



**NORTHUMBRIA  
POLICE & CRIME  
COMMISSIONER**

**Response template for consultation on Mental Health Conditions and Disorders: Draft Legal Guidance**

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**Question 1**

Do consultees agree or disagree with the proposed factors to be taken into account by prosecutors at the public interest stage? Do consultees propose any further factors to be taken into account at this stage?

- The section entitled 'fitness to plead', directly above the 'public interest stage' heading on p15 is confusing and appears to refer to the public interest stage, rather than the section beginning on p20 which discusses fitness to plead. Consider removing this from p15?

**Question 2**

Do consultees agree or disagree that the new section on diversion from prosecution sets out the right factors for prosecutors to consider? Is there anything else that should be taken into account?

- The first 4 paragraphs could be set out more clearly, with more information on the next steps to be taken where a caution or conditional caution will not be appropriate.
- Aside from a consideration of a caution, conditional caution or diversion from the CJS altogether, there does not appear to be many clear factors for prosecutors to consider within this section. The bulk of the section sets out the role of L&D services, without any information on the relationship between prosecutors and this service.

**Question 3**

Do consultees agree or disagree that the guidance clearly and accurately sets out the procedures for fitness to plead?

- It is not clear on p21 whether a defendant has to be incapable of all 6 things (beginning 'understanding the charges'), of just one/a combination?
- Whilst s37 (3) Mental Health Act 1983 is explored and explained, it is unclear which cases would fall under s11 PCC(S)A 2000.

**Question 4**

Do consultees agree or disagree that the information in Annex A covers the main features of conditions which prosecutors should be aware of when dealing with these cases? Is there anything else that should be taken into account?

The Northumbria PCC's Disability Advisory Group reviewed Annex A and gave the following feedback:

- The list of websites is satisfactory. The organisations were thought to be those of the biggest groups in the country and the leaders in mental health and disabilities.
- The basic definitions of illnesses and disabilities are adequate, however it should be made clear that one person could fall under multiple definitions and to different extents.

**Question 5**

Do you have any further comments on the revised mental health conditions and disorders legal guidance?

- It would be helpful to have a simplified version of this guidance for complainants/defendants/the general public, if there is not already one in existence.
- P23 – 27: make it clear that live links etc. are subtitles under 'reasonable adjustments'. Perhaps set out a summary/list of available reasonable adjustments under the initial heading to make the section clearer and ensure it flows.
- P25 pgh 2 – the first sentence doesn't make sense - typos?

How did you hear about this consultation (delete as applicable)?

- Other (please specify) – Email from CPS North East