CPS

NPCC National Police Chiefs' Council

NHS England

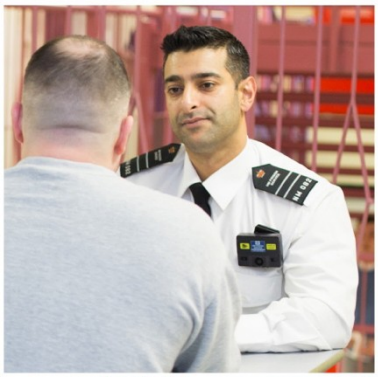
NFCC National Fire Chiefs Council

HM Prison & Probation Service

V1 – January 2020

JOINT AGREEMENT

On Offences Against Emergency Workers







Introduction

1. This document sets out the agreement on offences against emergency workers between Her Majesty's Prison and Probation Service (HMPPS), NHS England, the National Fire Chiefs Council (NFCC), the National Police Chiefs Council (NPCC) and the Crown Prosecution Service (CPS).

Purpose of this agreement

2. This agreement provides for a broad framework to ensure the more effective investigation and prosecution of cases where emergency workers are the victim of a crime, particularly in applying the provisions of the Assaults on Emergency Workers (Offences) Act 2018 (the 2018 Act) and to set out the standards victims of these crimes can expect. The principles in this agreement do not create legally enforceable rights or obligations but set out minimum expectations for all signatories.

Emergency Workers

3. The definition of an emergency worker in the 2018 Act goes beyond specific titles and jobs, and extends to persons whose role brings them within the definition:

POLICING				
Constable	NCA officer	A person who has the powers of a constable	A person who is employed for a police purpose	A person who is engaged to provide services for police purposes
PRISONS				
A prison officer	A person employed or engaged to carry out functions in a custodial institution of a corresponding kind to those carried out by a prison officer	A prisoner custody officer, so far as relating to the exercise of escort functions	A custody officer, so far as relating to the exercise of escort functions	
FIRE SEARCH AND RESCUE				
A person employed for the purposes of providing, or engaged to provide, fire services or fire and rescue services		A person employed for the purposes of providing, or engaged to provide, search services or rescue services		
NHS				
A person employed for the purposes of providing, or engaged to provide NHS health services - and whose general activities in doing so involve face to face interaction with (i) individuals receiving the services or (ii) with other members of the public.		A person employed for the purposes of providing, or engaged to provide services in the support of the provision of NHS health services - and whose general activities in doing so involve face to face interaction with (i) individuals receiving the services or (ii) with other members of the public.		

4. The 2018 Act provides that those whose roles relate to "police purposes" and "the provision of NHS health services" may be covered, and that those whose job may not be that of an emergency worker but who come to be engaged in support of emergency roles may also be covered. A person therefore is acting in the exercise of the functions as such a worker if they are exercising the functions of the roles described above.

Investigation

5. This protocol lays out both the organisational and police responsibilities for the emergency worker. The police should be contacted promptly where a criminal offence is alleged to have been committed against an emergency worker.

6. The Victims' Code applies to all victims, including emergency workers, who have been subject to an assault or hate crime. Victims are to be kept informed about the progress of their case at all stages of the investigation and any prosecution that follows. The victim's point of view will be taken into account when making investigative and prosecutorial decisions.

7. Victims will be offered the opportunity to complete a Victim Personal Statement in their own words, and this will be used to explain to the court the impact of the offence on the emergency worker. The Joint Agency Guide to the Victim Personal Statement provides guidance. A VPS can be made separately to, or as part of, a victim's witness statement. Such a statement may be submitted for the sentencing hearing so that the court can take into account the offending on the victim, but such evidence should also ideally be obtained at charge, so that the level of charge and the prosecution case about the impact on the victim is clear from the outset, even if that is updated by a later statement.

8. An Organisational Impact Statement enables an organisation to set out the impact a crime has had on their service, e.g. operational disruption. It is prepared by a nominated representative who is properly authorised to make the statement. Three example templates of these statements, to be adapted for use, can be found at Annex D. Similar form templates used by Businesses are available at: https://www.police.uk/information-and-advice/impact-statement-for-business/

9. Community Impact Statements may also be submitted, but if evidence of the prevalence of an offence is to be referred to, the guidance provided by the Court of Appeal in *R v Bondzie* [2016] EWCA Crim 552 at paragraph 11 must be followed.

10. Guidance on Management of Potential Exposure to blood-borne viruses in emergency workers was published in September 2019 by Public Health England. It advises on the risk of infection through injury of Hepatitis B, Hepatitis C and HIV. It further provides advice on the management of spitting incidents, low risk incidents, the provision of timely clinical advice and suggestions on cross service collaboration.

11. The police retain operational decision-making about whether or not to investigate, how to investigate, and whether to make decisions about the case or to refer the case to the CPS.

12. The Crime in Prison Referral Agreement between HMPPS, NPCC and the CPS sets out an internal prison disciplinary process and clarifies offending behaviour that must be referred to the police.

13. A complainant who is a police officer or Police Staff Investigator must never be the officer in charge of the investigation into his or her own assault or hate crime and an officer in this position should not take statements for witnesses or engage in other investigative activity. Similarly a complainant in any of the

relevant organisations should not be responsible for any internal investigation of the assault on themselves. A Seven-Point Plan for assault on Police is being widely adopted across all police forces. An example of this is provided at Annex A for use by all organisations and similar plans have also been adopted by other agencies.

14. Officers must have regard to any particular aggravating factors such as hate crime and follow the Hate Crime Operational Guidance in such cases.

15. Body worn video footage which shows the assault will be central to the investigation. It should also be played at trial and at sentence.

The decision to charge

16. The Police or the CPS will make the decision as to whether a prosecution is to follow. The police may do so for cases that can only be heard in the Magistrates' Court or cases which are an anticipated guilty plea and are likely to be sentenced there; the CPS must do so for cases that are hate crimes or are likely to be heard in the Crown Court or can only be heard in the Crown Court. Referring a crime to the police does not automatically mean that a full police investigation will take place or that the CPS will be consulted and a criminal prosecution take place. Further investigation should consider the victim's wishes. In general, the more serious the circumstances, the more likely it is an investigation will commence automatically.

17. The decision to charge will be made in accordance with the Code for Crown Prosecutors, applying a two-stage test:

    ☐ **Is there sufficient evidence for a realistic prospect of conviction?** This is an objective assessment of the evidence obtained by the police investigation. If there is not sufficient evidence to charge, no case can proceed.

    ☐ If there is sufficient evidence, is a prosecution required in the public interest?

18. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In determining this, prosecutors will consider:

    ☐ **How serious is the offence committed?** Offences against the person are serious. Different offences are available depending on how serious.

    - **What is the level of culpability of the suspect?** "Prosecutors should also have regard to whether the suspect is, or was at the time of the offence, affected by any significant mental or physical ill health or disability, as in some circumstances this may mean that it is less likely that a prosecution is required. However, prosecutors will also need to consider how serious the offence was, whether the suspect is likely to re-offend and the need to safeguard the public or those providing care to such persons." *Mental or physical ill health accordingly does not determine that no charge may follow. At the public interest stage, the focus is on (i) whether the suspect is or was affected by a significant health issue and (ii) balancing that with seriousness, re-offending and safeguarding as relevant factors.*

- **What are the circumstances of and the harm caused to the victim?** "A prosecution is also more likely if the offence has been committed against a victim who was at the time a person serving the public."

- What was the suspect's age and maturity at the time of the offence?
  "The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18….
  As a starting point, the younger the suspect, the less likely it is that a prosecution is required. However, there may be circumstances which mean that, notwithstanding the fact that the suspect is under 18 or lacks maturity, a prosecution is in the public interest. These include where:

  i. the offence committed is serious;
  ii. the suspect's past record suggests that there are no suitable alternatives to prosecution; and
  iii. the absence of an admission means that out-of-court disposals that might have addressed the offending behaviour are not available."

- What is the impact on the community?
  See above in relation to Community Impact Statements and Organisational Impact statements.

19. The police and CPS will also apply the CPS Charging Standards on Assault and Guidance on the Assaults on Emergency Workers (Offences) Act 2018, particularly when selecting the appropriate offence to be charged.

20. The CPS will apply in appropriate cases for special measures, such as screening the emergency worker as a witness from the defendant, where the evidence supports an application in accordance with the law.

21. Prosecutors will in addition have regard to CPS legal guidance, in particular:

- ☐ Suspects and defendants with mental health conditions and disorders
- ☐ Prison Related Offences that applies to offences in prisons
- ☐ Hate Crime prosecution guidance:
- ☐ Disability Hate Crime and other crimes against Disabled people
- ☐ Racist and Religious Hate Crime
- ☐ Homophobic, Biphobic and Transphobic Hate Crime
- ☐ Guidance on Youth Offenders
- ☐ Guidance on Special Measures
- ☐ Guidance on Criminal Behaviour Orders

22. The CPS will explain a decision to take no further action or to reduce a charge in writing in accordance with the obligations under the Victim's Code.

Accepting guilty pleas

23. A defendant may be charged with other offences as well as one contrary to the 2018 Act. A defendant may offer to plead, or plead guilty to the other offence but not that contrary to the 2018 Act.

24. Prosecutors should only accept a plea if:

- ☐ the court is able to pass a sentence that matches the seriousness of the offending, particularly where there are aggravating features;
- ☐ it enables the court to make a confiscation order in appropriate cases, where a defendant has benefitted from criminal conduct;
- ☐ it provides the court with adequate powers to impose other ancillary orders, bearing in mind that these can be made with some offences but not with others;
- ☐ where practicable the victim has been consulted.

25. Prosecutors should note:

- ☐ An assault may attract a consecutive sentence if it is not part and parcel of the substantive offence but is an assault, for instance, in an effort to escape: *R v Kastercum* (1972) 56 Cr. App. R. 298.
- ☐ Further assaults, even where an offence is serving a significant sentence, may fall to be reflected in sentences to be served consecutive to that already being served: *R v Haywood (Craig Callan)* [2000] 2 Cr. App. R. (S.) 418; also *R. v Hills (Christopher Carl)* [2008] EWCA Crim 1871.
- ☐ A concurrent sentence, and thus a nominal penalty, is not determinative of the public interest: see the CPS Legal Guidance on Nominal Penalties.
- If the allegation is not to be proceeded with, it will be withdrawn (pre-plea) or no evidence will be offered in the magistrates' court as appropriate. At the Crown Court a request will be made for an order that it lie on file, rather than no evidence being offered as appropriate.

Challenging a decision

26. Where a victim is informed by the police or CPS of a decision not to prosecute a suspect, they should also notify the victim of their right to a review and provide sufficient information to enable the victim to decide whether to request a review.

27. If the emergency worker disagrees with a police decision not to proceed with an investigation, this should initially be raised locally with the police force in accordance with the police victim right to review information available on the force's website.

28. Where the disagreement is with a decision taken by the CPS, the emergency worker may be able to invoke the CPS Victims' Rights to Review, which provides for a victim's right to request a review of decisions taken by the CPS not to charge, to discontinue or otherwise terminate all proceedings.

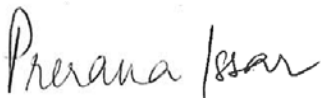
29. Where the police disagree with a CPS decision, the process of appeal under management review of charging decisions and actions, at paragraph 23 of the Director's Guidance on Charging 5th Edition, will apply.

30. Guidance on the CPS Feedback and Complaints policy should be followed where appropriate. The CPS considers a complaint to be "an expression of dissatisfaction about any aspect of our service by a member of the public or their representative who has been directly involved in the service complained of".

Commencement

31. This agreement will take effect on 6th January 2020. The parties will meet on an annual basis to review the implementation and effectiveness of the agreement, including the available data. The parties can be contacted at
CPS - HQPolicy@cps.gov.uk
Prisons - crimeinprison@justice.gov.uk
Fire - nfccadminsupport@nationalfirechiefs.org.uk
Police - info@npcc.pnn.police.uk
NHS – NHS England: england.contactus@nhs.net

Phil Copple
Director General - Her Majesty's Prison and Probation Service 06/01/2020



Prerana Issar 06/01/2020
Chief People Officer for NHS England and NHS Improvement

Roy Wilsher
Chair - National Fire Chiefs Council 06/01/2020

Deputy Chief Constable Sara Glen
National Policing Lead for Charging (NPCC) 06/01/2020

Chief Constable Andy Marsh
Assault Police Working Group Criminal Justice Outcomes Lead (NPCC) 06/01/2020

Sue Hemming
Crown Prosecution Service 06/01/2020

Annex A – Assault on Emergency Worker – 7 Point Plan

ASSAULT ON EMERGENCY WORKER

Our Pledge to you: [insert organisation name] will not tolerate assaults (physical or verbal) or hate crimes against our staff and volunteers. Being assaulted or abused in any way is not part of the job.

A Seven-Point Plan

Assaults and hate crimes against staff and volunteers will be investigated with the same care, compassion, diligence and commitment as an assault or hate crime on a member of the public. This sounds obvious, but too often a response to affected staff can be rushed or treated as secondary to members of the public.

The Victims' Code applies to all victims, including staff and volunteers, who have been subject to assault or hate crime. A number of criminal justice organisations must comply with the Victims' Code, which means keeping the victim updated, discussing outcome options, and taking account of the victim's point of view before imposing an outcome. This is crucial because we know how important it is for our staff that we treat them properly.

The affected member of staff must never investigate their own assault or hate crime. This is not appropriate on any level and even taking statements from witnesses may be inappropriate. The integrity of the investigation and the impartiality of the member of staff could be called into question, which could undermine the case and/or heighten the impact on the victim.

Victims recover better and more quickly if they receive the right welfare and supervision. This also helps to avoid long-term negative consequences. The affected person's supervisor or manager should meet with them as soon as it is practical to do so. The victim may downplay the impact on them, but supervisors should be aware of the potential effects of the incident.

The supervisor must ensure that the head of department is informed to provide continuity of welfare support. The relevant staff association or trade union can also provide valuable additional support to the victim.

The assaulted member of staff must complete the Health and Safety incident report with their supervisor. It will not always be possible for the victim to do this, in which case another person can complete the report.

To achieve a successful prosecution, the best evidence must be presented. Victim Personal Statements should be used and all reasonable requests to provide evidence to the Police should be complied with in order that a thorough investigation can be carried out.

Annex B – NHS Accredited Security Management Specialists' Assistance in Investigations

1. Most NHS organisations will have Accredited Security Management Specialists (ASMS) to ensure the security of NHS staff, premises and resources.

2. The ASMS can assist in dealing with individual incidents in a number of ways –

    - Supporting staff who have been victims or witnesses in crimes relating to their work for the NHS
    - Assisting the police in contacting staff who have been victims or witnesses
    - Assisting the police in obtaining statements and other evidence/information
    - Passing on information between the police and staff relating to individual cases, (subject to consent from victims/witnesses)

3. The ASMS will encourage victims to report assaults to the police.

Witness statements and evidence gathering

4. While it is the role of the police to interview witnesses, take statements and gather evidence, an accredited ASMS may assist the police by gathering additional evidence and statements. Appropriate evidence may include:

    - statements from witnesses to the incident
    - CCTV imagery
    - medical records
    - impact of the behaviour on those NHS staff who were subjected to it
    - impact of the behaviour on NHS service provision
    - incident reports or other evidence of previous antisocial behaviour
    - information on any steps taken by the NHS to address the behaviour (e.g. warning letters, exclusion from premises notifications, behaviour agreements, additional security measures, etc.)
    - location maps of premises.

5. In order to progress cases effectively, information should be provided to the Police as quickly as possible. The police are responsible for obtaining statements and recommended best practice is for key statements to be available within 2 working days. Where the suspects are in custody, key statements should be available within 6 hours to enable them to be charged where appropriate.

Annex C – Police Protocol for Investigation

Policing is committed to supporting all Emergency Workers with the investigation of offences against them in appropriate cases to ensure confidence that the new emergency workers act is keeping staff free from harm when carrying out their duties.

To achieve this, the following protocol sets out the requirements in more detail:

1: Police response to assault on an emergency worker

It is the responsibility of the police to investigate criminal activity within the community. In an NHS healthcare setting, where relevant the ASMS, in addition to leading on and managing security-related work in their health body, should give the required support to the police during investigations in an NHS healthcare setting. Other organisations may also have staff that assists with this investigation into alleged assaults on staff.

When an assault on an emergency worker is reported, the Police response will depend on an individual force's protocol, and they may refer to any joint local agreement with an individual organisation. They will take into account the circumstances of the assault and undertake an assessment of the risk that the offender poses at the time of reporting.

The Police response may require attendance in person to a scene, reporting at a Police station or victim's home address. Some forces may also take a report over the phone and arrange for statements and evidence to be gathered another time, or ask for the reporting Healthcare organisation or ASMS to supply them with information to form a package for further investigation. ASMS can also support by completing MG11 forms and exhibit evidence, such as CCTV and call recordings.

The basic elements of the criminal justice response (for example, arrest, caution, detention, legal rights and interviewing) are generally the same whether or not a suspect has mental ill health or learning disabilities. However there are also some additional PACE requirements which also apply, such as whether a suspect is fit to be detained following a mental health assessment in custody, and the use of an Appropriate Adult in interviews.

In the course of an investigation Police may need to gather the following evidence:

- Statements from the victim and any witnesses to the incident
- CCTV recordings
- Medical records & photos of injuries (of both victim and offender)
- Body worn video recording
- Impact of the behaviour on NHS service provision (organisational impact statement)
- Incident reports or other evidence of previous antisocial behaviour
- Information on any steps taken by the organisation to address the behaviour on a prior occasion

This list is not exhaustive, but demonstrates some of the minimum standards of evidence gathering required in most cases. **The organisation must ensure this material can be provided to Police if there is to be a successful prosecution**.

Victim statements **must** include that they were performing their function as an emergency worker at the time, whether on or off duty.

Officers recording a victim's statement should be aware of the factors likely to be taken into consideration by a court when establishing the seriousness of the assault. In doing so, the case will be heard in the right court and receive the appropriate punishment according to the circumstances.

Where more serious offences are committed against an emergency worker, they should be pursued emphasising within statements that the victim was acting in the exercise of functions as such a worker

2: Expectations of the victim and organisation to support an investigation

There is an expectation that in order for the Police to properly investigate a complaint of assault, the victim and their organisation must comply with any reasonable requests for retaining and providing material to them.

A Police investigation may require the seizure of property belonging to the victim or their organisation. Such seizure will only take place where necessary and usually with the co-operation of these parties. In some cases items not seized at the time should be retained by the organisation in case it is required later in an investigation or court hearing.

Any failure to retain or supply evidence to Police in an investigation may have an adverse impact on the ability to properly investigate, prosecute or provide an out of court disposal in a case.

3: Options for disposal

There are a number of options available to Police in how a case is dealt with. These include:

- Charge
- Conditional Caution
- Simple caution*
- Community Resolution
- Fixed Penalty Notice*
- No further action

(NB: these options have been removed for forces that have moved to the two-tier framework)

The decision to deal with the crime by one of the above means will only take place once an assessment of the circumstances of the incident has taken place. This will include consideration of the evidence, severity of the crime, the wishes of the victim, and utilising such tools as the gravity matrix and national decision model, among other risk assessment tools a force may use.

Court Disposals available on conviction include:

- **A prison sentence**
- **Hospital Order** - s.37 MHA 1983
- **Guardianship order** – s.37 MHA 1983

- **Interim Hospital Orders** - s.38 MHA 1983
- **Restriction Order** – s.41 MHA 1983 (Crown Court only)
- **Committal to the Crown Court** - s.43 MHA 1983
- **Hospital and Limitation Directions** – s.45A MHA 1983 (Crown Court only)
- **Mental Health Treatment Requirement** – s.207 CJA 2003
- **A community sentence** (including a Supervision Order – Crown Court – s.5(1) and Schedule 1A Criminal Procedure (Insanity) Act 1964)
- **A financial penalty** (a fine)
- **Compensation** – s.130 Powers of Criminal Courts (Sentencing) Act 2000 – prosecutors are reminded that the court must consider ordering compensation in any case in which it is empowered to award it. Emergency workers should, unless they indicate otherwise, receive compensation for assaults on them – "it is not part of their job"
- Conditional or Absolute discharge

Out of Court Disposals available to the Police and Crown Prosecution Service include:

- **Conditional Cautions** – adults (18+) and youths (10-17)
- **Simple Cautions** – adults (18+)
- **Community resolutions** – adults (18+) and youths (10-17)
- **Penalty Notices for Disorder** – adults (18+) and youths (10-17)
- **Youth Cautions** (10-17)

(NB: Forces that have moved or are in the process of moving to the nationally agreed two-tier framework will utilise Community Resolutions and Conditional Cautions only)

Restorative Justice

In addition to both Prosecution and out of court disposals, restorative justice techniques can run alongside any of the above disposals. Restorative justice brings those harmed by a crime or conflict and those responsible for causing the harm into communication, enabling everyone affected by the incident the chance to play a part in repairing the harm and to find a positive way forward. This communication can take various forms, including a face-to-face restorative justice conference or indirect restorative justice (letter, a video message or the use of the facilitator as a 'go between'). Restorative Justice Services are provided by an accredited service provider, which are normally commissioned by the Office of the Police and Crime Commissioner.

Out of court disposals tackle low-level crime and can represent a proportionate and effective response to first time offending that can focus on the needs of the victim. They mean that:

- More time can be spent tackling serious and complex crime;
- There is a means of providing reparation and a prompt resolution for victims, ensuring swift and streamlined justice is secured;
- There is opportunity for offenders to be directed into rehabilitative or educational services to tackle the causes of offending behaviour reducing the likelihood of re-offending;
- An offender can be sanctioned by means of a financial penalty or unpaid work.

Out of court disposals are not intended for serious, persistent or contested cases where Court would be the right forum for deliberation and adjudication. However, in rare instances it may not be in the public interest to prosecute an offender for what appears to be a serious or persistent offence. An Out of Court disposal should be considered on the facts of the case and are only suitable when the assessment of the circumstances is that a case should not proceed to court.

Annex D – Impact Statement Examples

NHS ASMS example

My role as an Accredited Security Management Specialist involves supporting the creation of a safe and secure environment for everyone. A large part of this role is to tackle anti-social behaviour and to combat ever rising numbers of NHS staff being assaulted or threatened with assault or subject to other harassment. No-one, not even those who work in healthcare settings, are expected to accept this type of abuse when they are simply trying to do their jobs, helping people.

To remove the stigma around mental health, it is imperative that those who seek to assault or harass our staff and who have the capacity to know it is wrong, are held to account in the same way that any other member of the public would be.

The eventual goal of any mental health trust is to see our service users lead productive and fulfilling lives in the community. It does them a great dis-service if undue allowance is made for a mental health condition; it may lead to unrealistic expectations of acceptable behaviour in the community and can put them at risk of assault or civil action.

Further public interest considerations come from stopping misuse of taxpayer funded services – i.e. coastguard, police, fire service, ambulance leaving those genuinely in need absent of help, and the disruption caused to the public when bridges or train lines are commandeered.

Not holding someone with a mental health condition to account where there is evidence that they have mental capacity, results in increased risk to mental health staff as the anti-social behaviour is unchecked and no boundaries are enforced. Due to Health & Safety Legislation, staff retain the right to refuse to treat someone if they feel the risk posed is too high - this may lead to service users not receiving treatment at all if the Court imposes a Community Treatment Order as a disposal.

Behaviour such as XXX's, causes far reaching impacts on staff wellbeing, disrupts other patient's care and is a sizeable drain on precious resources. Despite our robust approach to protecting staff, this Trust does not take action where a patient is in crisis or is suffering a period of deterioration in their mental health resulting in a lack of capacity in their actions. XXX's clinical team are satisfied that he/she has the capacity to know that his/her actions against our colleagues will have caused anxiety and fear and the Trust fully supports their staff and Police in prosecuting this case.

Identical presentations and identical diagnoses of other persons displaying this abusive behaviour have successfully been brought before the courts recently and sanctions imposed include restraining orders, suspended sentences and custodial sentences. In all cases, the unacceptable behaviour has stopped and in some cases, the offender has been able to re-engage with staff appropriately.

NHS Secure Setting example

Statement of:

Age if under 18: (if over 18 insert 'over 18') Occupation:

This statement (consisting of page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false or do not believe to be true.

I am … (name), currently employed by the … Foundation Trust at the … Hospital as … (role).

The … Hospital … is a … Secure and Forensic mental health facility for men and women over the age of 18 who have mental health problems and have become involved with the criminal justice system. The service works to ensure that offenders with mental health problems are assessed and treated effectively, within a modern low secure environment, in order to manage risk, reduce further offending, and support the recovery of service users.

Service-users may be admitted to the centre on transfer from prison, as a Court diversion, as a recall from the community, or as a step down from a medium secure hospital. Admission is determined by clinical assessment; detention at the unit is not, in itself, a punitive sanction.

The Trust aims to:

- Provide hope, enhancing communities that will support individual recovery journeys;
- Support patients to develop sustainable skills;
- Support patients to come to terms with, understand and address more fully the offending behaviours that led to their admission with a view to managing future risk;
- Take a patient centred approach to risk management;
- Help individuals build the foundations of a meaningful and satisfying life beyond the secure environment.

The Trust recognises that, due to the nature of the work undertaken at the unit, there is a constant risk, to both staff and service-users, and seeks to put in place management regimes to minimise that risk and to ensure the safety of others. Every year, clinical staff deals informally with a substantial number of low-level incidents that do not warrant formal action or prosecution. However, the Trust has a duty of care to its staff and patients. The Trust does not accept that any member of staff should tolerate being assaulted, verbally or physically, as part of their work. Similarly, service-users who are not free to leave should be entitled to the same protections under the law, as they would enjoy in the wider community. Where staff or service-users are subject to a criminal assault or threats by a capacitous service-user we believe that it is important that the Police are called in to investigate.

Clinical staff at the centre are committed to treating a person suffering with a mental disorder as a responsible individual who should, when appropriate, be held accountable when a criminal offence is committed. That person should be treated more sensitively, but no less robustly, than a person without a mental disorder who committed the same crime. When a service-user deliberately or recklessly threatens or assaults a member of staff, in many cases it is important therapeutically that the service-user learns that his/her choice leads to an adverse consequence.

Staff want to do everything they can to dissuade service-users from making the choice to assault and intimidate others. Part of this process involves helping service-users to appreciate that other people have feelings, interests and rights and that actions by the individual which infringe the rights of others lead to adverse consequences; these must be adverse consequences that matter to the patient. If assaults are not prosecuted then, in practice, our patients will know that they can assault whomever they wish in the future without any adverse consequences. This will inevitably increase the number of assaults and could serve to increase fear of crime and foster a sense of anxiety and insecurity amongst the wider hospital community. We accept that imposing a prison sentence on someone with a major mental disorder will only to be appropriate in very rare circumstances, but other interventions such as cautions, fines, community sentences and hospital orders can be enormously beneficial.

A prosecution, as well as addressing offending behaviour, can be a powerful learning tool irrespective of whether an individual is already the subject of a hospital order, or is already serving a prison sentence and transferred for treatment during that sentence. The prosecution of any offence committed by a service-user detained at this hospital is considered on an individual basis and the decision is not taken lightly.

When considering the decision to prosecution, the Trust may also consider the impact of an individual's behaviour on the wider hospital community. The Trust recognises the following aggravating factors:

- The fact that an offence has been committed against a person serving the public;
- The potential impact on vulnerable patients, such as in mental health units, and the effects that being exposed to such behaviour may have on them.

Records indicate that staff working in mental health are more than five times more likely to be assaulted than ambulance staff and ten times more likely to be assaulted than staff working within acute services. Aside from the personal impact on the individuals concerned, assaults on staff result in increased sick leave which impacts on the service provision to other service-users and has a direct financial cost to the Trust securing replacement staff cover.

The Trust supports a prosecution in this case and believes it will contribute to the effective care and management of the service-user and have a significant positive impact on maintaining confidence amongst all those within the hospital community.

Police Organisational Impact example

I am the Deputy Chief Constable [insert Chief Officer rank] of [insert force] and have responsibility for the delivery of policing activity across [insert area]. In order to execute my duty I must rely upon the actions of a large number of Police Officers and Police Staff members who place themselves in harm's way on a daily basis. They do so in order to protect the vulnerable, keep communities' safe, respond to calls, prevent, and detect crime.

In providing this statement, I hope that it will assist in my duty to protect the members of the organisation who work tirelessly to protect the public.

Police officers and staff are regularly subjected to violence and threats, which too often result in injury. While the severity of such attacks changes, the impact upon society does not. It is never acceptable to assume that assaults upon police officers and staff should be tolerated; it is not simply 'part of the job'. While it is clear that the nature of policing requires members of the organisation to handle difficult and hostile situations, assaults upon them are serious and unacceptable. The sentencing guidelines reflect this fact and highlight that assaults on public officials performing their duty are an aggravating feature. There are many ways in which assaults against public servants impact upon society. Each time an officer or member of staff is assaulted there are potential sickness absences, these absences acutely affect resourcing, and the ability of the force to deliver 'frontline' policing. They also place additional strain on other members of the organisation due to the transfer of work to others, which can have significant impact on the wellbeing of police officers and staff.

On average in [insert area] there are [insert number] assaults against police officers and staff per week. These assaults result in a member of the organisation being absent through sickness every day of the year, which clearly affects the community as it limits the service that can be provided.

Not only do assaults on police staff and officers have a negative impact on the community but also internally to the organisation. On a personal basis, police colleagues suffer not just physical injuries, but also the psychological effects. Many find the return to frontline duties, after being assaulted, especially challenging or traumatic. On a wider scale, morale is significantly impacted when officers and staff see their friends and colleagues being assaulted and abused which, in turn, can damage the ability of the force to recruit new people into the organisation.

The public call upon the police to help them when they are most in need. We have a duty to protect the public, but we are all too often prevented from doing so due to violent individuals who choose to attack those who are there to help them.

Most importantly, it should be remembered that police officers and staff are people; they are fathers, mothers, sons and daughters. When they are attacked, they become victims just like any other, but victims who have been attacked while trying to protect others from being victimised.

This case relates to [insert name] who was assaulted during the execution of her duty. (Person) still has the worry and anxiety of awaiting the results to determine if she has been infected by blood related diseases from the injury in question. This anxiety and stress shouldn't be under estimated and is a serious concern to not only, her but also her immediate family. This has resulted in (Person) being referred to our Occupational Health department and being sign posted to our Employee Support department.