Schedule 15 of the Criminal Justice Act 2003; however several remain on statute and have been replaced below:

Sexual Offences Act 1956

- Section 12 – Committing buggery with a child under the age of 16
- Section 13 – Committing an act of gross indecency with a child
- Section 30 – (Man living on earnings of prostitution) in a case where the prostitute is a child
- Section 31 – (Woman exercising control over prostitute) in a case where the prostitute is a child

Misuse of Drugs Act 1971

- Section 4(3) – (i) supplying or offering to supply a Class A drug to a child; (ii) being concerned in the supplying of a drug to a child; (iii) being concerned in the making to a child of an offer to supply such a drug.

Child Abduction Act 1984

- Section 1 – abduction of child by parent

Sexual Offences (Amendment) Act 2000

- Section 3 – Abuse of trust
 - Aiding, abetting, counselling, procuring or inciting the commission of an offence against a child, or
 - Conspiring or attempting to commit such an offence.



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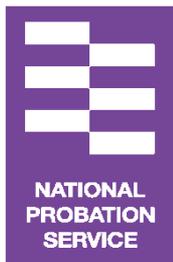
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**National Probation Service
Victim Contact Service
Moss Side Probation Office
87 Moss Lane West
Manchester M15 5PE**

Tel: 0300 047 8100 (Reception)

**Referral of victim details
under Schedule 6 of the
Mental Health Act 2007**

Offender name (DOB):	Offence: Sentence:	Date of sentence: Court:
Date initial letter sent:	Date final letter sent:	Has victim responded? Y/N Has victim consent been obtained? Y/N
Victim name: DOB:	Victim address:	Gender: M/F Vulnerable victim: Y/N Ethnicity code:
Victims Preferred Contact Details:	Additional Information:	

Where victim consent has been obtained it is confirmed that the victim wishes to receive information from the hospital manager over the course of the offender's treatment. Hospital managers must ensure that they provide the victim with any relevant information and that any representations that the victim wishes to make are passed to those responsible for making decisions about any conditions that will be attached to the offender's release.

Appendix 4

Date:

Dear

Re: Hospital Managers’ Duties In Respect of Victims of Crime: The Domestic Violence (Crime and Victims) Act 2004 (As amended by the Mental Health Act 2007)

I am writing to inform you that, in accordance with Section 48 and Schedule 6 of the Mental Health Act 2007, you are entitled to receive information in connection with:

.....

who was admitted to this hospital under

Under the law relating to victim contact, you have the right to be given certain information about this patient, including any plans to discharge the patient from hospital and any consideration being given to discharge the patient from hospital under a Community Treatment Order, subject to conditions. You will also have the right to receive information about any significant events affecting this patient, subject to the general principles of patient confidentiality.

If you wish to receive information or make representations about the arrangements for discharge of the patient you should complete and return the slip at the bottom of this letter. If I do not hear from you, this will be taken that you do not wish to receive this information and there will be no further contact with you. If, at a later date, you decide that you would like to receive information, please return the slip or contact this office on the number shown above.

Please note that, if you decide that you would like to receive information, we are required to obtain the consent of the patient to the release of information, however information about you will not be given to the patient. If the patient does not give consent to the release of information we can still decide to disclose information in accordance with our legal obligations.

Yours sincerely,

Mental Health Law Office

Appendix 5

Date:

To:

Dear

Re. The Domestic Violence, Crime and Victims Act 2004 (As amended by the Mental Health Act 2007)

Patient's Name:

Ward:

Admission Date:

I am writing to you as the Responsible Clinician for the above-named patient.

The above-named patient meets the criteria under Chapter 2 of the Domestic Violence, Crime and Victims Act 2004. Consequently, there is a duty to provide information and to notify any victim of significant events before this patient is discharged. In particular, the Responsible Clinician must inform the hospital managers:

- if you are considering discharging the patient from detention or community treatment order;
- if you are discharging the patient onto community treatment order;
- if you are revoking or varying the conditions of an existing community treatment order;
- if you do not intend to renew detention or extend an existing community treatment order

There is discretion to inform the victim of other events during the patient's admission e.g. granting of leave of absence or absconding if you think this is appropriate, after discussion with members of the clinical team. You may wish to take advice before doing so.

Yours sincerely,

Mental Health Law Office

Different routes of providing information to victims

All victims who qualify for the victim contact scheme are entitled to receive information during the offender's sentence and to have their views considered when decisions are being taken about the conditions to which the offender may be subject on their release. The service will be provided in different ways to the victims of offenders subject to hospital orders with and without restrictions.

In cases involving offenders subject to hospital orders with restrictions, the VLO is the primary point of contact with the victim, both for providing them with information, and for ensuring that their views are submitted to those responsible for taking decisions about the offender.

For those cases involving offenders subject to hospital orders without restrictions, a VLO will be responsible for initial contact with the victim, but contact after that point will be provided by hospital staff.

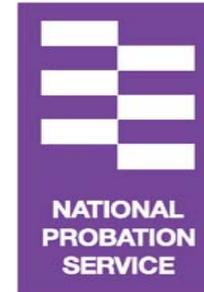
What information can victims be provided with?

The type of information which victims of mentally disordered offenders can receive is similar to that which is passed to the victims of offenders who are serving prison sentences at certain key stages in the offender's sentence such as when they are being considered for release.

Victims may also make representations about the conditions to which the offender may be made subject on their release. Such conditions may include a geographical exclusion zone or 'no contact' condition.

Any questions?

If you have any questions or wish to discuss any immediate concerns please contact your Victim Liaison Officer:



Victim Contact Service

**Information for the victims
of mentally disordered
offenders**



**Ministry of
JUSTICE**

*National Offender
Management Service*

Providing a service to the victims of mentally disordered offenders

The Probation victim contact scheme is available to victims of offenders convicted of a violent or sexual offence and sentenced to imprisonment for twelve months or more. It includes the victims of these offenders who are also assessed as being mentally disordered.

These offenders are made subject to certain types of hospital order and, depending upon the decision of the Court, may be referred directly from the Court to hospital for psychiatric treatment, or they may be transferred to hospital during their prison sentence.

Your details have been passed to the Probation Service by the Witness Care Unit at Court, and a Probation Victim Liaison Officer (VLO) has contacted you to find out whether you wish to take up the services that you are entitled to during the offender's sentence.

What is a hospital order?

There are several different types of order that can lead to an offender being admitted to hospital for psychiatric treatment after they have been convicted of an offence (this also includes offenders found not guilty by reasons of insanity or unfit to stand trial).

If the Court finds that the offender is suffering from mental disorder they may impose a ***Hospital Order*** to ensure that the offender is detained in hospital for treatment. When making a hospital order, the Court may also decide to impose special restrictions.

Alternatively, the Court may make the offender subject to a ***Hospital Direction***. This happens when the Court imposes a prison sentence and also directs the offender's admission to hospital. The offender may ultimately be released from prison or hospital, but not before they have served their sentence.

The final type of order is a **Transfer Direction** which means the offender is transferred from prison to hospital if they are found to be suffering from a mental disorder requiring hospital treatment. As with the other types of order this may carry additional restrictions or not.

Restricted or unrestricted?

Where restrictions are imposed, this means that decisions about the management of the patient may not be taken without the authority of the Secretary of State or the independent Mental Health Review Tribunal. In the case of orders made without restrictions, responsibility for the management of the offender lies with hospital staff. In either case, the offender can be discharged from hospital by the independent mental health tribunal.

In certain circumstances the restrictions on the offender's hospital order may expire and the offender will become an unrestricted patient.