

Local Response to Changes to Mental Health Regulations under the Policing and Crime Act

Introduction

New regulations under the Policing and Crime Act 2017 (PACA) came into force on 11 December 2017 that amended Section 136 of the Mental Health Act 1983. Section 136 is an emergency power which allows the police to take a person to a place of safety, if a police officer considers the person is experiencing mental illness and in need of immediate care. The purpose is to enable an assessment of the person's mental health in order to make appropriate arrangements for their care.

Places of safety are often A&E departments in hospitals, but in some cases where there is known risk under Section 136 people may be taken directly to a mental health provider. Three mental health trusts provide services in South Yorkshire including Rotherham Doncaster and South Humber NHS Foundation Trust.

Questions to the South Yorkshire Police and Crime Commissioner (PCC)

Following a discussion with health partners about the new regulations and the importance of a clear and consistent response from the South Yorkshire Police, it was decided that the best way forward was to ask questions directly to the PCC through the South Yorkshire Police and Crime Panel.

The questions below were on the agenda on 15 December 2017 and the full response is included in Appendix 1.

- How will SYP ensure standard practice across the South Yorkshire force when dealing with mental health crisis situations? We have heard there are different responses to similar situations across South Yorkshire in relation to section 136 detentions.
- Do you think the changes to the PACA will mean that people with mental health issues receive a poorer response when in crisis? For example we have been informed it sometimes takes a long time to transport someone to a mental health hospital or section 136 suite if the police and ambulance service are reluctant to help?
- How will the police force support incidents of aggression or crime within mental health wards?

Recommendations for HSC

Members of Health Select Commission are asked to:

- Note the response of the South Yorkshire Police and Crime Commissioner.

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Appendix 1 Response from Police and Crime Commissioner

- **How will SYP ensure standard practice across the South Yorkshire force when dealing with mental health crisis situations? We have heard there are different responses to similar situations across South Yorkshire in relation to section 136 detentions.**

South Yorkshire has recently appointed Superintendent Dan Thorpe as the Strategic Mental Health Lead, who was the Metropolitan Police Service Mental Health Lead for a number of years, supporting the then National Police Chiefs' Council (NPCC) Lead for Mental Health, Commander Christine Jones who helped develop the Mental Health Crisis Care Concordat.

Levels of support for people detained under S136 of the Mental Health Act and police officers can vary across SY because the three mental health trusts (SWYFT, RDASH, SHSC) offer different support. In some areas, for example, places of safety have been suddenly closed and officers have had to find alternatives, which causes delay. This is despite S140 of the Act placing a duty on Clinical Commissioning Groups/Local Health Boards to give notice to local social services saying what emergency arrangements are in force in cases of emergency.

However, SYP have been working hard with NHS colleagues from across the County to continually improve aspects of mental health care provision, including getting access to the most appropriate service at the right time, which includes a MH crisis response.

South Yorkshire Police introduced a Strategic Mental Health Partnership Board, which has been operating now for nearly two years. The meeting sits bi-monthly to help SYP to work closely with strategic health partners in the interests of those affected by mental ill health. As an example the Board has kept those aged under 18 years, who are detained under S136 Mental Health Act, out of police cells (mandatory since 11 December 2017). Over the last 2 years, no under 18's have been taken to a police cell. The board has also been working to achieve 24/7 Mental Health Crisis support for police officers through Single Points of Access or Triage services, which are now in place across the County.

Superintendent Thorpe is revising the Strategic Mental Health Partnership Board and has recently met the Chief Executive of RDASH MH Trust – Kathryn Singh - who has agreed to joint chair the Board. This is important when increasing MH demands are placing pressure on both police and a range of NHS services. Kathryn and Dan are currently reviewing the priorities of the Board and how this could link in with existing Countywide NHS work streams. As an example, one of the priorities of the Board is to examine existing Mental Health Crisis pathways, including the pathway for S136 and to create a Countywide Health Based Place of Safety specification that will introduce a consistent service across the County, something Supt Thorpe achieved in London across 10 Mental Health Trusts and 32 Local Authorities.

If preventing a mental health crisis is a central goal of mental health services; preventative services must be in place across the urgent care pathway and within the community to prevent a crisis occurring.

With S136 demand increasing by 33% over the last year, there is a collective need to understand this demand and work collectively on early interventions, identifying those who are high intensity users of service and creating joint management plans to better support these individuals and reduce demand. This will become a priority for the board in 2018.

Supt Thorpe has also introduced a SYP wide Mental Health Escalation Log, which enables police officers to escalate incidents and issues which have not gone well, or which identify areas for improvement concerning mental health crisis incidents. This provides a valuable countywide overview, which can be broken down into District/Trust areas. The log is regularly shared with strategic partners so that collectively SYP and the NHS can identify trends, repeated issues, which may influence how services are commissioned in the future.

- **Do you think the changes to the PACA will mean that people with mental health issues receive a poorer response when in crisis? For example we have been informed it sometimes takes a long time to transport someone to a mental health hospital or section 136 suite if the police and ambulance service are reluctant to help?**

A person experiencing a mental health crisis should receive the best possible care at the earliest possible point. The legal changes introduced to S135/S136 Mental Health Act via the Police and Crime Act 2017, are intended to improve immediate service responses to people who need urgent help with their mental health, particularly in cases where police officers are the first to respond. However, it has been acknowledged by SYP, that health partners are under considerable strain and pressure to deliver various crisis services whilst seeing increasing demand with corresponding challenges around budgets.

The changes to the MHA are varied and may present both opportunities and consequences. For example, the application of S136 has now been widened in respect of where the power can be exercised. This will assist officers from the British Transport Police who regularly respond to people in MH crisis attempting to commit suicide on railway tracks. These are private places and prior to 11 December 2017, BTP officers have been unable to exercise their powers under S136.

So whilst there are a number of areas where this power can now be utilised, an unintended could be that we see a sharp or continual rise of S136 demand which may have a knock on effect as to the capability of the NHS to cope with this potential increase.

Another example of how this will improve the response, relates to the use of police cells, which can now only be used in exceptional circumstances. As such, it will be unlawful for police cells to be used unless the circumstances are compliant with the stipulated regulations which are very specific. Consequently, this will result in more adults being taken to health-based places of safety rather than a police cell.

However, Mental Health Based Places of Safety within the county often experience challenges around resourcing or being able to manage more than one patient at a time, meaning officers and health partners may need to find urgent alternatives, which may just be the nearest Emergency Department.

That said, the overarching aim is to improve the response to those in need of a crisis response and the legislation has been produced with this in mind.

In respect of transport, Yorkshire Ambulance Service (YAS), (as are all Ambulance Services within the UK), are commissioned to provide a transportation service for all individuals detained under S136. They are required to transport them to the nearest, suitable and available health based place of safety. As previously alluded to, SYP do recognise the pressures on colleagues from YAS, who are frequently unable to provide an ambulance to support such requests. Recent analysis of S136 transportation methods in Doncaster evidenced that around 60% of cases were transported by ambulance and the remaining 40% were transported by police vehicle.

In all cases in South Yorkshire, If someone is detained under S136 Mental Health Act, they will have to be transported to the nearest place of safety. If an ambulance is unable to support SYP due to a lack of resources, then SYP will transport the patient. The challenge is the availability of resourcing which is often outpaced by demand, rather than a reluctance to support someone in need of help.

- **How will the police force support incidents of aggression or crime within mental health wards?**

Whilst working in the Metropolitan Police Service, Superintendent Thorpe helped to introduce the National Mental Health Restraint Expert Reference Group. This was chaired by Lord Carlile of Berriew CBE QC. In January 2017, the first Memorandum of Understanding regarding the Police use of restraint in Mental Health & Learning Disability Settings was published. Prior to this, there was no clear national position regarding when the police can be asked to attend mental health and learning disability settings and for what reasons.

Health providers have a duty to undertake, implement and review risk assessments for all the services they provide. The police do not have specific powers to restrain a patient for the purposes of medical treatment regardless of whether the treatment is in the patient's best interests. In situations where the police are called for emergency assistance, the circumstances should be assessed on its merits.

The risks associated with restraint are significant. SYP officers should not be called to undertake restrictive practices connected to purely clinical interventions (e.g. taking fluid samples, administering injections/medication) unless exceptional factors apply.

SYP will support colleagues in health services with incidents where:

- There is an immediate risk to life and limb;
- There is an immediate risk of harm;

- Serious damage to property;
- Offensive Weapons are involved;
- Hostages

No assumption should be made by the police that any incident involving any patient will always be a matter for healthcare staff alone; or that offences committed by a patient cannot or should not be investigated or prosecuted.