

REVISED GUIDELINES ISSUED FOR THE PROSECUTION OF THOSE WHO ARE VIOLENT TOWARDS NHS STAFF

A revised Memorandum of Understanding between the CPS and the NHS Security Management Service (NHS SMS) came into effect on 21 July 2008. Its aim is to ensure the effective prosecution of cases involving violence and abuse (physical, verbal or sexual) against any member of NHS staff, including for the first time, NHS volunteers.

- The objective of the memorandum is to ensure that a clear message on prosecution policy is sent out which will engender confidence and support NHS staff. It sets out the roles and responsibilities of the relevant parties, encouraging communication and an exchange of information. It applies when a person is assaulted, either on or off duty, if the victim is targeted because of their NHS work.
- The NHS SMS Legal Protection Unit, which provides support and legal services in relation to security matters, is directed to increase the number of prosecutions, as well as advise upon the sanctions against violent individuals which are available. Local Security Management Specialists (LSMS) provide assistance to their NHS Trusts, particularly in relation to tackling violence.
- The Police are to progress all instances of violence and abuse against NHS staff as a priority and work with the CPS to ensure that a robust charging policy is applied by the prosecutors.
- In particular, drink and drug abuse will act as an aggravating feature, rather than a mitigating factor. A further aggravating factor is the potential harm to others if the assault may result in the withdrawal of medical services to those in need of attention (eg an ambulance crew member is assaulted which means the ambulance vehicle cannot operate or a reduced service in the A&E Department).
- Because of public interest in maintaining effective healthcare, even when the injuries suffered are of common assault, the more serious charge of assault occasioning actual bodily harm may be more appropriate if those aggravating features are present. Another example is to take into account the vulnerability of staff working in the community, particularly those who work at night or alone.
- The Police/CPS will require evidence from NHS staff. It is important to bear in mind that the Police must act with due diligence and swiftness. There is the power for them to ask the LSMS to intervene if problems are encountered in obtaining relevant information. Witness statements will be taken as soon as possible from staff. There is an ongoing duty of the CPS to keep victims updated as to the progress of the investigation.
- Whilst many acts of violence are committed by those with a "mental disorder", this is not a bar to prosecution. As you will be aware, all assaults on NHS staff must be reported to the Police if the view is taken that the behaviour has not arisen as a result of any medical condition or treatment.

SUMMARY

These revised measures reinforce the seriousness with which incidents of violence should be treated. This is particularly in relation to the CPS in deciding whether to prosecute. Where there are aggravating features these will be taken into account to increase the gravity of the charges. It is said that those who assault a NHS member of staff should expect to be prosecuted. The guidance also emphasises that supporting staff following such incidents is important in terms of liaising with the Police and sending out the right message.

The revised Memorandum of Understanding is available from <http://www.cps.gov.uk/publications/agencies/mounhs.html>

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