

Autistic Spectrum Conditions in the Criminal Justice System



Introductory Issues and Assessment for legal and clinical colleagues

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In next 45 minutes



- Case Vignettes
- In the CJS: from arrest to Court Disposal
- *The 'Triad of (Qualitative) Impairments'*
- Main issues leading to offending in ASD & AS
 - Associated neuropsychiatric syndromes
- Indicators that ASD may be present
- **Statutory and non-statutory context incl.**
 - *Reed Report (1992); Lord Bradley's Report (2009); Autism Act 2009*
 - *Risk appraisal and 'Structured Professional Judgement'*
 - *Capacity for Effective Participation in Trial Proceedings (ECHR S.C. v UK was index test case)*

10/15/2010

The Sanderson Institute, Ipswich, Suffolk, UK

Oct 2010

In next 45 minutes



- **What next ?**
 - **Police Services**
 - **HMYOI and adult HM Prison Services**
 - **Court System, esp. Judges, Bar Council, Solicitors' organisations**
 - **Specialised Services Commissioning of expertised clinical service providers**
 - **Strategic audit and research**
- **Summary**

Case Vignette 1



- **Female, 22y, single**
- ***Appearance & behaviour:***
 - **elegant, fashionable, eccentric clothing, engaged in I/V, polite, candid, unemotional**
- ***Networks***
 - **no family / social networks**
 - **Only enduring professional network via shared hostel accommodation**
- **No antecedents of note**
- ***Level of functioning:***
 - **Semi-independent living, own bank account, intelligent, above average expressive language ability**

Case Vignette 1



- **Charges:**
 - **Threats to kill**
 - **Wounding with intent**
 - **Index offence:**
 - **Knife to longstanding female support worker**
 - **Skin laceration on forearm**
- **Ran off and hid immediately**
- **At arrest:**
 - **‘ she should not leave ‘**
 - **no denial of or attempt to hide**
 - **volunteers all evidence or information to arresting police officer**

Case Vignette 1



- **Background**
 - Tel. history – Greece
 - ADI-R, ASDI, DISCO
 - Triad of (Qualitative) Impairments
- **No SS involvement – not meet criteria**
- **No specialised services involved**
- **Income generation: standing outside supermarket: ‘...whenever I need to go shopping....*it* is quick and convenient.....’**

Vignette 2



- **Male, 16.5 y at detention, single**
- **History reveals: firesetting, attempted killing of relative, cruelty to animal**
- **No psychopathic personality trait**
- **Anxious / dependent Personality Disorder**

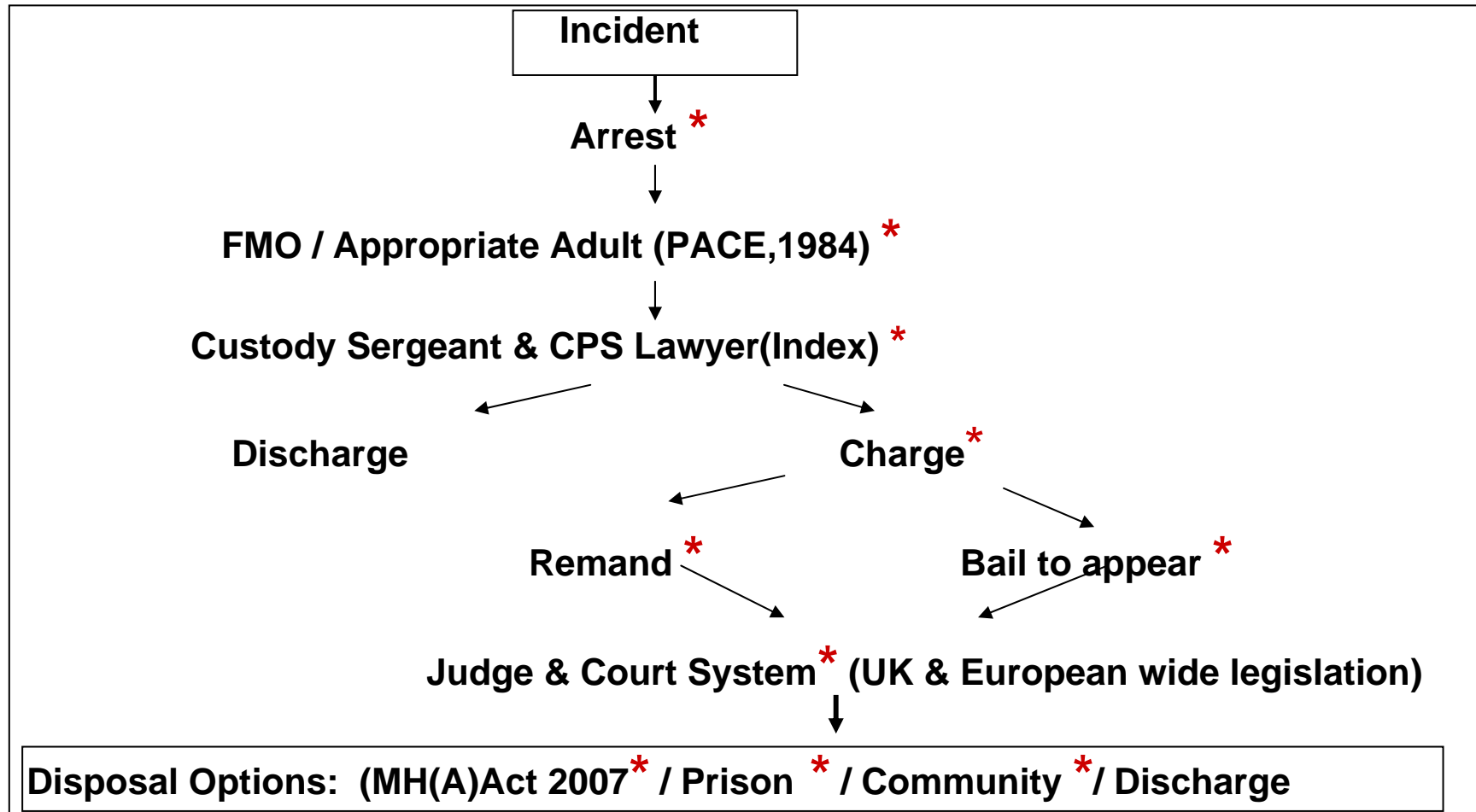
- **Never charged, no antecedent**

Vignette 2



- **Background:**
 - **‘Close’ family – isolated**
 - **Father ‘librarian, an intellectual person’**
 - **Mother ‘anxious, avoidant, compliant’**
 - **x3 other sibs – all moved out in disagreement, have family, no contact**
 - **Returned to community after 7 years, has lived with professional network and highly regulated routines**

From arrest to disposal in CJS



The Triad of (qualitative) Impairments



- **Triad's core phenomenology is stable across IQ ranges**
- **In high functioning individuals and AS can easily be masked by**
 - **at first contact / to uninitiated seemingly 'normal communication', 'just a bit odd, difficult'**
 - **co-existing abilities or syndromes,**

The Triad of (qualitative) Impairments 1

- *Triad of Qualitative Impairments in* : -
- **Social Reciprocal Interaction (not IQ ~)**
- **Communication (*not rote*, verbal / non-verbal, reciprocal,)**
- **Imagination / Play / Interests**
 - circumscribed, repetitive repertoire, *but can change over time!!*
 - **Converging around concept of ‘Mentalisation – ToM’, eg inherent *developmental delay***
 - **Developmental age vs Chronological age**
- **Neurodevelopmental plasticity**



The Triad of (qualitative) Impairments 2



- ***Social reciprocal interactions (pivotal)***
 - Greeting and quality of interactional style
 - Joint referencing
 - Protodeclarative & Protoimperative
 - Imitation & play
 - Comfort seeking/giving
 - Body language
 - Awareness of own / others' feelings (*inherent not rote*)
 - Awareness of social rules (*inherent not rote*)

The Triad of (qualitative) Impairments 3



- ***Communication***

- **Verbal:**

- **Joint Referencing (protodeclarative / protoimperative non-verbal / pre-verbal)**
 - **Comprehensive, receptive / expressive language**
 - **Speech characteristics (prosody)**

- **Non-verbal:**

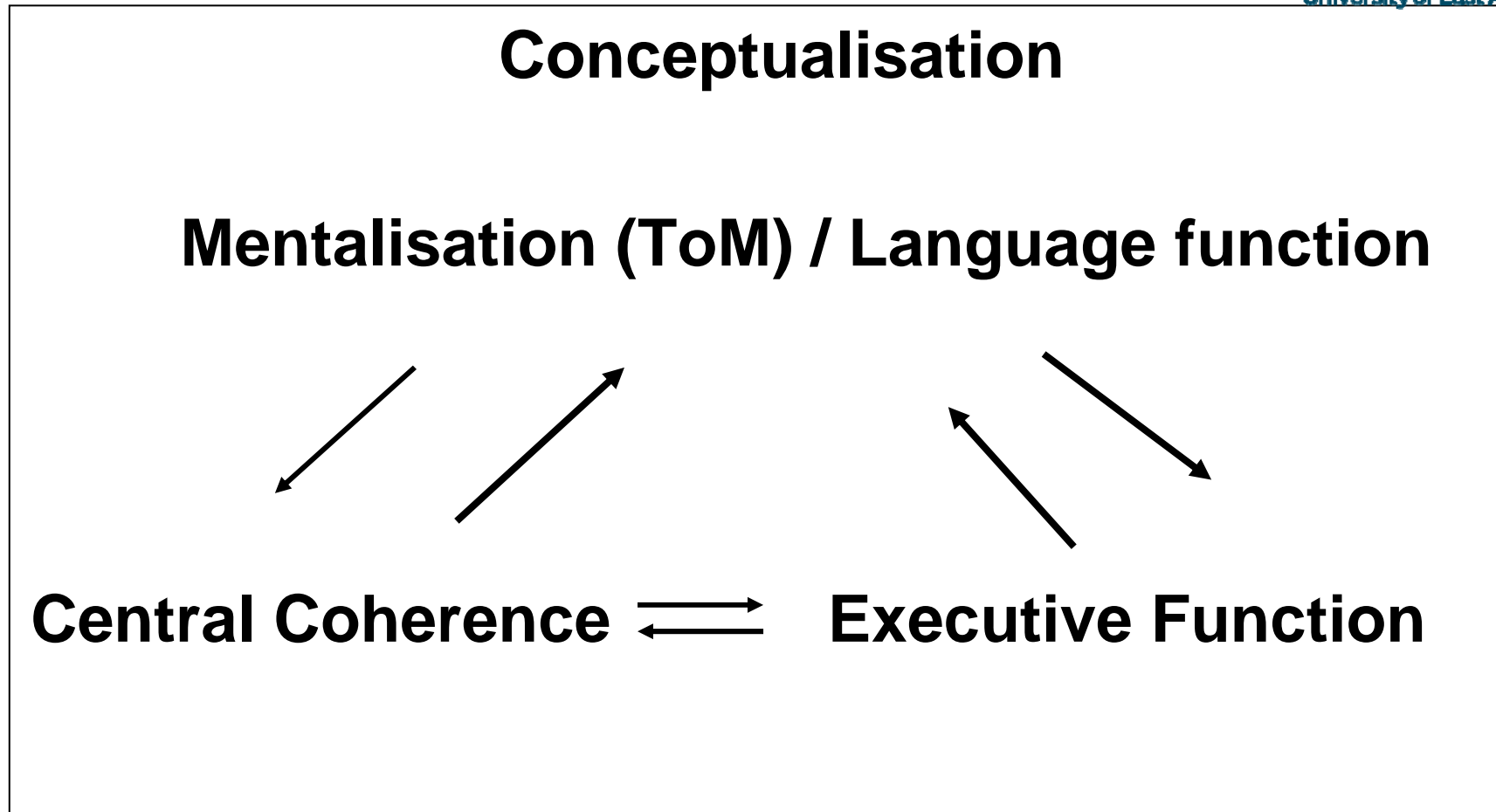
- **Congruence of gesture, facial emotional expressions, quality of eye contact etc**

The Triad of (qualitative) Impairments 3



- *Imagination / Play / Interests*
 - Preoccupation with objects
 - Sensory responses
 - Patterns of interest (repetitive repertoire)
 - Maintenance of sameness
 - **Stereotyped movements, incl. echopraxia**

Main Issues associated with Offending in ASD



Main Issues associated with Offending in ASD*



1. Mentalisation (Theory of Mind, ToM) difficulties

- 1st degree ('I think he / she thinks....')
- 2nd degree ('I think he / she thinks *about me*')

2. Changes (threatened and actuarial) to Routines

3. Co-existing neuropsychiatric disorders

- Anxiety Disorders / Panic attacks
- ADHD
- ?others

* clinically

Indicators of presence of ASD and AS



- **Statements by Police Officers, solicitors...**
 - *‘just different... seemed to just not bother to hide his involvement or run off...*
 - *difficult to really describe what is so odd about him.....*
 - *odd way of looking at me....*
 - *sometimes seems completely disinterested.....*
 - *just does not seem to get the seriousness of his position....*
 - *talks as if no idea what self-incrimination means...*
 - *not sure he / she is clear why anybody is involved in the proceedings...’*

So far



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Statutory and non-statutory Frameworks

- **Reed Report 1992**
- **Bradley Report April 2009**
- **Autism Act September 2009**

Clinical & Risk Appraisal (SPJ)



Step 1

- **Suspect the presence of ASD, esp. AS**

Step 2

- **Get correct clinical diagnostic formulation:**
 - **Diagnosis dependent on clinical professional expertise**
 - **Cave: structured tools are diagnostic aide memoires with**
 - **Type I and Type II errors**
 - **WHO ICD10 (1992) [draft ICD11 current work]**
 - **Some screening with AQ, EQ, ASDI or similar tools**
 - **RCPsychiatrists 'AS/ASD interview – scen in development'**

Clinical & Risk Appraisal (SPJ)



Step 3

- **Structured Professional Judgement**
 - Risk Appraisal (clinical judgement, ultimately)
 - HCR-20 (vs1-1997; vs2 – 2010)
 - START (2009)
 - [SAPROF; 2010/11]



Best Practice in Managing Risk

Principles and Evidence for Best Practice in the Assessment and Management of Risk to Self and Others in Mental Health Services

Document prepared for the
National Mental Health Risk Management Programme

Updated

December 2008

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_076511

10/15/2010

The CJS and Autism Conference,
Oct 2010

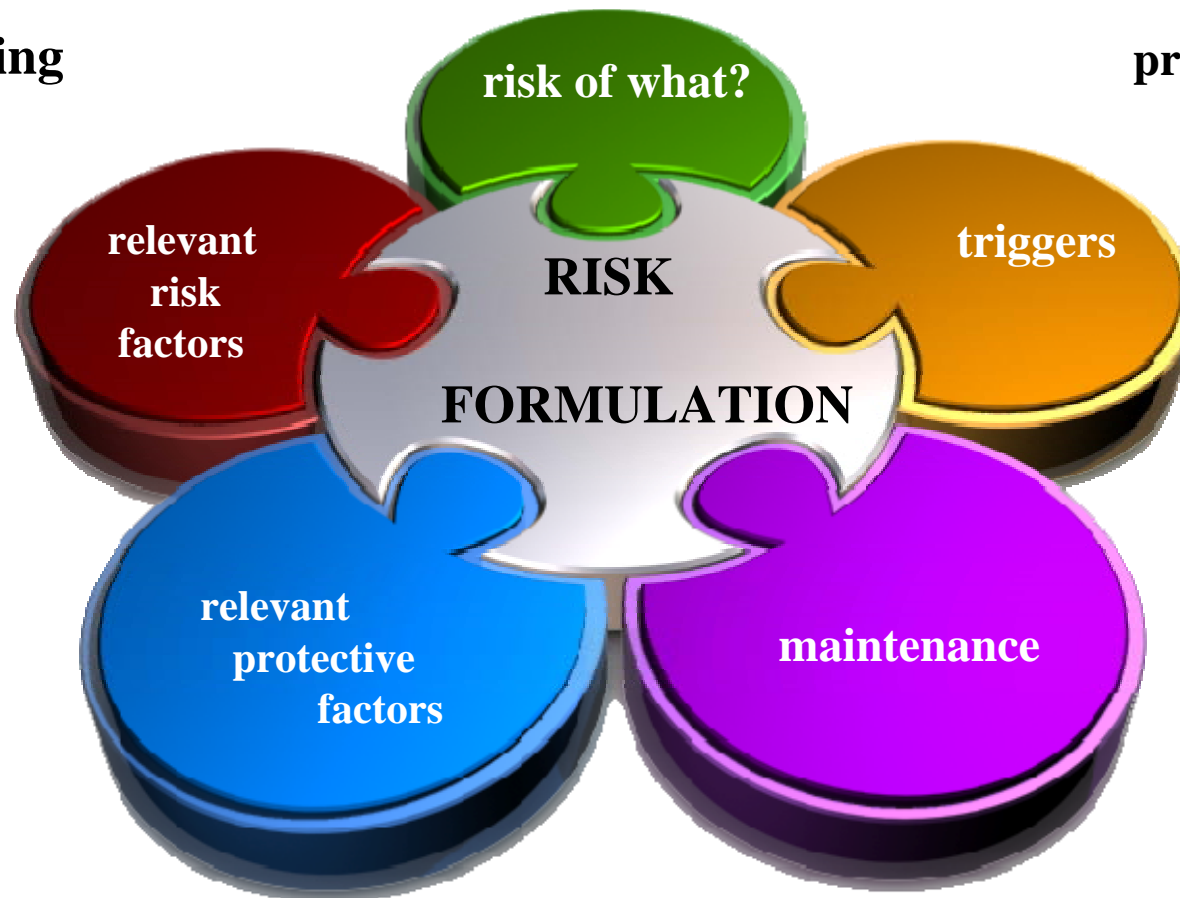
Constituents of the SPJ



University of East Anglia

precipitating
factors

predisposing
factors



perpetuating
factors

Capacity for Effective Participation in Trial Proceedings (1)

1. Understanding of charges and potential consequences

- ability to understand and appreciate the charges and their seriousness
- ...to understand possible consequences of potential pleas
- ...to appraise realistically the likely outcomes

Capacity for Effective Participation in Trial Proceedings (2)

2. Understanding of the trial process

- ability to understand, without significant distortion, the roles of participants in the trial process (e.g. judge, defence lawyer, prosecutor, witness, jury)
- ... to grasp the general sequence of pre-trial / trial events

Capacity for Effective Participation in Trial Proceedings (3)

3. Capacity to participate with lawyer in a defence

- **Ability to adequately trust or work collaboratively with lawyer**
- **...to disclose to lawyer reasonably coherent description of facts relating to the charges, as perceived by the defendant**
- **...to reason about available options by weighing the consequences, without significant distortion**
- **...to challenge realistically prosecution witnesses and monitor trial events**

Capacity for Effective Participation in Trial Proceedings (4)

4. Potential for court room participation

- **ability to testify coherently, if testimony is needed**
- **... to control own behaviour during trial proceedings**
- **...to manage stress of trial**

What next?

1. **Compliance with Statute across:-**
- **Commissioners for:-**
 - **Police Services**
 - **NOMS incl.**
 - **YJB and HMYOI**
 - **Adult HM Prison Services**
 - **Probation Services**
 - **Court System**
 - **National Commissioning Board (NHS, April 2011)**
2. **Strategic audits and research**



What next?



3. Lobbying and Practice

- **APPGA**
- **NAS**
- **Broadland Clinic Forensic Service-East Anglia, East of England regional gatekeeper and national referral point**
- **Leicestershire and West Midlands**
- **NE of England CAMH Services**

Summary



- **MDO with AS and other forms of ASD have particular vulnerabilities in CJS**
- **Just think about it at point of arrest and throughout legal proceedings**
- **Diagnostic acumen and expertise is still patchy regarding offending**
- **By May 2011**
 - **Failure to demonstrate compliance with Autism Act 2009 Implementation Strategy (Health, and criminal [CCRS implications, potentially], education and employers)**



**Thank you for your patience
and attention**

10/15/2010

The CJS and Autism Conference,
Oct 2010