

Mental Ill Health and Learning Disabilities

Contents

Policy Statement	2
Legislation on Interviews	2
Police and Criminal Evidence Act 1984 (PACE)	2
Youth Justice and Criminal Evidence Act 1999	3
Mental Health Units Use of Force Act 2018	3
Detaining under the Mental Health Act.....	3
Absent Without Leave (AWOL)	10
Multi-Agency Care Plans	11
Criminal Offence Committed	11
Requests to Stay at a Place of Safety	12
Transporting the Patient.....	12
Treatment when in Custody	13
Additional Information.....	15

Policy Statement

Summary

West Yorkshire Police complies with Authorised Professional Practice (APP), which contains information to assist policing, and has established a local procedure which covers mental ill health and learning disabilities.

The Force recognises that the police play a key role in providing a response to people with mental ill health, learning disabilities or learning difficulties, including people with personality disorders etc.

This policy procedure ensures police officers and staff provide a clear and consistent service to these individuals, whether they are victims, witnesses, suspects, offenders or members of the public requesting assistance.

The aims of this policy are to help officers and staff to recognise mental ill health and learning disabilities so that they can respond appropriately and treat people with dignity and respect; to explain how they should communicate, question or interview individuals who have mental disorders or learning disabilities so that they are achieving best evidence; to explain reasonable adjustments, aids and adaptations which may be needed to ensure service delivery is not affected; and to provide information on WYP protocols with mental healthcare trusts.

Scope

This policy applies to all police officers, police staff, special constables and police community support officers who may come into contact with individuals suffering from mental disorders, learning disabilities or learning difficulties.

Legislation on Interviews

Police and Criminal Evidence Act 1984 (PACE)

Principles

- If officers suspect, or are told that, a person is suffering from mental disorder or learning disability, they must regard it as a mental condition and comply with PACE.
- Note: Not all those with mental disorders or learning disabilities will be vulnerable interviewees or would wish to be treated as such.
- Officers must call a healthcare professional to examine the person and they will decide if the person is fit for interview or detention.
- General provisions relating to the police interview are contained in paragraph 11 of PACE Code C.

- Annex G of PACE Code C deals specifically with fitness for interview.
 - Provided that the assessment determines the person is fit to be interviewed, an officer must respond to any objections by the solicitor or appropriate adult as below:
“You have made representations regarding [name of suspect] fitness to be interviewed. I can say that an examination has been carried out by a doctor (or specialist) who has certified that [suspect] is fit for interview. Therefore, I intend to proceed.”
 - At the end of the interview, the doctor (or specialist) must re-examine the person and the result must be certified on the custody record.
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Youth Justice and Criminal Evidence Act 1999

Principles

- To apply for the record of an interview with a vulnerable or intimidated witness to be played as evidence-in-chief, officers must visually record the interview.
 - Section 19 of the Youth Justice and Criminal Evidence Act 1999 deals with a witnesses eligibility for special measures.
 - See Victims and Witnesses policy and Visual Recorded Interviews with a Child policy.
 - In the case of a suspect, officers do not need their consent to visually record the interview.
 - An officer has the discretion to continue visual recording despite the suspect’s objections. See Code of Practice F 4.8.
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Mental Health Units Use of Force Act 2018

Principles

- This legislation requires police officers to ensure that they wear and operate their Body Worn Video (BWV) whilst attending incidents at Mental Health Units.
 - It is therefore expected that officers will use sound judgement to determine ‘special circumstances’ that would justify turning off the camera. In the vast majority of cases, BWV must be deployed throughout.
 - See Mental Health Units Use of Force Act 2018 for further information.
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Detaining under the Mental Health Act

Criteria for using s136

- Section 136 of the Mental Health Act 1983 (MHA), as amended by the Policing and Crime Act 2017, makes provisions in relation to mentally disordered persons found in mental health crisis.
 - Locations where s136(1) may be applied include, for example:
 - Railway lines;
 - Hospital wards;
 - Rooftops of commercial buildings;
 - Police stations;
 - Offices;
 - Schools;
 - Gardens and car parks associated with communal residential properties; and
 - Non-residential parts of residential buildings, with restricted entry.
 - S136(1B) enables a police officer to enter any place in which s136(1) if necessary by force to remove a person.
 - S136C enables a police officer to search a person subject to s135 and s136 who they reasonable believe may present a danger to themselves or others, and is concealing a dangerous item, for the purpose of discovering and seizing that item.
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Detention period

- **The permitted period of detention under s135 or s136 is 24 hours (reduced from the previous 72 hours).**
 - The responsible medical practitioner can extend that period by up to 12 hours if a MHA assessment cannot be completed within the permitted period, due to the person's mental or physical condition.
 - **Where the person is being detained in a police station a police officer, of the rank of Superintendent or above, must also approve the extension.**
 - The detention period of those detained under s135 or s136 begins:
 - Where a person is removed to a place of safety, at the point where the person physically enters that place.
 - Where a person is kept at an address specified in the s135 warrant, at the time the police officer first enters the premises.
 - Where a person is kept at a place under s136, at the point the police officer decides to keep them there.
 - The clock continues to run during any transfer between any place of safety to another.
 - If a person subject to s135 or s136 is first taken to an emergency department or hospital for treatment, it would begin at the emergency department.
 - If a person is detained under s136 at a police station it would begin at the time of the s136 arrest, as that is classed as a place of safety.
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**Consulting
before using
s136(1)**

- A police officer is required by s136(1C) to consult one of the specified healthcare professionals, where it is practicable to do so, before deciding whether or not to keep a person at, or remove a person to, a place of safety under s136(1).
 - Healthcare professionals include:
 - An approved mental health professional;
 - A registered nurse;
 - A registered medical practitioner;
 - An occupational therapist; and
 - A paramedic.
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**Purpose of
s135(1)**

- This section is only available under a warrant issued by the Magistrates Court.
 - The Approved Mental Health Professional (AMHP) would apply for it only if they believe that a person suffering from a mental disorder:
 - Is at the address and is being ill-treated; or
 - Is neglected; or
 - Is being kept without proper control; or
 - Is living alone and unable to care for themselves;
and is refusing to allow access to the property.
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**Purpose of
s135(2)**

- This section is also only available under a warrant issued by the Magistrates Court.
 - However, any mental health staff can apply for the warrant.
 - It would be used for a person who was absent without leave (AWOL) and:
 - Is at the address; and
 - Is detained and AWOL; or
 - An application has been made and is AWOL before admission can be effected; and
 - Has refused to return or go to hospital; or
 - Has been recalled from CTO and refused to attend hospital.
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**Power of the
warrant**

- The warrant will be addressed to a Constable of the West Yorkshire or North Yorkshire Police who is then authorised to enter (if needs be by force) the premises specified, and to remove the person to a place of safety.
- **Only the police can execute the warrant.**
- There is no power under the MHA to enter premises unless a warrant has been sworn out.
- The warrant lasts for up to three months and can only be used once.
- Once a warrant has been issued, mental health staff should contact the police and arrange to meet at the pre-arranged location.

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- A registered medical practitioner must be present if the warrant is under s135(1). Police officers cannot apply for this warrant as it requires specialist mental health knowledge.
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Purpose of consultation

- The purpose of the consultation is to obtain timely and relevant mental health information and advice that will support the officer to decide on the best course of action for the purpose concerned.
 - The police officer must seek to ascertain:
 - An opinion on whether this appears to be a mental health issue based on professional observation and, if possible, questioning of the person;
 - Whether other physical health conditions may be of concern or contributing to behaviour, e.g. substance misuse, signs of injury or illness;
 - Whether the person is known to local health providers;
 - Whether it is possible to access medical records or a care plan to determine medical history and suggested strategies for managing a mental health crisis;
 - Whether the use of s136 is appropriate;
 - If s136 is deemed appropriate, identification of a suitable health-based place of safety and facilitation of access to it; and
 - Where s136 powers are not appropriate, the identification and implementation of alternative arrangements, such as taking the person home or to a community place of respite.
 - **The police officer retains ultimate responsibility to use s136 powers. The police officer must record on the Mental Health App on their mobile devices the consultation, including who was consulted and the advice they gave.**
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Deciding if it is practicable to consult

- Officers must decide if it is practicable to consult, taking into consideration:
 - Whether the person is likely to remain cooperative and present during the time taken to undertake a consultation; or
 - Whether it is safe to undertake a consultation due to the behaviour of the person which may require immediate action in the interests of safety.
- All districts will have in place a local agreement to contact a designated mental health professional or team. Some districts have street triage teams, others have telephone support from their local mental health team.
- These are the medical professionals that must be contacted wherever possible. If it is not possible to consult prior to the arrest, the local mental health professional must be contacted afterwards.
- The local mental health team are best placed to provide up to date information and also assist with local healthcare arrangements including reception at the s136 suite.

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**Legal
responsibility**

- When a person is detained under the MHA, the police have a legal responsibility to ensure they are taken to a place of safety.
 - Note: It is important to remember the person is a patient, not a criminal, and must be treated as such.
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**Yorkshire
Ambulance
Service (YAS)**

- All persons detained under s136 must, wherever possible, be conveyed by an ambulance.
 - This ensures that the person receives an initial healthcare professional assessment and any treatment needed is provided.
 - The Force has an agreed protocol with YAS whereby they will provide a 30 minute response to transport persons detained under s136, whether that is to a custody area or other designated place of safety.
 - The ambulance crew will conduct a clinical assessment of the person and administer any immediate treatment required.
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Place of safety

- A place of safety is defined as:
 - A hospital;
 - An independent or care home for mental disorder persons;
 - A police station;
 - Residential accommodation provided by local social services authority; and
 - Any other suitable place (with the consent of a person managing or residing at that place).
 - **By virtue of s136A(1) a police station must not be used as a place of safety for a person under the age of 18 years under any circumstances.**
 - **A police station may only be used as a place of safety for a person aged 18 and over, in specific circumstances as follows:**
 - **The behaviour of the person poses an imminent risk of serious injury or death to themselves or another person;**
 - **Because of that risk, no other place of safety in the relevant police area can reasonably be expected to detain them; and**
 - **So far as reasonable practicable, a healthcare professional will be present at the police station and be available to them.**
 - The authority of an officer, Inspector or above, must be given for use of a police station.
 - Persons detained at a police station under s136 must be reviewed at least hourly by the Custody Officer.
 - The Custody Officer must ensure that a healthcare professional checks the welfare of the detained person at least every half hour.
 - The healthcare professional must be present and available throughout.
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Leaving the detainee

- The healthcare professional must take responsibility for the person as soon as possible, including preventing the person from absconding before the assessment can be carried out.
 - The police officer must not be expected to remain until the assessment is completed and must be able to leave when the situation is agreed to be safe for the patient and healthcare professional.
 - Once the healthcare professional has arrived, the officer must only leave if:
 - In their professional judgement, or that of the s136 co-ordinator, there is **not** an unmanageable risk of violence;
 - They have done everything possible to safeguard the health and safety of the person and people in whose care the person is to be left; and
 - They have discussed and agreed with the s136 co-ordinator an appropriate course of action.
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Transfer to a second place of safety

- Unless it is an emergency, officers must not transfer a person without the agreement of an AMHP, a doctor or another healthcare professional who is competent to assess whether the transfer would put the person's health or safety, or that of other people, at risk.
 - It is for those professionals to decide whether they need to see the person first themselves.
 - Officers must not transfer the person to a subsequent place of safety without first confirming that it is willing and able to accept them.
 - The person may be taken to the second, or subsequent, place of safety by a police officer, AMHP or a person authorised by a police officer or AMHP.
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Requests for police to assist in the transportation of patients

- Officers may be asked to assist in transporting a violent or potentially violent person.
- In deciding whether to support any such request, consideration must be given to:
 - The MHA Codes of Practice 2015 (section 17);
 - Joint local protocols; and
 - If the level of violence would be unmanageable by health and security staff.
- Note: The Codes of Practice clearly state that patients should always be transported in the manner which is most likely to preserve their dignity and privacy, consistent with managing any risk to their health and safety or to other people. The potential negative impact of police involvement on the patient must also be taken into consideration.
- Note: Patients who have been sedated before being transported must always be accompanied by a health professional who is knowledgeable in the care of such patients, is able to monitor the patient closely, can identify and respond to any physical distress which may occur and has access to the necessary emergency equipment to do so.

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Medical emergency

- Where a person is suffering a medical emergency, all steps must be taken to ensure they receive immediate medical care.

PAVA irritant spray

- Where a person has been subjected to PAVA irritant spray, they will ordinarily be transported, in a police van, to the most appropriate place of safety.
- See the PAVA Irritant Spray policy for further information.

Waiting times

- It is accepted that officers dealing with s136 cases can encounter waiting times for consultation, ambulance, emergency department and 136 suite.
- In order to capture an audit trail of the officer's actions and the timeline of the incident, the Mental Health App on the mobile device must be completed.

Further guidance

- For additional guidance on transportation, see the Custody and Detention policy.

MH Concern occurrence guidance

- A MH Concern occurrence must be used when a MH incident other than a s136 and s135 occurrence is dealt with.
- In many cases it will still be appropriate to complete the MH App on a mobile device, e.g.:
 - If a MH professional has been consulted with;
 - If an ambulance has been waited for (MH patients must always be conveyed by an ambulance); or
 - If an officer has conveyed because no ambulance was readily available.
- The individual must ensure that details of any referrals made, and the names of professionals spoken to and advice they have given, are recorded on the OEL. If signposting advice for local services is provided, it must be named.
- If the person is elderly, has dementia or is an adult with learning difficulties, it may be more appropriate to record an Adult at Risk occurrence and make a referral to Adult Social Care.
- Sergeants must be tasked to file the occurrence for finalisation.
- In order to finalise a non-crime occurrence, the individual must ensure:
 - Relevant safeguarding referrals have been made, e.g. MH Services, children's social care, adult social care;
 - PNC warning markers have been requested, e.g. MH, Self-Harm, Suicidal;

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- If the person is regularly coming to the attention of the police, consideration of arranging problem solving procedures.
 - Sergeants must double check that all relevant referrals have been made and warning markers applied before filing.
 - Note: If the person does not already have the appropriate warning markers and flags on PNC and Niche, the individual must ensure that a task is sent to the PNC Bureau. Relevant markers include MH, Self-Harm and Suicidal.
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Escalation Protocol

- Where there are significant delays in either finding a bed for a MH patient who is in police custody or officers are excessively delayed in dealing with a MH incident due to lack of healthcare resources, the Escalation Protocol must be followed.
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Absent Without Leave (AWOL)

Principles

Refer to:

- APP Mental health – AWOL patients
 - Section 135(2) – Warrant to enter and remove an absent patient
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West Yorkshire Mental Health Partnership Multi-Agency Guidance

- If the person is AWOL according to the MHA and after assessing the current situation, they are deemed to be a hospital absconder (no police action to be taken).
- The hospital should then consider:
 - Cancelling the MH detention;
 - Extending the period of leave; and/or
 - Undertaking reasonable actions to try and establish the whereabouts of the missing patient, including checking whether a missing patient is at their home address.
- If the police are asked to check the home address on behalf of the hospital, the police must only agree to do so if there is a real, immediate and substantial risk to life or serious injury and no hospital staff or ambulance is available to do so.
- If the missing patient does not return within a reasonable length of time and the hospital have been unable to locate the patient having undertaken reasonable actions to establish their whereabouts, including checking the home address, the hospital should then report the patient as missing from home as well as missing from hospital. The police will then take a missing person report and assist the hospital to search for the AWOL patient and, if required and appropriate, assist the hospital to return the AWOL patient to hospital.

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- If the senior health professional on duty does not agree with any police decision not to respond to any requests for assistance to locate the person, they should ask to speak to the Duty Inspector.
 - If the senior health professional and Duty Inspector cannot agree, they must refer to Police DOC and the on-call health director/senior manager.
 - Note: In any discussions it is important that health professionals provide the police with an up-to-date risk assessment including the patient's current issues and relevant history, especially any suicide and self-harm risks.
 - Police officers must check relevant police systems, Niche, PNC and PND (where possible).
 - For further information, refer to the Missing Persons policy.
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Multi-Agency Care Plans

Principles

- West Yorkshire Police support the use of multi-agency care plans to explore how to best meet the needs of individuals who may use a number of services intensively for a short period of time, or who frequently present to a number of services.
 - The presence of a multi-agency care plan will be flagged through a PNC mental health flag which will include a 24/7 telephone number for officers to contact for details of the agreed care plan and preferred actions to be taken by agencies (including the police).
 - The existence of a care plan will also be recorded on Niche using a Mental Health Care Plan occurrence.
 - The Mental Health Care Plan occurrence is intended to:
 - Create an audit trail and facilitate the request for a PNC marker (that a care plan exists); and
 - Support associated problem solving by West Yorkshire Police.It **must not** record any patient health data.
 - Officers must always contact the number provided within the PNC flag as the multi-agency care plan is stored and kept up to date on the relevant health service patient record system.
 - See process map to illustrate the flag process for Niche.
 - The multi-agency approach will adhere to the rules of confidentiality and information must only be shared in the best interests of the service user.
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Criminal Offence Committed

- Principles**
- The presumption must always be to deal positively with criminal matters and the National Crime Recording Standards will apply.
 - Any offences must be recorded and dealt with accordingly.
 - An offence must not be ignored just because a person has been detained under the MHA or MCA.
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Requests to Stay at a Place of Safety

- Responsibilities**
- In response to a request to stay at the place of safety, an officer must:
- Risk assess the likely harms and benefits of their decision;
 - In exercising their professional judgement, include what is known about the detainee, e.g. from police information systems and those of other agencies; and
 - Inform supervision of any requests to stay where the level of risk would not be unmanageable by medical and, where currently available, security staff.
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- Niche**
- The address of the place of safety must be linked to the record, whether this is an occurrence or a custody record.
 - Officers must refer to the Niche process on how to deal with a person who is taken directly to a place of safety, or transferred from custody to a place of safety.
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Transporting the Patient

- Responsibilities**
- In all cases, individuals must:
- Request an ambulance to transport the patient, specifically stating it is for a section 136 detention;
 - Update the Storm log to include:
 - That the request has been made for ambulance to transport the individual;
 - The response from YAS (an estimated time of arrival or that they are unable to attend); and
 - If appropriate, the rationale for any deviation from Force policy.
 - Contact the local s136 co-ordinator to arrange for a mental health assessment to be conducted; and
 - Ask the health-based place of safety to accept the patient. Any reason for exclusion must be clearly recorded on Storm and the associated Niche occurrence.

Joint risk assessment

- The ambulance crew will jointly conduct a risk assessment with the officers of the individual and the circumstances to decide the risk of violence posed by the individual and the safest method of transport.
- Officers must record the decision making in their electronic/pocket notebooks.
- At least two staff must be involved in the transport of such persons, as follows:

Risk	Action
High	Person to be transported in a police vehicle, with a member of the ambulance crew present in the police vehicle. Consideration must be given to the safety of the accompanying ambulance crew member, who must not be put at risk.
Medium	A joint decision between the police and ambulance crew as to the most appropriate mode of transport. This may involve a police officer accompanying the person in the ambulance.
Low	Person to be transported by ambulance, with the police vehicle following.

- The usual method of transportation for s136 will be via ambulance. This is in line with APP Detention and custody.
- If an ambulance is unable to attend, the default position will be to transport the person in a police vehicle.

Treatment when in Custody

Detention form

- Each mental health trust area needs a detention form completing, outlining details of the person and reasons for detention.
- These must be available in each custody area but can be accessed below:
 - Bradford
 - Calderdale, Kirklees and Wakefield
 - Leeds

Custody officer responsibilities

- The custody officer must:
- Ensure the detaining officer completes the relevant section of the detention form;
 - Arrange a mental health assessment through the relevant local s136 co-ordinator; and

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- Hand the detention form to the AMHP attending, to undertake the mental health assessment.
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Referral

- If the healthcare professional or custody officer feel that a more specialised assessment is needed, this must be dealt with by a clinical psychologist, consultant forensic psychiatrist or approved mental health practitioner.
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Additional Information

Compliance

This policy complies with the following legislation, policy and guidance:

- Equality Act 2010
 - Mental Capacity Act 2005
 - Human Rights Act 1998
 - Data Protection Act 2018
 - Police and Criminal Evidence Act 1984
 - Mental Health Act 1983 (amended 2007)
 - Health and Safety Act 1974
 - APP Detention and custody
 - APP Mental health
 - Achieving Best Evidence in Criminal Proceedings: Guidance for vulnerable or intimidated witnesses, including children
 - Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures
 - Department of Health Code of Practice on the Mental Health Act
 - Department of Health No Secrets – Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse
 - Code of Practice for Victims of Crime
 - NHS Long Term Plan
 - HMICFRS Report – Policing and Mental Health – Picking up the Pieces
 - CPS Guidance – Mental health: Suspects and defendants with mental health conditions or disorders
 - NPCC National Strategy on Policing and Mental Health
 - Hidden Impairment National Group – Uncovering Hidden Impairments Toolkit
 - Police and Mental Health – How to get it right locally
 - Department of Health Crisis Care Concordat – Improving outcomes for people experiencing mental health crisis
 - Care Quality Commission – A safer place to be
 - Guidance for the implementation of changes to police powers and places of safety provisions in the Mental Health Act 1983

 - Purpose of Section 135 guidance
 - WYP and Wakefield Council – Agreement on Police Attendance at Planned Mental Health Assessments in the Community and the Use of Section 135 Warrants
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**Supporting
Information**

The supporting information for this policy can be accessed online.
