

positive

about mental health and learning disability

Nottinghamshire Healthcare
NHS Trust



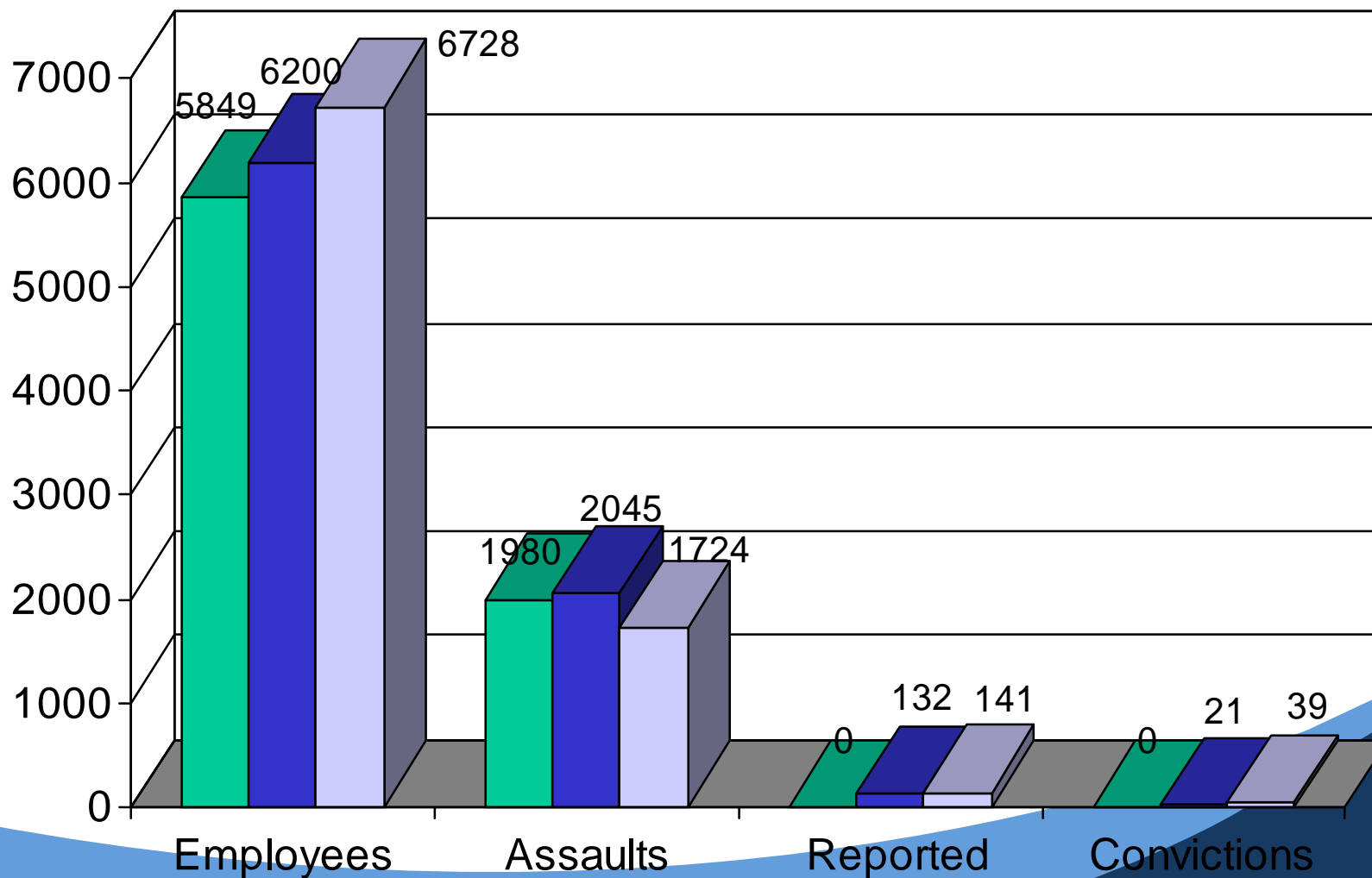
National Association of Psychiatric Intensive Care Units.

Prosecution; What does it offer?

Ian Brown, Local Security Management Specialist



2006/07 2007/08 2008/09





What Should We Prosecute?

Assault? Threats? Verbal Abuse? Criminal
Damage? Theft? Harassment?

Common assault?

Actual bodily harm?

Grievous bodily harm?

Hate crimes?

Arson?

Fraud?



When Should We Prosecute?

Standards for Prosecution Are Met.

§ Evidential Test

- Mens rea
- Actus reus

§ Public Interest Test



How Do We Prosecute?

- § Remove uncertainties, inconsistencies and barriers between professionals and services.
- § Develop relationships and expertise.
- § Three tier formal liaison.
 - Local Operational Group
 - Intermediate Operational Group
 - Strategic



How Do We Prosecute?

§ Information Sharing Agreement

§ In connection with persons who have been or are in custody for any reason and, during which or as a result of such, that person is subject to assessment and/or detention under any provision of the Mental Health Act:

§ The Police may disclose.....details of welfare, treatment and behaviour leading to or during police custody, and details of any medical treatment or assessment of that person while in the care of the police...risk assessment or risks identifieddetails of any relative, carer or other person who may have information relevant..... The Trust may disclose to the police any information regarding the outcome of an assessment of any person referred to the Trust by the police

§ In respect of persons actually in the care of the police for any reason:

§ The Trust may disclose.....information, personal or medical, that may be relevant to ensure and protect the welfare of the individual and any person who may have dealings with him/her...any information the Trust has reasonable cause to believe is necessary to enable the police to exercise their responsibilities in respect of the prevention of crime and disorder...or the welfare of others.

§ In connection with persons whom the police have reasonable grounds to believe may be in need of care or protection:

§ The Police may disclose ...personal information regarding....details of the circumstances giving rise to such concerns.

§ In connection with allegations of crime committed on or by service users, staff or visitors:

§ The Trust shall provide the Police with details of the incident, personal details of all involved including witnesses. Where relevant information.....in respect of the mental capacity at the time of an alleged incident, at the time of ..investigation or interview, and in respect of subsequent legal proceedings.

§ The Police shall provide the Trust with details of the outcome of any investigation including the identity of any persons charged or cautioned in respect of such incidents.

§ In any of the above cases for the purpose of:

§ Reduction, prevention and detection of crime and disorder, the protection of vulnerable individuals and persons at risk, and the protection of communities and individuals from risks posed by persons with mental health issues.



How Do We Prosecute?

Medical Statement pro forma

I am the Responsible Clinician (approved under Section 12(2) of the Mental Health Act 1983) for Patient

§ OR

On(date).....I was the Responsible Clinician (approved under Section 12(2) of the Mental Health Act) for Patient..... and I have access to this patient's medical records.

§ Tick as appropriate

The patient at the time I make this statement is fit/is not fit for interview.

§ Delete as appropriate

There are no clinical reasons now, nor were there any clinical reasons at the time of the alleged offence, why consideration should not be given to prosecution in this case.



How Do We Prosecute?

Directors Statement.

Ref:

Date

To : Crown Prosecution Service

Patient name;

In giving consideration to the appropriateness of prosecution in this case I would make the following point:

It is important to consider prosecution for every serious offence. This not only allows a public record for the future but is essential in conducting structured risk assessments which rely on such convictions.

Yours sincerely,

§ Director of XYZ Services



Why Should We Prosecute?

- § To aid risk management and treatment.
- § Reinforce normality.
- § Zero Tolerance.
- § Provide justice.
- § Staff, visitor, public and patient protection.
- § Recognition of the problem.



Who Should We Prosecute?

§ Persons whom offended in such a way that we are able to satisfy the evidential & public interest tests.

§ Persons with capacity?

- The understanding of the difference between right and wrong, the nature and quality of the act, the ability not to act and implications of the act.

§ Persons without capacity?

- Mental Disorder is no bar to prosecution

§ Breach of Confidentiality must be proportionate.



Where ever it is appropriate.

§ The multi-disciplinary team should always give due consideration to prosecution.