**Mental ill health and learning disabilities**

**Policy**

**Policy 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.

**Aim**

The aims of this policy procedure are to:

- help officers and staff recognise mental ill health and learning disabilities so that they can respond appropriately and treat people with mental ill health and learning disabilities with dignity and respect;
- provide guidance to officers and staff on how to deal with individuals who have mental disorders or learning disabilities;
- explain how they should communicate, question or interview individuals who have mental disorders or learning disabilities so that they are achieving best evidence;
- help officers and staff use legislation and statutory guidance to bring to justice those who exploit and abuse persons who lack mental capacity;
- explain reasonable adjustments, aids and adaptations which officers and staff may need to ensure service delivery is not affected; and
- provide information on the Force’s protocols with mental healthcare trusts.

**Scope**

This policy procedure 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 and should be read in that context.

**Compliance**

- Equality Act 2010
- Mental Capacity Act 2005 (MCA)
- Human Rights Act 1998
Chapter 1  Definitions

Mental disorder

The Department of Health’s Code of Practice on the Mental Health Act 1983, as updated, defines mental disorder, for the purposes of the MHA, as “any disorder or disability of the mind.”

Disability

Disability is defined as:

“A physical or mental impairment which has a substantial and long term adverse effect on an individual’s ability to carry out his/her normal day to day activities.”

Learning disabilities

s1(4) of the MHA 1983 defines learning disability as:

“A state of arrested or incomplete development of the mind which includes significant impairment of intelligence
and social functioning.”

**Learning difficulties**

Distinguishing between learning difficulties and learning disabilities is quite a complex issue, however, a learning disability is linked to an overall cognitive impairment. Many with, e.g. autism, dyspraxia or attention deficit hyperactivity disorder, would see themselves as having a learning difficulty rather than a disability.

A learning difficulty does not affect general intelligence.

**Vulnerable adult**

A vulnerable adult is defined in the Department of Health’s No Secrets document as:

“A vulnerable person is anyone aged 18 years or over:
- who is or maybe in need of community care by reason of mental or other disabilities, age or illness; and
- who is or maybe unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.”

NB The Victims code has a specific definition of vulnerability in relation to the criminal justice process.

**Safeguarding referrals**

The policy procedures on submitting safeguarding referrals can be accessed via these links:
Safeguarding children and young people
Safeguarding vulnerable adults

The officer dealing must consider making a safeguarding referral for:
- the person thought to have a mental disorder or learning disability; and
- for any other people, particularly where that person has dependants.

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**Chapter 2 Legislation on interviews**

**Police and Criminal Evidence Act 1984**

**Introduction**

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 the Police and Criminal Evidence Act 1984.

NB Not all those with mental disorders or learning disabilities will be vulnerable interviewees or would wish to be treated as such.
Healthcare professional

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

General provisions relating to the police interview are contained in paragraph 11 of PACE Code C.

Fitness for interview

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 should 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) should re-examine the person and the result must be certified on the custody record.

Youth Justice and Criminal Evidence Act 1999

Visual recorded interviews used as evidence-in-chief

Introduction

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 the policy procedures on:
Vulnerable victims and witnesses – special measures;
Visual recorded interview with a child; and
Visual recorded interview with a suspect.

Suspects

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.
Chapter 3 Detaining under the Mental Health Act (MHA)

Criteria for using s136

Section 136 of the Mental Health Act 1983, as amended by the Mental Health Act 2007, makes provisions in relation to mentally disordered persons found in public places.

Under 136(1) If a constable:
- finds
- in a place to which the public have access
- a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control;
- the constable may, if they think it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety.

Note: Case law states that ‘finds in a place to which the public have access’ relates to where the person is found. It would be unlawful to detain a person under s136 in any place other than one to which the public have access or to coerce the person into a place to which the public have access and then detain them under s136.

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.

NB It is important to remember the person is a patient, not a criminal, and should be treated as such.

Yorkshire ambulance service (YAS)

The Force has agreed a protocol with the Yorkshire Ambulance Service 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.

Place of safety

A person detained under s136 should be removed to a health based place of safety. A police station should only be used in exceptional circumstances.

Other options, which might be appropriate to the individual’s needs, should be considered, e.g.:
- a residential care home;
- the home of a relative; or
- a friend of the person who is willing to accept them temporarily.
There is nothing that precludes other areas of a psychiatric hospital (such as a ward) being used as a temporary place of safety, provided that it is a suitable place and it is appropriate to use that place in that individual case.

If a person is taken to a place of safety other than a police station, the officer must accompany the person and remain with them until the arrival of a healthcare professional to conduct the assessment.

**Leaving the detainee**

The healthcare professional should 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 should:
- not be expected to remain until the assessment is completed; and
- 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:

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<tr>
<th>Step</th>
<th>Action</th>
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<tbody>
<tr>
<td>1</td>
<td>in their professional judgement or that of the s136 coordinator, there is <strong>not</strong> an unmanageable risk of violence;</td>
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<tr>
<td>2</td>
<td>they have done everything possible to safeguard the health and safety of the:</td>
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<tr>
<td></td>
<td>• person; and</td>
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<tr>
<td></td>
<td>• people in whose care the person is to be left; and</td>
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<tr>
<td>3</td>
<td>they have discussed and agreed with the s136 coordinator an appropriate course of action.</td>
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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 approved mental health practitioner (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.
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 should be given to:
- the Mental Health Act 1983 Codes of Practice 2015 (section 17);
- joint local protocols; and
- if the level of violence would be unmanageable by health and security staff.

Notes.

1. 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 should also be taken into consideration.

2. Patients who have been sedated before being transported should 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.

Medical emergency

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

CS irritant spray

Where a person has been subjected to CS irritant spray, they will ordinarily be transported, in a police van, to the most appropriate place of safety.

See the CS and PAVA irritant spray policy procedure for further information.

Waiting times

It is accepted that the above will impact on officers waiting for the ambulance to arrive.

This impact will be assessed by the use of Storm qualifying codes which will flag whether an ambulance arrived within the agreed timescales.

Further guidance

For additional guidance on transportation see page 48 of the custody policy – Initial arrest and general custody - Transportation.
Chapter 4  Criminal offence committed

Introduction

The presumption must always be to deal positively with criminal matters and the National Crime Recording Standards will apply.

Any offences should 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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Admin

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