



# Magistrates Association

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Response to **Mental health of adults in contact with the criminal justice system draft guideline consultation**

Issued by **National Institute for Health and Care Excellence**

Link to consultation <https://www.nice.org.uk/guidance/indevelopment/GID-CGWAVE0726/consultation/html-content-2>

The Magistrates' Association (MA) welcome the opportunity to comment on the draft guideline: Mental Health of Adults in Contact with the Criminal Justice System.

Whilst the MA cannot comment on the clinical interventions/assessments or NICE compliant studies we would like to suggest some insertions which provide additional relevant information on the existing judicial framework and this vulnerable group of service users.

Comment number	Document  (full version,  short version or the <b>appendices</b> )	Page number  Or ' <b>general</b> ' for comments on the whole document	Line number  Or ' <b>general</b> ' for comments on the whole document	Comments
				Insert each comment in a new row. Do not paste other tables into this table, because your comments could get lost – type directly into this table.
2	Full	18	15	After “Justice, 2013b).” Insert: “90% of all criminal cases start and finish in the Magistrates Court. <sup>1</sup> ”
3	Full	18	17	After “not well developed.” Insert: “It is possible that many of these service users don’t reach the criteria of secondary care mental health services.”
4	Full	19	6	After “Criminal Justice Act 2003”. Amend sentence to say: “As a high level community order, which can be an alternative to a custodial sentence, the Courts may impose mental health treatment orders or drug rehabilitation

<sup>1</sup> <https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/magistrates-court/>

				orders.”
5	Full	19	8	After “orders.” Insert: “Legislation in 2012 <sup>2</sup> brought in changes relating to the Mental Health Treatment Requirement so that now any medical practitioner can hold the order whereas previously the order had to be held by a Section 12 approved doctor: this means the order can be provided by both primary and secondary care practitioners. However, in 2016 it is still the case that only 0.1% of all community orders given are MHTRs. The Five Year Forward Plan for Mental Health has recommended <i>‘increased uptake of Mental Health Treatment Requirements (diversion through court order to access community based treatment) as part of community sentences for everyone who can benefit from them.’</i> <sup>3</sup> ”
6	Full	21	39	After “services themselves do exist” suggest insert: “It is worth nothing that for those with multiple needs, there can be difficulties accessing services due to dual diagnoses of substance misuse and mental health problems; especially where there is lack of clarity over responsibility for care in conjunction with offender management.
7	Full	22	47	After “with information flow”, insert: “There can also be a significant lack of information sharing between agencies working across the CJS. It is particularly important that courts are provided the necessary information to ensure fair participation for all parties as well as sentences that target specific needs of an offender.”
8	Full	24	17	After “Bradley 2009)” insert: “Although the Bradley report identified that service users entering the CJS sometimes struggle to access community services (often due to multiple vulnerabilities);

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/2012/10/section/73>

<sup>3</sup> <https://www.england.nhs.uk/wp-content/uploads/2016/02/Mental-Health-Taskforce-FYFV-final.pdf>

				the provision of relevant community rehabilitative orders which provide holistic health and social care aspects have been shown to reduce recidivism.”
9	Full	51	30	At the end of line 30, add in: “as recommended in Lord Bradley’s report in 2009 as a key priority. This recommendation is continuing to be implemented with a view to ensuring increased awareness supports appropriate judicial decisions.”