



The University of
Nottingham

UNITED KINGDOM • CHINA • MALAYSIA



Draft Recommendation regarding the Promotion of Mental Health and the Management of Mental Disorders of Prisoners and Probationers

Dirk van Zyl Smit

Emeritus Professor
University of Nottingham
University of Cape Town

Part 1 Scope

1. This Recommendation applies to the promotion and protection of the mental health and the management of the mental disorders of prisoners and probationers by the authorities that in national law have responsibility for the health care, or any aspect of such care, related to the mental health of prisoners and probationers, irrespective of the specific agency providing such care.
2. This Recommendation applies to adult prisoners and probationers (children?).
3. For the purposes of this Recommendation prisoners are incarcerated persons to whom the European Prison Rules are applicable.
4. For the purposes of this Recommendation probationers are persons subject to probation as defined in the European Probation Rules.
5. Prisoners and probationers with mental disorders are persons who have clinically significant disturbances in their cognition, emotional regulation, or behaviour.

Part II General Principles

- 6. Prisoners and probationers should promptly receive the support and care they need to maintain, protect and improve their mental health, with respect for their human dignity.
- 7. Mental health care should take account of gender and cultural factors that may determine the needs of prisoners and probationers.
- 8. Prisoners and probationers should have access to mental healthcare that produces outcomes of equivalent quality to the mental healthcare provided for the general population.
- 9. Prisoners and probationers should be provided with relevant information in a form that they can understand on how they can access support for their mental health.
- 10. Alternative provisions should be made for prisoners and probationers whose mental health is incompatible with the sanction or measure imposed.

Part 1 General Principles continued

- 11. Separation and solitary confinement for prisoners with mental health issues.
- 12. Where mental health services for prisoners and probationers are rendered by various authorities, these authorities should cooperate closely and take joint responsibility for such services, while ensuring that such co-operation meets all appropriate national and international data protection and medical confidentiality standards.
- 13. Continuity of mental healthcare should be ensured for prisoners and probationers, with respect to such care initiated before or during their imprisonment or probation period.
- 14. Where the prisoners or probationers are subject to interventions related to the offence of which they have been convicted, such interventions should be consistent with the promotion of their overall mental health.

Part II Promoting mental health

- 15.1 The maintenance, protection and improvement of the mental health of prisoners and probationers should be promoted by encouraging prisoners, probationers and relevant staff to foster good mental health.
- 15.2 Good mental health should be fostered by:
 - a. Creating a supportive and caring environment;
 - b. Offering information and education on mental health;
 - c. Providing access to mental health services from admission to prison and placement under probation onwards;
 - d. Acknowledging and where possible addressing social determinants of mental health;
 - e. Offering access to and providing opportunities for physical activities, creative arts and other programs that promote wellbeing;
 - f. Supporting prosocial and community contacts; and
 - g. Providing support for re-entry into the community.

Part II Protecting mental health

- 16.1 Authorities dealing with prisoners and probationers should be sensitive to the needs of those whose mental health may require specific protective measures.
- 16.2 Where necessary, such authorities should take measures to protect the mental health of prisoners and probationers by:
 - a. Addressing substance abuse;
 - b. Providing access to crisis intervention services; and
 - c. Dealing with systemic issues within the healthcare and criminal justice systems that contribute to poor mental health outcomes.

Part II Self-harm and suicide prevention

17. Authorities dealing with prisoners and probationers should take special measures to prevent self-harm and suicide by:
- a. Developing and enforcing policies specifically addressing self-harm and suicide prevention;
 - b. Identifying risk of self-harm and suicide;
 - c. Offering prisoners and probationers who are at risk of self-harm and suicide access to timely and effective counselling and other forms of support;
 - d. Establishing clear protocols for responding to self-harm and suicide attempts, including immediate medical and psychological intervention;
 - e. In the case of prisons, creating specialized units or safe rooms for prisoners in acute crisis, ensuring they are monitored and supported, and
 - f. Regularly reviewing and updating policies based on best practices and emerging research on self-harm and suicide.

Part III The management of mental disorders

Screening

18.1. As prisoners and probationers with mental disorders require prompt specific treatment and other interventions, the responsible authorities should ensure that prisoners and probationers in their care are screened by appropriately qualified staff or by external mental health services to identify those with mental disorders.

18.2 Screening should include an assessment of the use of substances and related medical and social problems.

18.3. Screening should:

- a. Take place on admission to prison in the case of prisoners;
- b. Take place prior to discharge from prison or at the beginning of the period of probation in the case of probationers who are not referred to probation directly from prison; and
- c. Be repeated when necessary.

Assessment

19. Where prisoners or probationers are found after screening to have indications of a mental disorder, they should be offered a comprehensive assessment to confirm whether the original finding was correct and to establish the nature and severity of their mental disorder, as well as any risks they may pose or needs they may have.

Part III Treating mental disorders

- 20.1. Prison and probation services should facilitate the access for prisoners and probationers to a range of effective mental health treatments.
- 20.2. Treatment for mental disorders should be delivered by specialised staff or through general mental health services, incorporating a multidisciplinary approach as far as possible.
- 20.3 Treatment for mental disorders should be based on the free and informed consent of prisoners and probationers, unless such treatment may be applied without their consent for medical reasons specified in national law.
- 20.4 The treatment of prisoners and probationers with substance abuse disorders should, if necessary, include substitution treatment and other harm reduction methods.

Part III Crisis intervention

- 21.1. A mental health crisis should be approached as far as possible from a therapeutic perspective, under the supervision of healthcare staff.
- 21.2. In the event of a prisoner having a mental health crisis:
 - a. The agencies intervening in such a mental health crisis should medically assess the situation and should provide immediate support, assistance and treatment, either from the prison health service or by referral to an outside mental health service;
 - b. Any crisis intervention should be as unintrusive as possible;
 - c. The separation of such a prisoner or the use of force or restraints as part of such crisis intervention should be avoided wherever possible, as such interventions may exacerbate the prisoner's condition: and
 - d. If separation, use of force or restraints as part of such crisis interventions cannot be avoided the restrictions and limitations on the use of such measures set out in the European Prison Rules apply.
- 21.3 In the event of a probationer having a mental health crisis that comes to the attention of the probation services, they should intervene by referring the probationer to the appropriate mental health service in the community

Part IV Staff

- **Mental Health**
- 22. Authorities that employ staff whose duties include promoting and protecting the mental health and managing the mental disorders of prisoners and probationers, should take all necessary steps to support such staff in dealing with stress related to the performance of these duties.
- **Training**
- 23.1. Prison and probation staff should receive training on the promotion and protection of mental health and the management of mental disorders.
- 23.2. Such training should enable them to interact effectively with prisoners and probationers with mental disorders, to improve the quality of care and to reduce the risk of negative consequences.
- 23.3 Such training should also enable staff to cope with work-related mental stress.

Part V Information and research

- **Information**

- 24.1. Accessible, anonymised and aggregated data on the prevalence of mental disorders in the penal system should be collected systematically, in order to inform the effective planning of services and to facilitate research to improve care.
- 24.2. Anonymised data on suicide, attempted suicide and self-harm, where accessible, should routinely be collected and monitored.

- **Research**

- 25. Research should be sufficiently funded and undertaken to develop an improved evidence base on effective interventions supporting prisoners and probationers with mental disorders, and with respect to the implementation of mental health policies and practices in the penal system.

Thank you!