



# MULTI-AGENCY SECTION 136 MENTAL HEALTH ACT 1983 PROTOCOL

## Document Summary

This document sets out the responsibilities and expectations of those involved with the Section 136 process in Cumbria.

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### Important Note:

**The Intranet version of this document is the only version that is maintained.**

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## 1. Introduction.

- 1.1 The Code of Practice to the Mental Health Act 1983 (MHA) details the expectations, on the relevant Authorities, to establish local joint policies and procedures, on the powers of the police to remove a person to a place of safety. This Protocol has therefore, been developed, with the co-operation and agreement of all the agencies, which are involved with the Section 136 process in Cumbria. It sets out the responsibilities and expectations of those involved, so that there is clarity and consistency in the way that working practices are implemented. It has been amended to take account of the legislative requirements, arising from the Policing and Crime Act 2017.
- 1.2 The purpose of Section 136 MHA, is to enable a Police Officer to remove a person, whom they consider to be mentally disordered and in need of immediate care or control, to a place of safety. This is to enable the person to be examined by a Registered Medical Practitioner and interviewed by an Approved Mental Health Professional (AMHP); so that the necessary arrangements can be made, for treatment and care. Section 136 is not an emergency admission section and legislation provides a period of 24 hours to allow this process to take place (see Paragraph 14.7 for circumstances when this period can be extended). However, guidance expects the process to be completed much more expeditiously, as does the Code of Practice (paragraph 17.47).
- 1.3 It is important to recognise that although the Act uses the term 'remove', it is deemed an 'arrest', for the purposes of the Police and Criminal Evidence Act 1984 (PACE). Police Officers will, therefore, apply the usual requirements under the Human Rights Act, of implementing the most proportionate action for the scenario that they face. Less intrusive responses may exist which would make the use of Section 136 unnecessary. This might include finding appropriate family members to take charge of the person. Information which may be useful in identifying such a solution can be found via the Access and Liaison Integrated Service (ALIS) who should be contacted on the Single Point of Access (SPA) Line **0300 123 9015** (see Section 6 below). Such an approach is in accordance with the Guiding Principles, contained within Chapter 1, Mental Health Act Codes of Practice 2015.
- 1.4 Section 136 is a power provided to police officers and the decision to use the power, lies with the police officer. However, police officers are required by law to consult with mental health services prior to making a decision on the use of the power, if it is practicable to do so.



- 1.5 Where an individual is found by the police, in circumstances where they could, either have been arrested for a criminal offence, or detained under Section 136, they should be arrested and removed to a police station. It is inadvisable and impracticable, to use both options at the same time (mix and match). The County Mentally Disordered Offenders (MDO) Protocol is written and designed, to cater for such occasions and will ensure that persons are diverted, from the Criminal Justice System, where appropriate. The only exception to this is when the offence is so trivial, as to be safely set aside for the purposes of prioritising a mental health assessment. This might well occur where the offending is very low-level, possibly 'victimless' and/or where the behaviour, is most likely to be related to their mental health condition. There are clear benefits to be derived from a professional discussion between the police and ALIS in relation to options to ensure the most appropriate pathway is chosen for the person.

## 2. Scope.

The agencies involved in this protocol are:  
Cumbria Partnership NHS Foundation Trust.  
Cumbria County Council.  
The North West Ambulance Service (NWAS).  
Cumbria Constabulary.

## 3. Legislation.

- 3.1 The Mental Health Act 1983, as amended by the Policing and Crime Act 2017 states:
- 3.2 '136 – (1) If a person appears to a constable 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 (as defined by the MHA).
  - If the person is already at a place of safety within the meaning of the MHA, keep that person at that place or remove the person to another place of safety.
- 3.3 136 – (1A) The power of a constable under subsection (1) may be exercised where the mentally disordered person is at any place, other than;
- Any house, flat or room where that person, or any other person, is living, or
  - Any yard, garden, garage or outhouse that is used in connection with the house, flat or room, other than one which is used in connection with one or more other houses, flats or rooms.



- 3.4 136 – (1B) for exercising the power under subsection (1), a constable may enter any place where the power may be exercised, if need be by force.
- 3.5 136 – (1C) Before deciding to remove a person to, or to keep a person at, a place of safety under subsection (1), the constable must, if it is practicable to do so consult :-
- A registered medical practitioner
  - A registered nurse
  - An approved mental health professional
  - An occupational therapist
  - A paramedic.
- 3.6 136 – (2) A person removed to, or kept at, a place of safety under this section, may be detained there for a period not exceeding 24 hours: for the purpose of enabling them to be examined by a Registered Medical Practitioner. To be interviewed by an Approved Mental Health Professional and for making necessary arrangement for their treatment or care’.
- 3.7 The legislation is not age specific and Section 136 can be applicable to children and young people. **However, the use of a police station as a Place of Safety is not permitted for anyone under the age of 18 years.** Paragraph 15 below, relates to the procedures that will be followed, in cases involving persons under the age of 18 years.

#### **4. Mental Health in Dwellings.**

- 4.1 As detailed above, the powers of Section 136 are not available to police officers, if the person is at a place, described in paragraph 3.3. Contacting the **SPA line on 0300 123 9015**, is the recommended course of action. The staff answering may be able to suggest options to the police, to deal with the person.
- 4.2 The processes and procedures, for the assessment of a mentally disordered person, who is not in a location where Section 136 powers can be used, are fully covered, in the Joint Operational Protocol for Interagency Assistance. This includes the arrangements around obtaining a warrant, under Section 135(1), which provides powers to enter and remove that individual to a place of safety.



## **5. Initial Role of the Police Officer.**

- 5.1 It is for the police officer to make the judgement as to whether an individual is mentally disordered and in immediate need of care or control: based on their experience and training. **However, the Care Quality Commission (CQC) stress that Section 136 cannot be used simply to remove a person who is, for instance, being a nuisance.**
- 5.2 As outlined in the introduction, Section 136 should generally **not** be used, if an offence has been committed. It is vital that police officers allow the procedures laid out in the Mentally Disordered Offenders (MDO) Protocol, to determine which persons are diverted from the Criminal Justice System, and which are not. Section 136, should not be used as an alternative means of criminal disposal, except where the offending is very low-level, and / or where the behaviour is most likely to be related to their mental health condition. If in doubt, the advice of supervisors and ALIS should be sought.
- 5.3 A problematic factor, associated with Mental Health assessments, is the presence of alcohol and/or substances. It is difficult to assess a person who is intoxicated, because the effect of the substance may make it difficult to judge their underlying mental state. However, the presence of intoxicants in itself, does not mean that an assessment of someone's mental health cannot commence, and this should not preclude mental health professionals; conversing with the person, in order to reassure and assess their readiness for assessment. In such cases, the person needs to be managed safely, until they are fit enough, for the processes to be undertaken fully.
- 5.4 Where a police officer is considering the use of Section 136, the first point of contact (if practicable) will always be the **SPA Line on 0300 123 9015**. This contact will provide advice and guidance as indicated at Paragraph 6 below. The SPA line staff will also make the necessary arrangements with the Hospital Place of Safety, to receive that person, if that is the agreed course of action.

## **6 Access and Liaison Integrated Service (ALIS).**

- 6.1 One of the principal objectives of the ALIS is to provide an alternative to hospital admission, for individuals experiencing acute mental health difficulties. It is, therefore, within their remit to help assist with alternative solutions for police officers considering the use of Section 136.
- 6.2 Whenever practicable, police officers should contact the **SPA Line: 0300 123 9015**; prior to deciding to exercise their 136 power. The SPA Line forms part of the ALIS team. Such contact may negate the need for a Section 136 detention, and provide a much quicker solution to the incident, without compromising the safety and treatment of the person



concerned. Examples of this could be the identification of a local carer, with whom the person could stay or a Care Plan or Crisis Plan, which directs what actions, can be taken, when a person is in crisis. These options will minimise the unnecessary use of Section 136.

- 6.3 In circumstances where police officers have to exercise the power of Section 136 immediately, before being able to contact the SPA Line; that contact should still take place, as soon as possible afterwards. It is through that contact, that advice on the most suitable Place of Safety currently available will be provided. Initial contact with the Hospital based Place of Safety, should always be made in this way

**SPA Line County-wide No: 0300 123 9015.**

## **7. Conveyance.**

- 7.1 Paragraph 17.3 of the MHA Codes of Practice states that patients should always be conveyed in the manner, which is most likely to preserve their dignity and privacy, consistent with managing any risk to their health and safety and to the safety of other people. Police officers need to be mindful, that the “detained person” is a patient, and the use of a police vehicle to convey such a person, has often been seen as stigmatising them as a “criminal”.
- 7.2 The Code, and all supporting guidance, stresses that hospital or ambulance transport will generally be preferable to police transport, which should only be used exceptionally, such as in cases of extreme urgency or where there is a risk of violence.
- 7.3 It is for Clinical Commissioning Groups (CCGs) to commission ambulance and patient transport services to meet the needs of their areas. This includes services for transporting patients to and from hospital (and other places) under the Act.
- 7.4 The North West Ambulance Service, are commissioned to provide a service in the circumstances of a Section 136 detention, and will be used, whenever it is appropriate. The Ambulance Service has a responsibility to respond in a timely and appropriate manner, to meet the needs of the service user. Specific detail is contained in the North West Regional Conveyancing Policy. NWS has indicated a reasonable response time, for calls in relation to Section 136 cases. (In most circumstances, this is likely to be within 40 minutes).
- 7.5 **In any case, where the person is being restrained; or is suspected to be suffering from Acute Behavioural Disturbance, NWS must be informed of this fact. Their levels of response, are based on the description of the symptoms, a person is displaying .Use of phrases such as “It’ looks like ABD” are insufficient. ABD is an “umbrella term” for a number of possible conditions. The**



**Emergency Medical Dispatcher (EMD), needs specific symptoms such as:**

**Level of Consciousness. (IF A PERSON IS UNCONSCIOUS, THIS IS CRITICAL INFORMATION THAT NEEDS PASSING OVER).**

**Violent;**

**Agitated;**

**High body temperature;**

**Breathing problems;**

**Insensitive to Pain ( restraint or Taser);**

**Insensitive to Irritant Spray;**

**This information will assist their risk assessment and deliver the most appropriate level of response.**

- 7.6 Unless circumstances at the time clearly dictate otherwise, the Police Communications staff will always contact NWS, when a Section 136 detention, has been made, to register the need for an ambulance.
- 7.7 The role of the NWS staff is not purely to convey the detainee. Their initial action will be, to examine the person who has been detained. This is to determine, if the person has any underlying physical health condition(s) that need immediate treatment. This examination may also indicate that the way the person is presenting, is not due to mental health, but could be due to a physical illness; an injury they have sustained, or the result of taking substances. The NWS staff will always act in the best interest of the patient and they may direct that the person is conveyed to an Accident and Emergency department, for immediate medical treatment. (See paragraph 9 for the action to be followed, if a detained person is taken to A and E.
- 7.8 Conveyance of a detained person will be by ambulance in the first instance. In exceptional circumstances, the patient may need to travel in a “transport cage” equipped police vehicle, due to their excessive violent behaviour, even if an ambulance is present. In these circumstances, A MEMBER OF THE AMBULANCE CREW WILL TRAVEL IN THE POLICE VEHICLE. This enables them to provide clinical support to the escorting officers.
- 7.9 There are times, when a high level of demand, or dealing with a critical incident, mean NWS may experience a delay in responding. If this situation presents itself, the officers on the ground, will have to conduct a dynamic ‘risk assessment’, to decide whether to wait for the ambulance, or use police transport. If they have not been in contact with a supervisory Sergeant, they need to do so, before making their final decision.
- 7.10 It may be evident that the person detained, does not have any obvious underlying physical ailment, that would prevent them being taken direct to a Health based Place of Safety/136 suite. At the other extreme, officers may have had to use restraint or force, to contain and detain a



person. If there is any likelihood, that the person has an underlying physical health concern, has been subject to a lengthy period of resistance and restraint, or they have concerns about the condition and wellbeing of the person and where time will not allow an NWS response, then they must travel to the nearest Accident and Emergency department.

- 7.11 Extra regard should be taken, in monitoring the detained person on the journey. Relying on a camera in the caged area of a van is not sufficient. An officer **WILL** be tasked, to be in a safe position in the van, from where they can keep, close visual contact with the detainee.
- 7.12 The relevant police incident log will be endorsed as to the decision made and the reasons why, police transport was used. The appropriate section in the Mental Health App, regarding the type of transport used will also need completing, by the officers dealing with the person detained. The data collected is supplied to the Home Office and the police. One of the principle reasons is to determine if the NWS response times, are timely and sufficient.
- 7.13 The power for the police, to delegate the authority to convey the detainee, to another person **does not exist in legislation and the police officer(s) should always accompany the person, to the relevant Place of Safety.** Once again, the ongoing risk assessment will determine if this needs to be by travelling with the patient in the ambulance, or by following in a police vehicle.

## **8. A Place of Safety.**

- 8.1 The Mental Health Act legislation, specifically defines a place of safety for the purposes of Section 136. This definition includes: both hospitals (as defined by the Mental Health Act) and police stations; although the use of the latter is restricted (see Paragraph 11 below). The definition also includes other places considered suitable and this is a consideration, which could be discussed with the SPA Line, at the time that the power is used. The hospital has the ability to nominate another Place of Safety, when the first is occupied, for example, using other suitable parts of a hospital, or neighbouring health-based settings. There is nothing that precludes other areas of a psychiatric hospital (such as a ward) being used as a temporary Place of Safety, provided it is appropriate to use that place in the individual case.
- 8.2 Paragraph 16.36 of the MHA Codes of Practice states that it is preferable for a person thought to be suffering from a mental disorder to be detained in a hospital or other healthcare setting where mental health services are provided.
- 8.3 Hospital Based Places of Safety within Cumbria are designated below. The Section 136 Assessment facilities are



located within these premises:

South Cumbria

- The Dova Unit at Furness General Hospital, Barrow.
- The Kentmere Unit at Westmorland General Hospital, Kendal.

North Cumbria

- The Assessment Suite at Carleton Clinic, Carlisle.

West Cumbria

- The Yewdale Ward, at the West Cumberland Hospital, Whitehaven.

8.4 It has been agreed that all designated Custody Suites within Cumbria, are available for the purpose of Section 136, subject to the restrictions contained within Regulations, as detailed at Paragraph 11 below.

8.5 On occasions, mental health units may close for admissions to their wards. However, they cannot close as being Hospital Based designated Places of Safety, and persons should still be taken there, for assessment under Section 136. After being assessed and if a decision is made, to admit the person to a ward, there may be a need for the person to be conveyed to another hospital psychiatric unit, where a bed is available. (See Paragraph 7 above about conveyance and Paragraph 16 below, about the relevant costs that may be charged, if the police are requested, to provide any accompanying escort).

8.6 **In Cumbria, Accident and Emergency (A&E) Departments, at a hospital, HAVE NOT BEEN SPECIFIED, as a Place of Safety, under this protocol.** Cumbria operate a different model to other Trusts, where they combine an A and E facility, with 136 facilities, and have the required mix of health and mental health staff at that site. Paragraph 9 below, details the arrangements to follow, should persons detained under Section 136, require urgent medical treatment, for an injury or potential illness, in advance of the Mental Health assessment taking place.

**9. Procedures to Follow If a Person Detained Under 136 Powers, Attends A & E, or are Admitted To A Ward Before a Mental Health Act Assessment Takes Place.**

9.1 It is not the intention of this protocol, to promote the use of Accident and Emergency Departments (A&E) as a Place of Safety. However, some people detained by the police under Section 136 may present, with physical healthcare requirements, in addition to their



suspected mental disorder, which need to be assessed in an A&E Department.

- 9.2 Where such concerns exist, police officers must ensure that the person receives appropriate clinical/medical attention. **This is the principle reason why, it is vital to involve NWS paramedics, at the earliest opportunity, and if advised to do so by them, facilitate the person's removal to the nearest A&E department.** NWS staff from their training and the background information they have available to them, about the patient, may be able to form the opinion, that the person has an underlying condition or illness, which is not a mental health disorder. **The police officers will remain with the person throughout the initial treatment process. They then will be in a position, to continue the journey with the person, to the appropriate Place of Safety, when the emergency treatment is concluded; or onto an in-patient ward. The person remains a detainee throughout this time, and the police cannot de-arrest as per PACE.**
- 9.3 Police Officers need to be aware, that any time spent within an A&E Department for this purpose, **does** count towards the **24 hours** detention, allowed by virtue of Section 136. The detention clock starts the moment the person passes through the doors of A and E.
- 9.4 The case of Webley v St George (2014) highlights the vital importance of all agencies exchanging relevant risk information in circumstances such as this. In addition to alerting the ward staff to the status of the patient, the police will also re-contact the SPA Line to notify them as to the current location of the patient and the arrangements made with the ward staff. The SPA Line will then ensure that the Approved Mental Health Professional (AMHP) is notified to arrange for the appropriate assessment to be undertaken.
- 9.5 Within 30 minutes of arrival at an in-patient ward, **Police Officers must complete the documents: Form 136 (Appendix A) and the Joint Risk Assessment Matrix (Appendix B). Copies of these forms are kept at the Hospital Based Places of Safety (aka 136 suites). Copies are also kept, on the Cumbria Constabulary Sharepoint site, under Custody Cares> Mental Health Matters>Section 136 Mental Health Act 1983 folder. (See paragraph 10.4 to 10.11 below).**
- 9.6 To ensure that individual's mental health, learning disability and physical health needs are dealt with appropriately, reference should also be made to the North Cumbria University Hospital Trust's (NCUHT), University Hospitals of Morecambe Bay (MBUH) and Cumbria Partnership Foundation Trust's (CPFT) **JOINT CARE PROTOCOL FOR PATIENTS WITH PHYSICAL, MENTAL HEALTH OR LEARNING DISABILITIES NEEDS (Policy 001/032).**



## **Designated Hospital Based Place of Safety (136.Suite).**

### **10. Initial Actions, Joint Risk Assessment and Search Powers**

- 10.1 The Royal College of Psychiatrists have published reports entitled 'Standards on the use of Section 136 of the Mental Health Act 1983', the most recent in July 2011. This document provides a set of standards giving guidance on the use of Section 136 facilities within hospital settings. It is these standards that all agencies engaged with this Protocol will strive to achieve. This document has been supplemented by additional guidance, including that for commissioners, published in April 2013.
- 10.2 These Standards determine that there should be a clearly identified person in charge of the psychiatric assessment facility, at all times and that sufficient members of staff should be present to receive the patient on their arrival.
- 10.3 **Within 30 minutes of arrival at the Hospital Based Place of Safety (136 suite); the Form 136 (Appendix A) and the Form 137: Joint Risk Assessment Matrix (JRAM) form (Appendix B), will be commenced for every patient detained under Section 136.**
- 10.4 The form 136, part A, is to be completed by the police and part B by the NHS staff. The Form 137 will be completed by the police officers, with a joint input from the NHS staff.
- 10.5 These forms will be available in the 136 suite. (Copies of both forms are stored on the Cumbria Constabulary Sharepoint site: under Custody Cares – Mental Health Matters – Section 136 Mental Health Act 1983 folder and on the Cumbria Constabulary Forms library).
- 10.6 **It will be the officer's responsibility to perform a Police National Computer (PNC) and a local intelligence check on the person, where their details are known**
- 10.7 When the Form 136 and Form 137 are completed, this will identify any potential risks to the patient and/or staff and determine the subsequent involvement of police officers, in remaining and supporting nursing staff, until the assessment is complete. The cumulative score on the Form 137 will place the patient, in one of three categories, using the traffic light method.
- Green (Low Risk) – Police will leave the patient in the care of NHS Staff (and staffing levels should be sufficient 24 hours a day to ensure that the police can leave promptly after the handover period).



- Amber (Medium Risk) – Police will remain with the patient initially for 2 hours. If the patient becomes compliant during this time, the situation can be re-assessed and a joint decision made to release officers. If the patient's score has not reduced at the 2 hr review point, a further review will be done at 4 hours.
  - Red (High Risk) – Police will remain to protect and support NHS Staff and the patient, until the assessment process is complete.
- 10.8 The Form 136 includes provision for recording which staff member from the Place of Safety informed the patient of their legal rights under Section 132 of the Mental Health Act 1983.
- 10.9 If a dispute, about the requirement for officers, to remain in a hospital based Place of Safety arises; the matter must be referred by the attending police officers, to their duty Sergeant. If the Sergeant is unable to resolve this, it will be escalated to the most appropriate Duty Uniformed Inspector. If they are unavailable, it will be escalated to the Inspector on duty in the Comms centre.
- 10.10 The powers of detention given by Section 136(2) are not conferred expressly on the police, but are given to any person who is party to the detention of the disordered person, once brought to a Place of Safety (Butler Committee, paragraph 9.2). This means that, once the police officers have left the patient at the Place of Safety, they should not be requested to return to assist with the continued detention, unless it is for a specific policing purpose.
- 10.11 One crucial aspect of the Joint Risk Assessment is determining, whether the patient may present a danger to themselves; or to others and is concealing an item that could be used to cause physical injury. Powers to search are available to both police officers and nursing staff, as detailed below and it is vital that clear communication takes place between agencies to establish the level of search that has been undertaken before police officers leave the Place of Safety:
- Where a person is detained under Section 136, police officers can search, **on detention**, subject to the criteria of section **32 Police and Criminal Evidence (PACE) Act 1984**. In practical terms, this means if the constable has reasonable grounds for believing that the detained person may present a danger to themselves or others, the officer may search for anything, which the person might use, to assist them to escape from lawful custody, or which might be evidence relating to an offence.
  - Where a person is detained under Section 136(2) or 136(4), a constable has been given an **additional power to search**, under the amended legislation. They may search the person, **at any time while the person is so detained (i.e. at a Place of Safety)**: if there are reasonable grounds for believing, that the person, may present a danger to themselves, or others; and is



concealing an item that could be used to cause physical injury. This power is only to the extent, which is reasonably necessary: for the purpose of discovering the item, which is believed to be concealed and does not authorise removal of clothing, other than an outer coat, jacket and gloves. A search of the person's mouth is included.

- The Mental Health Act 1983 does not provide specific authorisation to nursing staff for searching Service Users and their belongings without consent. However, guidance is given in the Codes of Practice (paragraphs 8.33-8.43) when this can be undertaken. Full details on the processes to be followed are contained within the CPFT Policy POL/001/003. Policy for the Searching of Service User's Person, Rooms and Personal Belongings.
- Cumbria Constabulary have placed a metal detector, at each Hospital Based Place of Safety (136 suite): to aid officers conduct thorough searches.

10.12 Hospital staff may not accept individuals taken to a psychiatric hospital, as a Place of Safety in circumstances, which are outside the agreed guidelines.

### **Use of a Police Station as a Place of Safety.**

11.

The Mental Health Act 1983 (as amended by the Policing and Crime Act 2017) states, that under Section 136:

11.1

- **Any person under 18 years of age, may not be removed to, kept at, or taken to, a place of safety that is a police station.**
- The Secretary of State may by regulations, provide that an adult, can be removed to, a police station, but only in circumstances specified in the regulations.

These regulations also make provision, for how adults so removed, will be treated and reviewed.

The Police Stations as Places of Safety Regulations 2017 state:

“ An adult may only be removed to, kept at, or taken to, a place of safety that is a police station in the exercise of a power to which section 136A of the Act applies where:-

- The behaviour of the person poses an imminent risk of serious injury or death to them or, to another person.



- Because of that risk, no other place of safety in the relevant police area can be reasonably expected to detain them, and
- So far as is reasonably practicable, a healthcare professional is present and available to them, throughout the period in which they are detained at the police station, and
- An officer of the rank of Inspector or above, (where the decision-maker is not such an officer), authorises that the person may be removed to, kept at, or taken to a place of safety that is a police station”.

## **12. Caring for an Adult at a Police Station Place of Safety.**

12.1 If a person detained under Section 136, is taken to a police station, as a Place of Safety, they will undergo the normal process of booking in, as per the PoliceWorks system.

12.2 The Custody Sgt. will determine the level of observations, as per the guidance taught from the Approved Professional Practice document: Detention and Custody. Due to the “exceptional circumstances”, which must have been met to permit their detention in a police station, the observation levels are likely to be: Level 4 Close Proximity or, Level 3 Constant Observations.

12.3 The Mental Health Act 1983 (Police Stations as Places of Safety) Regulations 2017; places further duties on the Police, to safeguard the person:

- The welfare of the detained person, must be checked at least once every 30 minutes; by a healthcare professional (Doctor/Nurse/Paramedic). Any appropriate action must be taken, for the treatment and care of the detainee.
- As far as is reasonably practicable, a healthcare professional, is present and available to the detainee, throughout the period; they are kept in the police station. The healthcare professional has to be physically present at the police station and not simply “on call”. “Reasonably practicable” takes account of the fact, that the healthcare professional, may have to attend to other detainees, in the custody suite, as well as the person detained, under Sec.136.

- **THE ONE-HOUR REVIEW TO MOVE RULE.**

A Custody Sgt. must review the detainee’s detention at least once an hour, to determine if the person’s behaviour no longer :-

- Poses an imminent risk of serious injury or death, and
- The Hospital Based Place of safety/136 suite can now



reasonably be expected to detain the person.

If the above criteria are met, the detainee should be transferred to the hospital-based place of safety/136 suite, UNLESS:-

- A Mental Health Act assessment of the detainee, can be commenced sooner at the police station, than at the hospital based place of safety/136 suite , AND
- To postpone the assessment would be likely to cause distress to the person.

12.4 If it appears likely that the 136 assessment, will be taking place at the police station, or a Doctor is required to conduct an assessment, to request an extension of detention, the Custody Sgt must contact the SPA line, to set up the arrangements via the ALIS team.

The contact numbers for the AMHP team are contained in Appendix G

12.5 Before deciding that the detainee no longer poses an imminent risk, the Custody Sgt must consult with the healthcare professional, who conducted the most recent examination of the person, to see if they agree with that finding.

12.6 THE ONE HOUR REVIEW TO MOVE RULE, can be reduced to no less than once every 3 hours, if:

- The person is sleeping, AND
- The healthcare professional, who is maintaining the 30 minute checks; has not identified a risk that requires the person, to be roused more frequently.( Police observation levels of Level 4 Close Proximity and Level 3 Constant Observations, will still remain, if justified).

### 13. **Moving the Patient to a Hospital Based Place of Safety/136 Suite from Custody.**

#### 13.1 **List of Actions.**

13.1.1 The Custody Sgt. should ask the healthcare professional, to endorse on the custody record, their medical opinion, that the person is fit to be transferred to the 136 suite.

13.1.2 Contact the SPA line: **0300 123 9015**, to check which 136 suite is available to transfer the person to.

13.1.3 Contact the North West Ambulance Service, to arrange appropriate transport. NWAS must be fully briefed, on the person's condition and behaviour, so they can perform their own risk assessment.



- 13.1.4 Arrange sufficient police staff to accompany the ambulance staff AND TO REMAIN AT THE 136 SUITE, TO ASSIST HEALTH STAFF MANAGE THE PERSON. (Joint Risk Assessment Matrix score dependent).
- 13.1.5 Prior to leaving, the escorting officers, must be briefed by the Custody Sgt. on any risks or other matters, which will ensure the safety of the person being moved and that of the ambulance/police staff.
- 13.1.6 The escorting officers, will be given a properly completed Person Escort Record (PER) form, and a copy of the Risk Assessment pages, from the PoliceWorks custody record. This will assist them complete the Form 136 and the Joint Risk Assessment Matrix (JRAM) at the 136 suite.

#### **14. Section 136 Assessments.**

- 14.1 As detailed within the legislation, the purpose of a Section 136 detention is to enable the person to be examined by a registered Medical Practitioner and to be interviewed by an Approved Mental Health Professional. The Code of Practice directs that where possible, the assessment should be undertaken, jointly by the doctor and the AMHP (Paragraph 16.47). However, when considering the Human Rights implications of the detained person, Winterwerp v Netherlands (1979) directs that the medical assessment should take place promptly after the person's arrival at the Place of Safety.
- 14.2 In order to balance these two directives fairly and appropriately, the following staged process will be followed in Cumbria;
  - 14.2.1 • Immediately after the arrival of a person, detained under Section 136, at a Place of Safety, the AMHP will be contacted by the person assuming responsibility for his/her care (i.e. Healthcare staff at a hospital and the Custody Sergeant at the police station, via the SPA line's staff ).
  - 14.2.2 • The AMHP will then contact the appropriate Section 12 doctor to discuss the timing of the assessment. Standards laid out by the Royal College of Psychiatrists, include that the face-to-face assessment, should commence within 3 hours of the patient's arrival at the Place of Safety, unless there are clinical grounds for a delay, such as the person being unfit to be interviewed.
  - 14.2.3 • If the AMHP is unable to attend the assessment within this period, the Section 12 doctor will make arrangements to see the person alone, so as to ensure that an assessment of mental disorder, is made as soon as possible, and so that the person is not further deprived of their liberty, if not of 'unsound mind'.



- 14.2.4 • Note: It is not anticipated or intended that as a result of the above, the AMHP delays their attendance until after the person has been seen by the Section 12 Doctor.

14.3 The Section 12 doctor will then have 3 pathways to follow:

14.3.1 In the case where there is no mental disorder identified, the authority to further detain the person ends immediately, and the person will be immediately released (Code of Practice 16.50). The person will be offered an opportunity to meet with an AMHP to review their social care needs. The Section 12 doctor will make this referral by updating the AMHP as to the outcome of their assessment and the AMHP will make the necessary arrangements. The person may consent to waiting voluntarily at the hospital or Police station, so this can be arranged as soon as possible. Should it be agreed that this will be followed up at a later date, the Section 12 doctor will make appropriate health referrals and the AMHP will make appropriate social care referrals - via agreed points of access.

14.3.2 In the case where a mental disorder is identified, but the Section 12 doctor does not support the need for hospital admission, then continued detention awaiting the arrival of the AMHP, may or may not be appropriate. The MHAC (Second Biennial report, 1985-87) suggests that, if the delay is going to be more than 4 hours, then the requirement of the section shall be deemed to have been fulfilled, so that the detention must end. This decision will be made by the Section 12 doctor contacting the AMHP and discussing the circumstances. Continued detention for the arrival of the AMHP may be felt appropriate in certain situations, but should not be longer than the 4 hour period recommended. In cases where the person is discharged, the voluntary arrangements for reviewing of social care needs - described above - will be made.

14.3.3 In the case where a mental disorder is identified, and the Section 12 doctor does support the need for hospital admission, then this will be progressed as an informal admission, where appropriate. In cases where informal admission is not appropriate or possible, the Section 12 doctor will contact the AMHP to discuss the circumstances. The Section 12 doctor will complete and leave the medical recommendation for the AMHP and second Section 12 approved Doctor, if not able to be present at the time of their arrival. In these circumstances, the first Section 12 doctor must make themselves available for subsequent telephone discussion. All other arrangements will follow the same processes as when a joint assessment is undertaken.

14.4 These pathways are shown in diagram form at Appendix E.



- 14.5 The doctor who is responsible for the examination of a person detained under Section 136 may, at any time before the expiry of the period of 24 hours, authorise the detention of the person for a further period not exceeding 12 hours (beginning immediately at the end of the period of 24 hours).
- 14.6 Such an authorisation may be given, only if the doctor considers that the extension is necessary, because the condition of the person detained, is such that it would not be practicable for the assessment of the person under Section 136 to be carried out, or completed, before the end of the period of 24 hours.
- 14.7 If the person is detained at a police station, and the assessment is to be carried out, or completed, at that location, the doctor may only give such an authorisation, if an officer of the rank of Superintendent or above approves it.
- 14.8 The legislation is clear, that such extensions to detention can only be provided for the purpose of undertaking the assessment. Extensions to detention cannot be authorised, for the purpose of making arrangements for treatment or care.

## **15. Section 136 Detainees with Special Needs.**

- 15.1 The assessment of certain categories of people, detained under Section 136, may require the involvement of professionals with specific knowledge, skills or experience. If the person detained has a learning disability, or is under the age of eighteen or known to CAMHS, it is desirable that the AMHP should have the relevant experience in relation to that specific client group, or that contact is made with the relevant specialist consultant psychiatrist.
- 15.2 **In the case of adults with learning disabilities:**

***During office hours*** staff should liaise with the local Learning Disabilities Team:

- Carlisle 01228 603189
- Workington 01900 705825
- Barrow 01229 404531

***Out of office hours***, the 'Out of Hours' protocol for people with dementia and for people with learning disabilities' should be followed. See Appendix D.



15.3 **In the case of persons under the age of 18:**

The Cumbria Child and Adolescent Mental Health Service (CAMHS) provide a service for young people under the age of 18.

- 15.4 The first point of contact is the ALIS and it is they, who will contact the relevant CAMHS service, to check if the young person is known and to notify them that a young person under 18, is being considered for, or has been placed on, a Section 136.

Staff should liaise with CAMHS as follows:

- Carlisle: 01228 603017
- Workington: 01900 705800
- Barrow: 01229 841300
- OOH: 01228 603048 (telephone advice only)

This should not delay an assessment.

The Local Authority Children's Services Directorate will be consulted accordingly by the AMHP, where a child is detained under S.136

- 15.5 Prior to a decision, to use section 136, every effort should be made to contact the child's family / guardian and consider alternative care.

- 15.6 Once a child / young person is detained under Section 136, the same procedures as for adults should be followed, to establish if they require in-patient Assessment and/or treatment. When it is established that an in-patient bed is required, CAMHS staff should follow the Age Appropriate Admissions Policy. Where this occurs out of hours, ALIS staff will take on this responsibility.

- 15.7 The availability of Age Appropriate environments is limited and there can be delays in arranging appropriate assessments for these places. For under 16 year olds, where an out of area bed cannot be found, the senior manager on call at the CPFT, should be informed and a decision made in the best interest of the child, as to where they should be detained whilst waiting for an out of area place.

- 15.8 Where a child / young person does not require an in-patient bed they should be discharged, with an appointment for a next working day assessment, by their local specialist CAMHS service. It is the responsibility of the place of safety CPFT staff to notify CAMHS that a next working day assessment is required.

- 15.9 **Where a young person, under the age of 18, is detained, the police station is no longer a Place of Safety, under Section 136.** Any perceived risks, relating to violence or intoxication, will need to be managed at the Hospital Based Place of Safety. The police will need to



discuss options very carefully with the SPA Line in such circumstances. The factors detailed at paragraph 10.3 above could apply, and police officers may be required to remain, if the child/young person is likely to pose an unmanageable high risk, in order to provide appropriate support.

## **16. Transfer Arrangements.**

- 16.1 The Mental Health Act (2007) allows for the transfer of patients between places of safety, prior to the assessment taking place. This ensures that the person can be cared for, in the most appropriate setting, depending upon their demeanour at the time.
- 16.2 This may occur where a person is detained at the police station, under the circumstances described at Paragraph 12 above, and has reached a condition, which will allow them to be transferred to a more suitable location.
- 16.3 The Police Contracted Nurse/ Doctor, who will be present in the suite, as required by the new regulations, will be contacted, to confirm that the person is fit to transfer. They will endorse their finding in the person's custody record.
- 16.4 Once that confirmation is provided, the Custody Sergeant will update the SPA Line, of the intention to transfer the person. The SPA line will direct which suite; the person should be taken to. The transfer between Places of Safety can only take place with the agreement of the person in control of the new location. Times of the original detention must be relayed to the new Place of Safety. The escorting officers will take a copy of the person's RISK ASSESSMENT, from the custody record and a properly completed, Person Escort Record (PER) form with them, to the 136 suite. A person should never be moved from one Place of Safety to another, unless it has been confirmed that the new Place of Safety is willing and able to accept them (Code of Practice 16.58)
- 16.5 If the transfer of a person would delay their assessment, then the person will not be transferred. This may be the case when the AMHP and the doctor are ready to carry out the assessment.
- 16.6 Transfer from the hospital to the police station is also possible, if for example, the person's demeanour changes whilst waiting for the assessment process to take place and meets the criteria detailed at Paragraph 11 above. Hospital staff will contact the police to attend in the way they would for any other incident.



## **17. Admission and Discharge Procedures.**

- 17.1 If the decision is made, that compulsory admission to a psychiatric hospital is necessary, admissions under detention will be completed in the usual way. Medical recommendations for the relevant section of the Mental Health Act 1983, can be completed by the FME/RMP, who is Section 12 qualified, or by a doctor of previous acquaintance and a S.12 approved doctor - including Consultant Psychiatrist
- 17.2 **The final papers (for an application) for ‘detention’ under the MHA can only be completed, once appropriate medical treatment (psychiatric bed) has been secured.** All necessary arrangements will be made, as soon as possible and normally within 6 hours. Exceptionally, it may not be possible to conclude matters within this period, (especially where the person has special needs). In these circumstances, all parties will co-operate in achieving a satisfactory outcome as quickly as possible.
- 17.3 Once an individual is subject to an application for compulsory admission under the MHA, they are in legal custody of the AMHP (or the applicant). Where the Ambulance Service or, the Police Service are requested to convey that person to a place of safety, authority to do so must be delegated to them, by the AMHP and should be done in writing. (Appendix C).
- 17.4 In cases where that assessment took place in a police station, the police may assist in the conveyance arrangements (in accordance with Paragraph 7 above). However, the Police will reserve the right to retrieve the full costs of the conveyance, if the identified place of safety, is outside the policing area where the assessment took place.
- 17.5 In cases where the assessment took place in a hospital place of safety, the police will not normally become involved in subsequent transfer arrangements. In cases of violence, NWAS may contact the Police to assist in such situations. The decision, as whether they become involved in the conveyance arrangements, will be made by the Duty Sergeant, and will be based on public safety considerations. Full costs of such arrangements will be retrieved from the relevant Trust requesting the escort. (See paragraph 19).
- 17.6 In cases where a Section 136 assessment, does not uphold the need for a formal admission under the MHA; the person may need to be repatriated to their home address, or another suitable location. This is not a police responsibility and officers should not be contacted, to return to undertake this function. However, an agreement has been reached, that the police may be asked to take responsibility for the repatriation, for those individuals with whom they have remained involved, during the assessment process (as governed by paragraph 10). The responsibility for overseeing the repatriation will normally rest with the nurse in charge



of the unit.

## **18. Record Keeping.**

- 18.1 In cases where a Section 136 detention has involved a Custody Suite, all records relating to the person, will be made on the Custody Record, for the period in police detention.
- 18.2 In cases where a Hospital Based Place of Safety is used, all entries will be made on the patient's notes. If a person is previously unknown, a new file will be created, in line with Trust Policy.
- 18.3 A record of the person's time of arrival must be made immediately when he/she reaches the place of safety. As soon as the individual is no longer detained under Section 136, those responsible for their detention must advise them of that fact.

## **19. Costs Incurred to the Police, When a Sectioned Patient Has To Be Transferred To a Bed Outside of Cumbria.**

- 19.1 There are times when there are no suitable in-patient beds, on any of the local wards or units in Cumbria; or the risk that the patient poses, requires them to be treated, in a more secure facility outside of the county. In these scenarios, the doctor and ALIS will locate the most suitable bed in the country. Once secured they will arrange with the Trust, to convey the patient by either an NWS ambulance, or a secure ambulance, from a private company, to the relevant hospital. Private company secure ambulances generally provide a crew of mental health nurses and paramedics. Due to the mix of staffing and the design of the vehicle, this does not ordinarily require the police to follow and escort the detainee.
- 19.2 If a request is made for the police to escort the NWS ambulance or the Private Company Secure Ambulance. Then costs to the police are recoverable from the Trust, in whose area the 136 suite is located. Officers will submit the Police Escort Payment Request Form. (Annex F).
- 19.3 Such escorts will be charged, at the appropriate duty rate for the day in question. If a police vehicle is used, then a mileage charge will also be made, in addition to the charge being made for the escorting officers. Invoices will need to identify the Trust Manager who authorised payment for police and/or vehicle escort.  
All invoices will be sent by Cumbria Police's Finance Department, in the first instance ,to:  
Cumbria Partnership NHS Foundation Trust, Finance Department, via e-mail [finance-admin@cumbria.nhs.uk](mailto:finance-admin@cumbria.nhs.uk); or postal to:



The Director of Finance ,  
Cumbria Partnership NHS Foundation Trust,  
Voreda House, Portland Place,  
Penrith,  
CA11 7BF.

Marked for the attention of the Mentally Disordered Offender Worker,  
Carleton Clinic, Carlisle.

## **20. Monitoring and Review.**

- 20.1 The use of Section 136 powers should be regularly monitored, so that a check can be made of how many times, and in what circumstances, it has been applied. Its use in relation to given categories of people, such as those from particular ethnic or cultural groups, should also be monitored. This will also allow “informed consideration” to be given by all parties, to the policy as to any changes in the mental health services that might result in the reduction of its use, and/or any changes required to improve the quality of the service.
- 20.2 Cumbria Constabulary will undertake ongoing audit work in this regard and will report to the Criminal Justice and Mental Health Steering Group. That group may, if they consider it appropriate, sanction the completion of a multi-agency audit.
- 20.3 Instances where compliance with this Protocol has been identified as problematic; will be considered and resolved by the Criminal Justice and Mental Health Steering Group.
- 20.4 The Criminal Justice and Mental Health Steering Group will formally review this protocol on an annual basis.

## **21. Training.**

- 21.1 Appropriate training events will be organised on a multi-agency basis, to ensure that the contents of this Protocol are fully understood, by the key individuals, across all agencies involved.
- 21.2 The target group for this training will include:
- Front line police officers
  - Police Supervisors
  - Custody Officers
  - Communication Centre Staff
  - ALIS
  - AMHPs
  - Ward staff
  - CAMHS



- 
- A&E Nurses
  - FMEs/FNEs/RMPs
  - L and D Staff

## **22 Frequent Detention under Section 136.**

- 22.1 Occasionally the same individual will be detained a number of times by the police under Section 136. Where an individual is detained under Section 136, on more than two occasions in any 30-day period, or an accumulation of six detentions in six months; the ALIS will call a Multi-Agency Case Review (this may include representatives from Mental Health, Adult Social Care, Police and other key stakeholders are appropriate for example housing provider, support workers). This will determine the overall needs of the individual, their management and decide an appropriate pathway.



## Appendices.

### Appendix A - Form 136 Section 136 Monitoring Form



Form 136.pdf

### Appendix B - Form 137 Joint Risk Assessment Matrix (JRAM)



137 JRAM DOC  
FINAL VERSION WITH

### Appendix C – Delegated Authority to Convey



AMHP's Authority to  
Convey.docx

### Appendix D – Out of hours protocol for clients who present with either Learning Disability or Dementia



Out of hours protocol  
for clients who presen

### Appendix E



Pathways.docx

### Appendix F.



PATIENT ESCORT  
PAYMENT REQUEST F



## Appendix G

Through normal operating hours of 0900-1700hrs (1630hrs on a Friday), the request for a Mental Health Act assessment is logged with the Single Points of Access (SPA's) – not to be confused with the CPFT SPA line – of which there are six across the county. The referral should be logged accordingly to the persons location. SPA numbers below:

### Single Points of Access – Adults Social Care, Cumbria

#### ALLERDALE

West Cumbria House, Jubilee Road, Lillyhall, Workington, CA14 4HB.

Tel: 0300 303 3589. Email: [workingtonssd@cumbria.gov.uk](mailto:workingtonssd@cumbria.gov.uk)

#### CARLISLE

3<sup>rd</sup> Floor, Cumbria House, Botchergate, Carlisle, CA1 1RD.

Tel: 0303 300 3249. Fax: 01228 226655. Email: [carlissd@cumbria.gov.uk](mailto:carlissd@cumbria.gov.uk)

#### COPELAND

Blencathra House, Tangier Street, Whitehaven, CA28 7UW.

Tel: 0300 303 3589. Fax: 01946 506433. Email: [whitehavenssd@cumbria.gov.uk](mailto:whitehavenssd@cumbria.gov.uk)

#### EDEN

Adult Social Care, PO Box 224, Penrith, CA11 1BP.

Tel: 0300 303 3249. Fax: 01768 812262. Email: [penrithssd@cumbria.gov.uk](mailto:penrithssd@cumbria.gov.uk)

#### FURNESS

4th Floor, Craven House, Michaelson Road, Barrow in Furness, LA14 1FD.

Tel : 0300 303 2704. Fax: 01229 404054. Email: [barrowssd@cumbria.gov.uk](mailto:barrowssd@cumbria.gov.uk)

#### SOUTH LAKES

County Offices, Kendal, LA9 4RQ.

Tel: 0300 303 2704. Fax: 01539 713354. Email: [kendalssd@cumbria.gov.uk](mailto:kendalssd@cumbria.gov.uk)

Local Authority - Urgent Care Team/Out of Hours: 01228 526690



## GLOSSARY OF TERMS:

A & E	Accident and Emergency
ALIS	Access and Liaison Integrated Service
AMHP	Approved Mental Health Professional
CAMHS	Child and Adolescent Mental Health Service
CCG	Clinical Commissioning Group
CQC	Care Quality Commission
CPFT	Cumbria Partnership NHS Foundation Trust
FME	Forensic Medical Examiner
FNE	Forensic Nurse Examiner
GRIST	Galatean Risk Screening Tool
MAU	Medical Assessment Unit
MCA	Mental Capacity Act
MHA	Mental Health Act
NWAS	North West Ambulance Service
PACE	Police and Criminal Evidence Act 1984
PNC	Police National Computer
RMP	Registered Medical Practitioner
SPA	Single Point of Access