

The European Probation Rules, Assessment and Risk

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European Probation Rules

- Developed by the Council of Europe
- Attempting to set out the implications of the Convention on Human Rights for the organisation, policies and practice of probation agencies
- Drawing on expert advice and experience from several countries
- Starting (not with *what works?* but) with *what's right?*

The Need for Probation Rules

- Consistency and continuity across Europe
- Developing good probation practice – especially sound assessment and effective interventions to try to change offenders' behaviour
- Probation needs to be better understood by Judges and Prosecutors and by the general public if alternatives to prison are to achieve their potential
- EU Framework agreements (947)

Structure of the Rules

- Preamble
- Scope and definitions
- Basic Principles
- Organisation and staff
- Accountability and relations with other agencies
- Probation Work
- Complaint procedures, inspection and monitoring
- Research, evaluation, work with the media and the public
- A Glossary
- An Explanatory Memorandum

Two Basic Principles

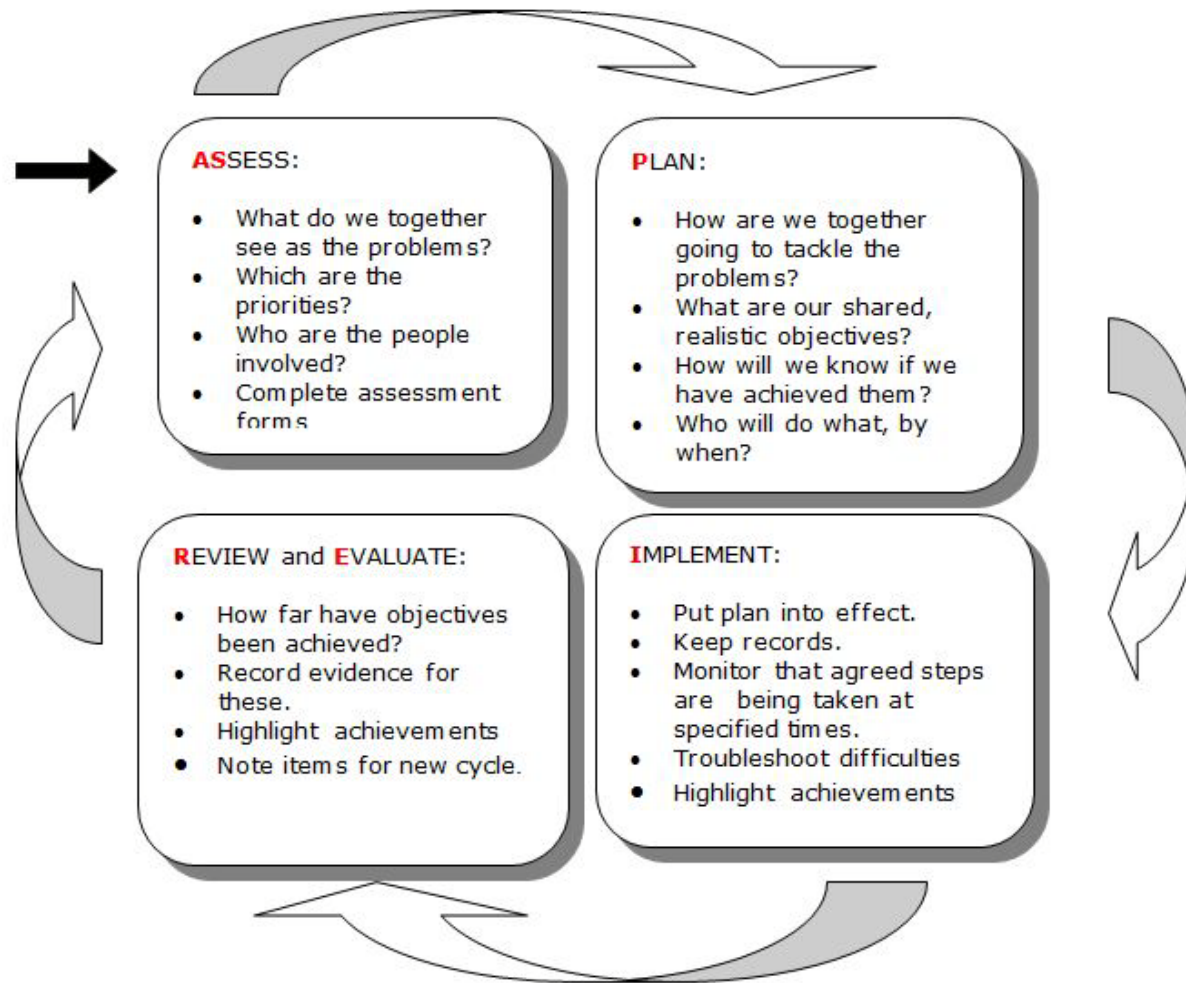
1 Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to supervise ... guide and assist them and to promote their successful social inclusion.

6 As far as possible, the probation agencies shall seek the offenders' informed consent and co-operation regarding interventions that affect them.

Assessment: Rules # 66 - 71

- 66 systematic and thorough consideration of the individual - risks, positive factors and needs, interventions required to address these and the offender's responsiveness
- 67 due weight to the offenders' views and personal aspirations, their own personal strengths and responsibility for avoiding offending
- 68 individual to be aware of process and outcomes
- 69 a continuing process
- 70 *when* assessments should take place – regularly anyway and also at key points
- 71 staff trained to assess and, where instruments are used, to understand their value and their limitations – they should be used to support professional judgement

ASPIRE



Assessing what?

RNR:

- Risks
- Needs (associated with offending)
- Responsivity

But:

- Needs are redefined as “dynamic risk factors”
- There is relatively little guidance about how responsivity is to be assessed

Is RNR in the end just R?

Assessing also

- Strengths
- Aspirations
- Obstacles to desistance (including needs not directly 'criminogenic')
- Motivation
- Interventions / resources that might be made available

And I assess
you as a
?!@!

I assess you as Medium Risk of
reoffending with a
Low-Medium Risk of
Serious Harm



Assessing how?

- Conventional distinction is between clinical / person-by-person
- and actuarial
- This is not the same as the distinction between structured and unstructured assessments – OASys is (highly) structured, but it is (mostly) not actuarial

Some commonly accepted beliefs and some challenges to them

- assessment is a way of ascertaining facts about people
- the most important thing is for the assessment to be accurate
- actuarial assessments are best
- actuarial methods predict quite accurately
- assessment is more about exploration and negotiation
- the most important thing is for assessment to guide practice
- actuarial assessment breaks the link between assessment and management

OASys

- accommodation
- education, training and employment; finance and income
- relationships; life-style and associates
- drug misuse; alcohol misuse
- emotional well-being (including mental health)
- thinking and behaviour (including considering the consequences of their behaviour, seeing things from someone else's point of view)
- attitudes (towards offending, towards supervision)

scores awarded represents judgements about the seriousness of the problem for this person and its relationship with offending. Thus, 0 = no problems; 1 = some problems; and 2 = significant problems.

OASys:

Strengths - and limitations

- Consistency
- Rigour
- Comprehensiveness
- Dynamic /
changeable factors
- Diversity
- Inter-rater
reliability
- Instantiation
- Are the areas of
assessment 'facts'?
- Is the extent to
which they are
problematic a fact?

Disclosure effects

- Dealing with dynamic factors, OASys should be able to appraise progress / deterioration
- But sometimes “repeat assessments yield higher ... scores because the offender has chosen to disclose more problems or the officer has learned more about the offender, rather than because risk or need factors have actually changed.” (Raynor, Kynch, Roberts and Merrington 2000)
- Specifying and ‘measuring’ personal problem is shifting and elusive

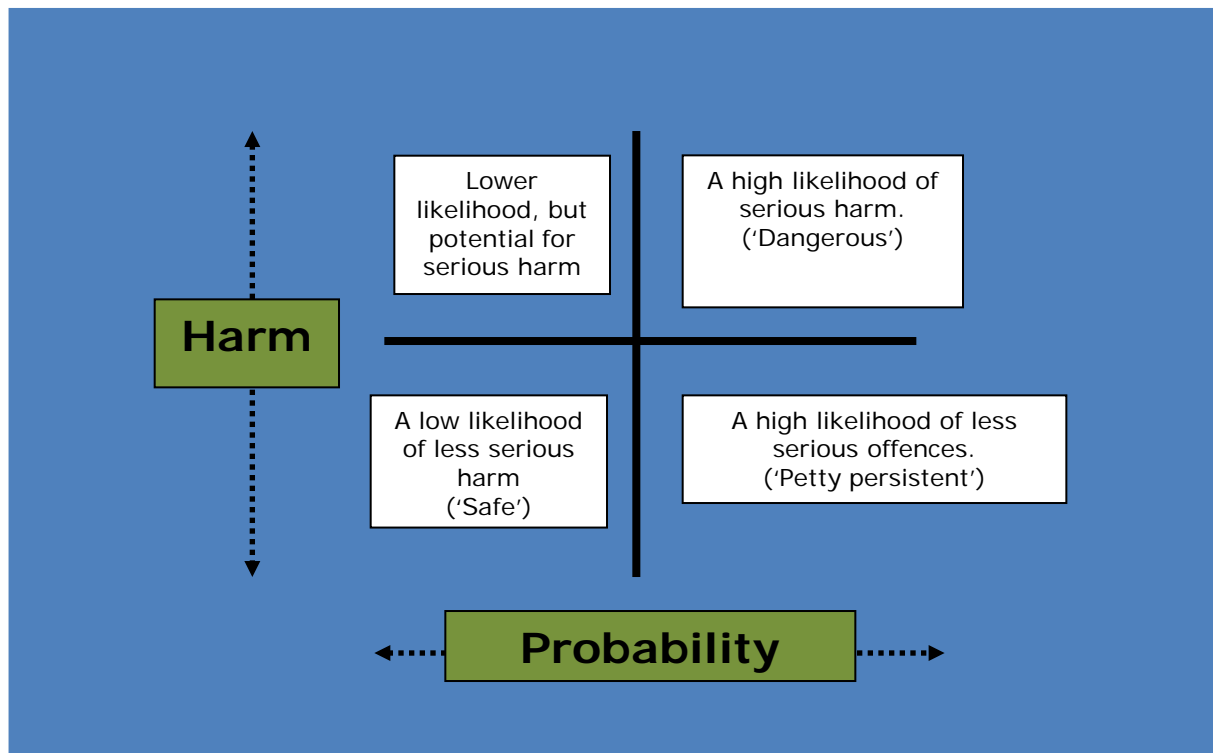
Relationship – Rule One

Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to supervise ... guide and assist them and to promote their successful social inclusion.

Assessing risk

Is RNR in the end just R?

- Risk of what?
 - reconviction
 - serious harm especially to vulnerable people
 - self-harm
 - risk to offender from others
 - to staff



Risk assessment should help us to manage / reduce risk

- Limits of assessment instruments
- Research claims that actuarial / statistical methods are more 'accurate', but accuracy is not what we most want
- Assessment's purpose is to guide planning and intervention and actuarial methods are very limited in that respect
- We do not want to predict grave crimes: we want to prevent them

Reflective risk assessment

- “a dynamic, self-questioning process, which explicitly accepts that knowledge is subject to perpetual revision, and that the wider social and political context has an influence on the practice of risk assessment and management.”
- and “... an appreciation of the effect the assessor will have upon the assessment.”

Robin Tuddenham

“Supervision is not primarily a surveillance and crime control process, but a framework of support. Monitoring depends centrally on the maintenance of a relationship with the patient, with every effort being made to achieve co-operation, openness and trust. Surveillance that is onerous and outside a framework of support may reduce the co-operation and disclosure on which effective continuing risk assessment depends.”

Adrian Grounds

"... you can't eliminate risk ... but you can move towards a system that people feel comfortable with, have trust in and where they feel you are on their side. And if you can make that happen, that is the safest service. You can have a measure with all sorts of restrictions and hurdles and safety measures but if the last person the user wants to see is the probation officer that is the least safe option."

Summary of Main Points

- More attention to process and purpose of assessment
- 'Accuracy' is not the best way to think about this
- It is impossible to replace judgement – even if we wanted to: staff do (must) make judgements
- Much of the literature may overvalue accuracy and undervalue relationship
- Relationship depends on trust and consent ...
- ... not least for those who may commit grave crimes
- EPR's basis in **what's right** may turn out to be more effective than a direct attempt to achieve **what works**