



SCOTTISH EXECUTIVE

Health Department
Directorate of Healthcare Policy and Strategy

Dear Colleague

MENTAL HEALTH OFFICER REPORTS FOR THE COURT UNDER SECTIONS 57C AND 59B OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

Summary

Before a Compulsion Order or a Hospital Direction is made by the court, the court may, in addition to the reports provided by two medical practitioners, consider a report from a Mental Health Officer (“MHO”) who is employed by the relevant local authority and which has been prepared in accordance with section 57C or 59B of the Criminal Procedure (Scotland) Act 1995 respectively. Following discussion with the Scottish Court Service it has been agreed that a report will be requested and available to the court in **every** case and this letter advises how the courts will do this. It will be of interest to Health Boards, local authorities, mental health professionals and Mental Health Officers.

Instruction of the report

When the court makes one of the mental health orders under section 52 or 53 of the Criminal Procedure (Scotland) Act 1995 whether an Assessment Order, a Treatment Order or an Interim Compulsion Order, it will include in the Order itself an instruction that an MHO Report must be prepared if it is going to be asked to consider a Compulsion Order or a Hospital Direction as a final disposal. The Orders will contain the statement:

“Further, where the court will be asked to consider the making of a Compulsion Order or a Hospital Direction, [that will be in the RMO’s report required to be lodged before the next court appearance] the court Orders a report to be prepared in terms of section 57C or 59B respectively, of the said Act”.

Duty on the local authority

The relevant local authority has a duty under section 229 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”) to designate an MHO responsible for the patient’s case as

25th January 2006

Addresses

For action

Chief Executives, NHS Boards
Chief Executives, Local Authorities
Directors of Social Work / Chief Social Work Officers
Association of Directors of Social Work
British Association of Social Workers
Scottish Social Services Council
Chief Executive, State Hospitals Board for Scotland
Royal College of Psychiatrists, Scottish Division
Scottish Secretary, British Medical Association

For information

Chief Executive, Mental Health Tribunal for Scotland
Director, Mental Welfare Commission for Scotland
Director, Scottish Association of Mental Health
Scottish Court Service
President, National Schizophrenia Fellowship, Scotland
Director, Scottish Independent Advocacy Alliance
Royal College
Sheriff Clerks
Clerk of Justiciary
Clerks to District Courts
Crown Office
Law Society of Scotland

Enquiries to:

Mental Health Division

Fiona Tyrrell
Area 3.ER
St Andrew’s House
EDINBURGH EH1 3DG

Tel: 0131-244 - 2599
Fax: 0131-244 - 5076
Email:

fiona.tyrrell@scotland.gsi.gov.uk

Doc F131825



soon as is reasonably practicable after an Assessment Order, a Treatment Order or an Interim Compulsion Order is made.

(The relevant local authority in these circumstances is the one for the area in which the patient resided immediately before the Order was made). To facilitate this designation the Code of Practice to the Act recommends that the medical records officer of the hospital to which the patient is admitted should ensure that the Chief Social Work Officer for the relevant local authority is sent a copy of the Order within two working days of the patient's admission to hospital. The local authority should designate an MHO within two days of the Chief Social Work Officer having been notified.

Collaboration between the RMO and the MHO

In their joint assessment of the patient (following an Assessment Order, a Treatment Order or an Interim Compulsion Order) the patient's Responsible Medical Officer ("RMO") and the designated MHO must address whether a final mental health disposal is appropriate. In any case the RMO should always ensure that the designated MHO is informed as soon as possible of the intention to recommend a Compulsion Order or a Hospital Direction given that the MHO will have a duty to prepare a report for the court in terms of section 57C or 59B of the 1995 Act respectively. The MHO should ensure that he/she submits the report to the court in time for the next court hearing.

Pro forma

It should be noted that the report by the MHO is not a Social Circumstances Report. Guidance as to the information that should be contained in the report can be found in Volume 3 of the Code of Practice to the 2003 Act (see Part 1, Chapter 5). A pro forma for the report (which also contains guidance notes) will shortly be available on our website at <http://www.scotland.gov.uk/Topics/Health/health/MentalHealth/mhlaw/forms>.

Yours sincerely

IAN GORDON

Doc F131825

