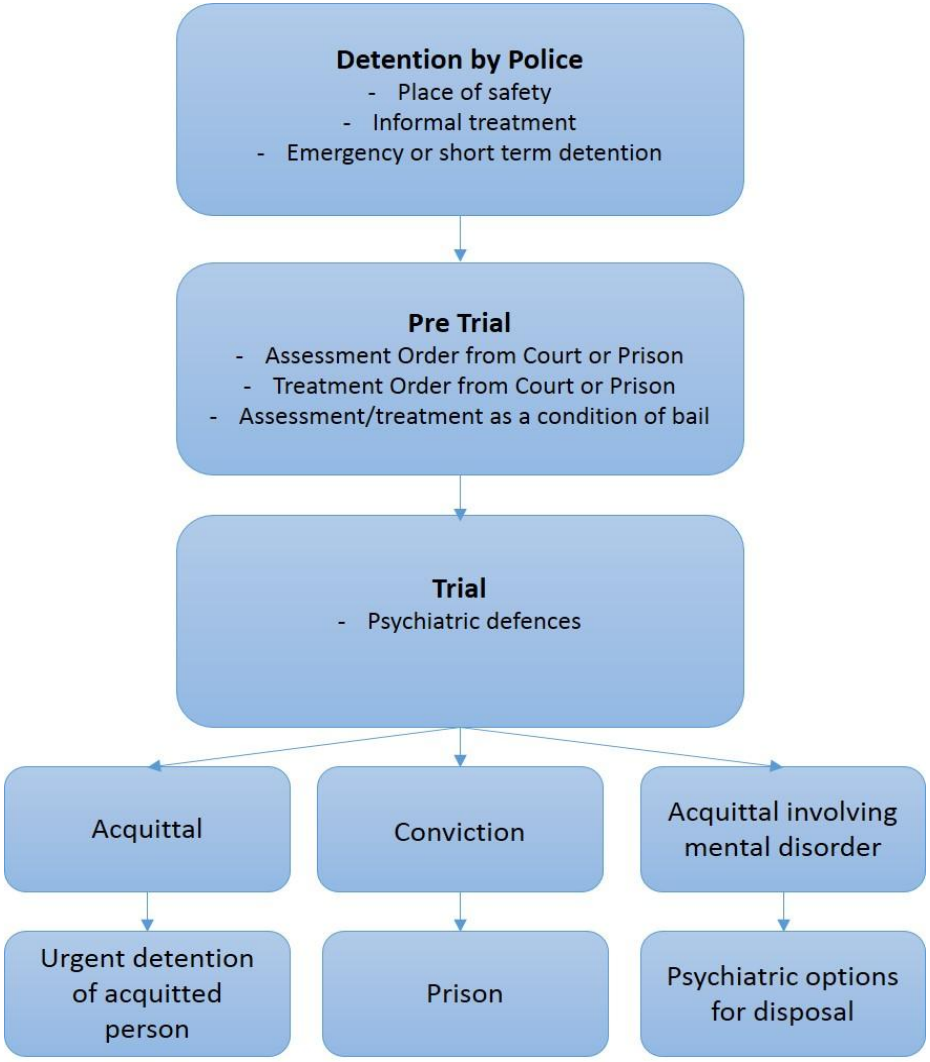
Criminal Justice Pathways

If a person is found to have a mental health illness, there are several disposals available to courts depending on the care and treatment that the person requires after assessment. The flowchart below outlines criminal justice pathways:



2. Forensic Mental Health Services

What are Forensic Mental Health Services?

Forensic mental health services specialise in the assessment and treatment of people with a mental health illness who are currently undergoing, or have previously undergone, legal or court proceedings.

Some other people are in cared for in forensic mental health services because they are deemed to be at a high risk of harming themselves or others. These services are often located within secure hospitals or wards, but they can also be community services.

Forensic mental health services offer specialised care and treatment rather than penal punishment, and a large majority of people in these services are detained under the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Criminal Procedure (Scotland) Act 1995. The two acts work in partnership to safeguard both patients and the public. Further information can be found at: www.mwcscot.org.uk/the-law/criminal-procedure-act/

When are People Referred to Forensic Mental Health Services?

People with a mental illness can be transferred to forensic mental health services at the time of arrest, during court proceedings, when on remand awaiting trial, or after trial from prison.

The Criminal Procedure (Scotland) Act 1995 gives Scottish courts the power to ensure that a person receives care and treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003 whilst they are involved in legal or court proceedings.

If Police, Prosecutors, Court Staff or Legal Representatives are concerned about a person's mental health, they will request a mental health assessment. This helps the court to decide whether treatment is necessary, and how best to deal with the case.

Types of Order

Assessment Order: An order imposed by a criminal court which authorises hospital detention for up to 28 days, so that the patient's mental condition may be assessed. Medical treatment may be given in certain circumstances under this order.

Treatment Order: An order imposed by a criminal court which authorises hospital detention for mental illness.

Interim Compulsion Order: An order imposed by a criminal court which authorises hospital detention for assessment and treatment for a period of 12 months. It can be renewed for up to 1 year.

Compulsion Order: A final disposal imposed by a criminal court which authorises hospital detention or compulsory powers in the community for a period of 6 months. A Compulsion Order can be renewed for six months, and then annually thereafter.

Restriction Order: When added to a Compulsion Order, it allows restrictions to be implied to limit the potential risk of serious harm to others while the individual progresses through rehabilitation. A Compulsion Order with a Restriction Order (CORO) authorises the detention of a person in hospital.

Hospital Direction: This allows a person to receive appropriate medical treatment in hospital and then be transferred to prison to complete any prison sentence that has been imposed. Time in hospital counts towards the overall time served in relation to the prison sentence.

Transfer for Treatment Direction: An order made by Scottish ministers that allows the transfer of a sentenced prisoner to hospital for treatment of a mental disorder.

Emergency Detention Certificate: This is a civil procedure authorising the removal of a person to hospital within 72 hours and the detention of that person in hospital for a further 72 hours. This is granted by a fully registered medical practitioner who has (where practical) sought the consent of a Mental Health Officer.

Short-Term Detention Certificate: This is a civil procedure that authorises a person to be transferred to hospital within 3 days of being granted, and then the detention of that person in hospital for a period of up to 28 days. The Certificate is granted by an approved medical practitioner with the consent of a Mental Health Officer. This period can be extended through an 'Extension Certificate' for three working days.

Compulsory Treatment Order: An order granted by the Tribunal which authorises compulsory measures for a period of six months. A CTO can be renewed for 6 months, and then for twelve months thereafter.