

# Working with mentally disordered offenders: government policy, NOMS and inaction

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## ABSTRACT

This article seeks to explore the historical context of government policy in relation to mentally disordered offenders. The article will relate this context to the work of the Probation Service, in particular the development of the Offender Management System (OASys), risk assessment and the implications and challenges that face the National Offender Management Service (NOMS). The key question to be assessed is whether NOMS and OASys can lead to a better service for those with mental disorder, and therefore reduce their risk.

## KEYWORDS

NOMS; OASys; risk assessment; mentally disordered offenders

## Introduction

There has been considerable rhetoric about working with offenders with mental health difficulties since the introduction of Home Office Circular 66/90, *Provision for mentally disordered offenders* (Home Office, 1990), later supplemented by Circular 12/95, *Mentally disordered offenders: inter-agency working* (Home Office, 1995). Both these circulars outlined government policy for achieving care and treatment for mentally disordered offenders, rather than punishment through the criminal justice system. They emphasised a need for partnership working, and full and timely sharing of information across criminal justice, health agencies and others involved in the care and management of mentally disordered offenders. While the emphasis has moved away from diversion to offenders being 'properly punished for their crime', government policy retains the importance of the need to 'make sure that people with mental disorders who offend get the treatment they need' and continues to place importance on information exchange (Home Office, 2006 p28).

## The National Action Plan

Mental illness is correlated with social exclusion (see Young, 1999 and Lea, 2002 on the link between social exclusion and crime), and factors such as unemployment, homelessness and lack of support from family were all identified by the Social Exclusion Unit (2004) as contributing to mental health problems. Thus, when, almost a decade

after HO Circular 66/90, the Government published a National Action Plan for reducing re-offending through greater strategic direction and joined-up working (Home Office, 2004), it was obvious that it would affect disproportionately those with mental illness and/or the socially excluded. The action plan stated that, in part, it meets two important government manifesto commitments:

- ensuring that punishment and rehabilitation are both designed to minimise re-offending
- improving the education of people in custody.

The plan contained more than 60 national action points, covering the key pathways which were expected to support the rehabilitation of offenders. It also suggested the activity that each of the public sector agencies would have to engage in to achieve the Government's ambition. The expectation was that public organisations would build on their existing good practice.

The National Action Plan, while not addressing mental disorder directly, acknowledged that offenders are not a homogeneous group and that they are differentiated by age, gender, ethnicity, family background and geographic location, and by the nature, circumstances and frequency of the crimes they commit (Home Office, 2004). The document referred to offenders' problems as often complex and inter-related, and said that many offenders frequently experience long-term disengagement from services and have histories of poor relationships with those who might help them. Attention was drawn to the fact that offenders from a variety of minority ethnic groups and women offenders may have different needs from the majority of the offending population, and that services need to be delivered in a way that is responsive to these diverse communities.

The National Action Plan summarises three areas that need to be addressed successfully, both at strategic development level and at the point of service delivery, so that the plan can have its maximum impact (Home Office, 2004). These areas are:

- communication

- information sharing
- risk assessment.

Thus the key aim of the plan was to identify and target offenders, particularly those most at risk of re-offending and/or causing harm. The report stated clearly that achievement in these areas is dependent on up-to-date offender assessments carried out by prison and probation staff. The key assessment tool, which was introduced to achieve this aim, is the Offender Management System (OASys), described in the document as:

*a risk assessment and sentence planning tool for identifying and classifying offender-related needs, such as lack of accommodation, poor educational and employment skills, substance misuse, relationship problems, problems with thinking and attitudes and the risk they pose to the public, and for making plans to address these needs* (Home Office, 2004 p4).

In the *Five Year Strategy for Protecting the Public and Reducing Re-offending*, OASys is referred to as 'the most advanced system of its kind in the world' (Home Office, 2006 p11). OASys:

*has been jointly developed by the Probation and Prison Services. It helps to target interventions, ensuring that the individual offender receives those [interventions] that are most appropriate* (Home Office, 2004 p4).

Acknowledgment of the impact of mental disorder on offending was referred to more directly in a statement on working with mentally disordered offenders by Charles Clarke, the Home Secretary, speaking at the Prison Reform Trust Annual Lecture in September 2005. He stated:

*It is well understood that very many offenders have serious health problems, of which mental health and drugs or alcohol problems are the most obvious, though not the only ones. Both are significant health problems which may have a*

*considerable impact on a person's criminal behaviour (2005 p5).*

This statement was reflected in the *Five Year Plan for Protecting the Public and Reducing Re-offending* (Home Office, 2006). The main thrust was to reduce re-offending by ensuring that those who commit crime are punished, but at the same time tackling 'the linked factors that make them [offenders] more likely to commit crime again' (2006 p5). The plan states that:

*We continue to imprison too many people with mental health problems. Dangerous people with mental health problems must be kept secure, and treatment is available for severe personality disorders in prison. Those with the most serious problems can also be transferred to secure hospital places. But the majority of offenders with lower level disorders are not dangerous and could be better treated outside the prison system without any risk to the public (2006 p26).*

To achieve this position, the plan considers strong offender management with effective assessment, targeting requirements and working in partnership as key to delivery. OASys is seen as central to effective risk assessment, and a major factor determining how the offender is managed.

## **The National Offender Management Service (NOMS)**

The conception of NOMS, the National Offender Management Service, should be a cause for considerable optimism for those interested in the development of work with mentally disordered offenders (Faulker, 2006). It provides a clear opportunity to identify and support offenders with mental health problems, whether in prison or in the community. Since 2000 the Home Office and Department of Health have been working in a formal partnership to improve health services for offenders. Initially the work of this partnership was to develop health services for prisoners, which has resulted in the very successful prison in-reach and the transfer of responsibility for prison health from prison governors to local primary care trusts. Now

called offender health partnerships, the policy brief has been extended to cover police, courts and community health services. Offender health partnerships address issues such as:

- improving the quality of health services for people in police custody, court diversion and care
- improving health and health services for offenders in the community.

On the 8th February 2006, NOMS launched the National Development Programme for Extending Offender Health Support within health and offender partnerships which will co-ordinate the three extended streams referred to above. It is hoped that these streams will begin to support the development of training for offender managers, support the offender management process to ensure appropriate consideration of offender health and social care needs, and reduce barriers to offender access to health provision.

However, despite some progress in prison health (Rickford & Edgar, 2005), these developments have yet to show any real benefit in community management of offenders (Littlechild & Fearn, 2005). In the current climate of public concern about the efficacy of arrangements for community management of offenders, impressive policies will be of little comfort to the community if people cannot have confidence that offenders are being assessed and managed effectively.

In a recent review of a serious further offence case, HM Inspectorate of Probation comments on NOMS as follows.

*Much attention has been given too early to the structural issues of 'NOMS-as-an-organisational-innovation' before completing thinking through the strategic issues of what precisely we want Offender Management to achieve with offenders. And while much of the thinking about the future of Offender Management has been quite reasonably about how to divide the work up (eg commissioning and providing), not enough has been about how to join the work back up again with each offender. (HM Inspectorate of Probation, 2006 p48)*

## How useful is OASys?

The 'joining the work up again' with offenders with mental health problems can only happen if offender managers have the ability to identify the problem in the first place. Much has been written about the need for training in this area (Prins, 2005; Kemshall, 2003), but less attention has been paid to the use of OASys, which has designed into the tool the capacity to identify problems related to mental health and personality disorder. If the OASys assessment identifies certain key areas as significant issues with the offender, this should trigger a further (specialist) assessment to be organised by the offender managers.

The usefulness of OASys in identifying issues relating to mental disorder has been reviewed in two recent research projects:

- *E-OASys: A Helpful Assessment Tool for the Mentally Vulnerable Offender* by Fitzgibbon & Cameron (2005).
- a pilot study on *Personality Disordered Sex Offenders*, a collaborative review between Oxleas NHS Trust and London Probation; Craissati *et al* (2005).

The conclusions of these research projects were that, if used well, completed properly and analysed in full, e-OASys assessments have the potential to highlight mental health and/or personality disorder (PD) issues. However, accessing the data collected by OASys in the mental health/PD areas is complex, as disorders are contained in a number of domains throughout the tool and not in discrete sections easily referenced. Fitzgibbon and Cameron (2005) comment that:

*in order to enable the e-OASys assessor to take full account of the assessment made, the development of a flag system (on e-OASys) for key areas is essential... A flag system would alert the assessor automatically to the presence of a number of factors which individually would not necessarily indicate mental health or PD concerns but collectively would indicate that there were significant characteristics in this case which would*

*warrant further specialist assessment to examine whether there were mental health needs in the offender(s) which require consideration* (2005 p7).

Craissati and colleagues (2005) used the Mental Health and PD screen as part of a battery of tools, including Risk Matrix 2000, PCL-R, The Millon Clinical Multi-axial Inventory and SONAR, when assessing sex offenders for risk and personality. They caution that:

*The OASys mental health screen is perhaps over-sensitive with a trigger score of one, but provides a useful and defensible guidance to a non mental health practitioner; however, it is possible that it is no more accurate than simply asking about contact with mental health services and self-harm attempts* (2005 p15).

They also comment that the 'Dangerous and severe personality disordered' section provides a good indicator of personality problems, and suggest that it is as useful to offender management as any other PD tool in screening for personality disorder,

*but the relatively complex questions need to be answered without the requisite training being available, and there is insufficient guidance regarding the cut-off point for further assessment* (2005 p15).

Craissati and colleagues also refer to this information being dispersed throughout the tool and the need for it 'to be collated and triggered' (2005 p41).

Despite the emphasis on assessment, and on OASys in particular, in the various government policies relating to offender management and crime reduction, it is remarkable that as a first step NOMS has not prioritised raising awareness with offender managers of the usefulness of OASys for identifying mental health difficulties in offenders (Hough *et al*, 2006). OASys was introduced in an attempt to construct a common set of concepts, a shared vocabulary in which practitioners from a variety of differently trained professions could discuss risk (Canton, 2004 p144). However, such

a risk assessment tool will only be effective if it leads to appropriate and sensitive support for mentally disordered offenders (Grounds, 1995). The failure to identify mental health issues could skew risk and needs assessments and limit the effectiveness of interventions aimed at tackling the factors linked to offending. It will be increasingly important for professionals and other practitioners in criminal justice agencies to be trained and experienced in effective use of these assessments, if they are going to avoid averse risk assessments based on prejudicial views about those with mental health problems and others (Hannah-Moffat, 2005). Mental health, as the Home Secretary (2005) reminds us, is one of the significant health problems which may have a considerable impact on a person's criminal behaviour. However, as Hershel Prins recently concluded:

*This climate is much preoccupied with public protection, the assessment of risk and the resulting over-hasty implementation of more and more criminal justice measures... Professionals have a responsibility to keep their heads above these turbulent waters... Indeed, they have a responsibility to promote better public understanding. However, they can only do this if they have informed knowledge (2005 p354).*

NOMs has a responsibility to provide a sensitive and effective service to all offenders, including those with mental disorders. It also has a duty to provide its key resource, the staff it employs, with the knowledge, skills and confidence to use OASys and other assessment procedures to ensure that both the practitioner and the offender can work towards reducing re-offending, and thus enable re-integration and rehabilitation to take place.

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