Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust

Mental Health Act Policy, Practice Guidance Note **Section 136 Mental Health Act 1983 – V02.1**		
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Appendix 8	Protocol of Guidance for persons detained under Section 136 in a Mental Health Place of Safety (MH PoS) under the age of 18

1 Introduction

1.1 This policy aims to provide guidance to Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust (the Trust/CNTW) employees, around the legal framework, process and pathway of Section 136 of the Mental Health Act (MHA). This will be read in conjunction with multi-agency guidance for the relevant areas. It should also be read in conjunction with the Mental Health Act Code of Practice (MHA CoP) (2015).

This document references the Mental Health Act legislative framework and includes Crime & Policing Act (2017) legislation changes to Section 136/Section 135. A person experiencing a mental health crisis should receive the best possible care at the earliest possible point.

1.2 Mental Health is core business for all organisations involved with a person in crisis, and equally to those detained under Section 136 of the MHA. They must ensure anyone who is detained receives the appropriate care and are safe from the point of detention to the point of discharge or admission. It is every organisations responsibility to ensure they support the other(s) throughout the period of detention (including conveyance) in accordance with the legislation and guidance.

2 Duties and Responsibilities

- This practice guidance note (PGN) places the individual at the centre of the service and aims to monitor their health and dignity while detained ensuring their safety while respecting the right as an individual.

- To ensure efficient, effective and dignified assessment arrangements for ALL detainees who need to be removed using Section 136 to a Place of Safety (PoS)

- To ensure the use of a dedicated Mental Health PoS on the majority of occasions, exemplifying best practice

- To ensure the use of Emergency Departments only where this is consistent with concerns about urgent healthcare requirements

- The trust in agreement with its partner agencies agree that assessment and care should be provided in the most appropriate place available and that detention in Police cells should be avoided wherever possible and if used will be subject to a multi-agency review.

- It is unlawful for anyone under the age of 18, who is detained on a section 136 to be taken to a Police Station as a Place of Safety (PoS) however they can be detained in a Mental Health Place of Safety –MH PoS (see Appendix 8).

- The executive responsibility for ensuring that this policy is implemented lies with the group directors of the respective service

- Each Associate Director is responsible for ensuring that this policy is adhered to within their area of accountability

- It is the responsibility of individual practitioners to adhere to the principles and standards within this policy

- This policy applies to all clinical staff within the Trust

3 Section 136 of the MHA – Legal Framework

3.1 Section 136 is an emergency power which allows for the removal of a person to a Place of Safety. A police officer has a power under Section 136 to remove a person who appears to be suffering from a mental disorder and to be in need of immediate care or control to a place of safety (or keep them at a place of safety).

The legislation states that the power under section 136 may be exercised where the person is in any place other than:

(a) any house, flat or room where that person, or any other person is living, or
(b) any yard, garden, garage or outhouse that is used in connection with the house, flat or room, other than one that is also used in connection with one or more other houses flats or rooms.

The person will then have an assessment, and any necessary arrangements should be made for their on-going care.

There are a number of locations from which a person can be removed to a place of safety under section 136. These include for example:

- Railway lines
- Hospital wards (See 4.1 for clarity)
- Rooftops (of commercial or business buildings)
- Police stations
- Offices
- Schools
- Gardens and car parks associated with communal residential property
- Non-residential parts of residential buildings with restricted entry

Section 136 enables a police officer to enter any place in which Section 136 applies (if necessary by force) to remove a person.

3.2 The places in which section 136 does not apply should be clear in the majority of cases. In some scenarios it may be less clear cut. It will be for the Police to decide if they can use their power, based on the College of Policing guidance. Section 136 would not normally apply if the person is located in a private room in a care or residential home where a person lives. In these circumstances a Section 135 (1) warrant is needed.

4 Practical Application

4.1 It is worth noting the following for clarity; police should not be called to a CNTW hospital ward to use Section 136 powers In relation to a person who is already an in-patient in hospital. A nurse, doctor or approved clinician should instead use their holding powers under section 5 if it is considered necessary to detain the person. It may be appropriate for the police to attend a hospital otherwise and if appropriate, they may use Section 136. For the purposes of s.5(4), a nurse of the prescribed class shall be a nurse registered in sub-parts 1 or 2 of the register maintained by the Nursing and Midwifery Council whose entry in the register indicates that their field of practice is either mental health nursing or learning disabilities nursing.

4.2 The use of Section 136 of the MHA is a decision only a Police Officer can make, they cannot be instructed to use this power by another Police Officer or professional. It will be based on the Police Officers judgement at the time of the incident and they must be satisfied all criteria is met. A Police officer under the legislation has a duty to consult regarding this power – see section 5 for more detail.

4.3 Section 136 of the MHA is not intended to be used as a way to gain access to mental health services (particularly for people who are seeking help) and if possible the person should be encouraged to take a route via primary care services, or to contact local mental health community services. A Police Officer may, without the use of Section 136 powers, decide to escort a person who is voluntarily seeking urgent mental healthcare to an appropriate service (Section 16.21 MHA CoP 2015).

4.4 They must also ensure that the least restrictive principle is applied; this should be based on the clinical situation and risk presenting at that time. Consideration should be given to other options available with the assistance from health professionals. The Police Officer should consult CNTW staff, for information to assist in this decision making process. Further detail below on what this will involve.

5 Initial Action for Police when finding a person in a public place

Section 136 applies regardless of how the police officer comes into contact with the person, including in circumstances where the officer had already been with the person for some time or where the officer has encountered the person following a call to respond to an incident.

A police officer is required under section 136 to consult one of a list of 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 section 136.

Legislation sets out the healthcare professionals that the officer can consult, which, at the time this guidance is published, are:

- an Approved Mental Health Professional
- a registered nurse
- a registered medical practitioner
- an occupational therapist

- a paramedic

The purpose of the consultation is for the police officer – who is considering using their powers under section 136 – to obtain timely and relevant mental health information and advice that will support them to decide a course of action that is in the best interests of the person concerned. The process within CNTW will remain unchanged, that Street Triage, Initial Response Service (IRS), Initial Response Team (IRT), Central Crisis Team or Cumbria Single Point of Access (SPA) line will be contacted for advice and support if practicable, prior to detention, as detailed below.

The police officer retains ultimate responsibility for the decision to use their section 136 powers, having considered the advice given to them as part of any consultation. The police officer should ensure that any consultation is recorded – including who was consulted and the advice they gave. In cases where a consultation has begun, it may be terminated without conclusion if, for example, the behaviour of the individual concerned changes - requiring an immediate decision, or the response to a request for advice is significantly delayed or interrupted for some reason.

5.2 They first should ensure the immediate safety of the person and seek advice and support on the next actions. In Northumbria Force area, officers should contact the relevant Street Triage Team for their locality, (between the hours of 10am and 3am) for advice and support. The Street Triage nurse will then either speak to the person over the phone or attend the scene based on the clinical presentation and risk once information has been shared and reviewed. If they are unavailable or the call is outside of these hours Police Officers can contact Initial Response Team (IRT) (North) Initial response Service (IRS) (South), Central Crisis Service for advice and support. Details in Point 6.

5.3 In Cumbria Force area contact should be made with Cumbria SPA line who will access the relevant records, provide advice and support. They will speak to the person over the phone and they will formulate a plan following this with the officer.

The Consultation will depend on the individual circumstances of each case, and the needs of the person. The police officer should seek to ascertain, and the healthcare professional being consulted should offer, where possible, information or advice regarding:

- An opinion on whether this appears to be a mental health issue based on professional observation, and/or, if possible, questioning of the person

- Whether other physical health issues may be of concern or contributing to behaviour (e.g. substance misuse, signs of physical injury or illness)

- Whether the person is known to CNTW services

- If so, whether it is possible to access healthcare records or any care plan to determine history and suggested strategies for appropriately managing a mental health crisis

- Whether in the circumstances, the proposed use of section 136 powers is appropriate

- Where it is determined that use of section 136 powers is appropriate - identification of a suitable health based place of safety, and facilitation of access to it

- Where it is determined that use of section 136 powers is not appropriate - identification and implementation of alternative arrangements (such as escorting the person home, to their own doctor, to hospital, or to a community place of calm/respite).

5.5 Following advice from a mental health professional/s a plan will be formulated and the relevant actions and follow up undertaken. The Police will detail actions and advice on the Police system, as CNTW staff will on the healthcare record.

5.6 Due to changing circumstances, change in risk or immediacy of detention the use of Section 136 powers may be required, this always as stated remains the officer's decision.

Police Power of Search

Section 136 allows a police officer to search a person subject to section 136 if the officer has reasonable grounds to believe that the person may be a danger to themselves or others and is concealing something on them which could be used to physically injure themselves or others.
The search power is designed to ensure the safety of all involved and should be used appropriately to support policing and health agencies to effectively care for and support the person. The new power does not include any restrictions around age or any other characteristic of the person to be searched. However, the power does not require a person to be searched. Any search conducted by the officer under new section 136 is limited to actions reasonably required to discover an item that the officer believes that the person has or may be concealing. The officer may only remove outer clothing. The officer may search the person's mouth, but the new power does not permit the officer to conduct an intimate search.

6 Process following detention under Section 136

6.1 The person detained will be notified by the Police Officer they are subject to the provision of Section 136 of the MHA. If duty to consult has not been possible, and the relevant team are not already aware, the officer will contact the following CNTW service who managed the S136 suite for the locality:

- Cumbria – 0300 123 9015/Freephone – 0800 652 2865
- Northumberland/North Tyneside - 0303 123 1145 / Freephone - 0800 652 2861
- Newcastle/Gateshead – 0191 8148899/Freephone – 0800 652 2863
- South Tyneside/Sunderland – 0303 123 1145/Freephone – 0800652 2867

They will co-ordinate and support the process from beginning to end. See Appendix 1 – Section 136 flowchart for process.

6.2 They will take the necessary information from the Officer and will then do the following:

- Discuss and consider the most appropriate Place of Safety (PoS) to attend in conjunction with the Police officer in attendance, considering the Red Flag criteria (Appendix 2) for attending Emergency Departments (EDs)

- Contact the Approved Mental Health Professional (AMHP) providing background information on the reason for Section 136.

- Contact the necessary Section 12 approved doctor for the assessment (the AMHP and first section 12 doctor will discuss from presenting information whether they feel at that point they will require a second Section 12 doctor to attend).

- The AMHP and Doctor will co-ordinate the time and arrangement for the assessment and they will inform the Section 136 Co-ordinater of this

- Act as the point of contact for all involved until the end, ensuring everyone is kept up date

- They will allocate a Crisis nurse from the locality to attend the Mental Health PoS (MH PoS) if that is the designated place, and undertake the Joint Risk Discussion Matrix (Appendix 3) alongside the Police Officer

NB. See Place of Safety section below for more detail depending upon PoS the person is attending.

- Read the person their rights under Section 136 of the MHA (if the person is being detained in police cells or ED and not MH PoS the 136 Coordinator will have to ensure that rights are still read to the person, this may have to be done over the phone)

- Complete the patients electronic healthcare records (RIO) Section 136/135 form on RIO (Appendix 4) regardless of PoS attended

- Consider the suitability as part of the assessment for Home Based Treatment (HBT) in discussion with the assessing team.

- Provide the necessary information to the assessing team (AMHP & Doctors)

- Ensure follow up and documentation at the end

6.3 Police officers bear legal responsibility for the health and safety of their detainees until a formal, agreed handover to the Crisis nurse in attendance and/or assessing team.

6.4 If at any point in the process there is a disagreement or concerns regarding decision making, risk, safety or responsibilities, this should be escalated at the time with Point of Contact (POC) within CNTW. They will work with senior managers in other agencies and Police supervision to reach an agreement. Following this if necessary it should be reported via online incident reporting system and consideration to a multi-agency review given.

7 Conveyance

7.1 It will be the responsibility of Police officers to request an ambulance for conveyance following detention under Section 136. The ambulance service is the preferred method of transport to convey the individual from the location of detention to the PoS, and to undertake any further conveyance requirements should the individual be subsequently transferred.

7.2 It is essential that the person in crisis is screened by a healthcare professional as soon as possible. In the majority of cases it will be the ambulance service that will screen the person to exclude medical causes or complicating factors and advise on the local healthcare settings to which the person should be taken.

7.3 Where an ambulance is unavailable or delayed the Police officers will make a dynamic risk assessment in conjunction with their supervision after receiving information regarding the estimated time of arrival. Particular consideration should involve whether there is a need for on-going physical restraint by Police officers and therefore a risk of positional asphyxia or excited delirium.

7.4 Where police officers take a decision to expedite conveyance themselves, this should only be in cases of some urgency or where it is necessary in order to safely manage a risk of violence. This must be balanced against whether or not a patient is presenting with a red flag trigger condition in which case an ambulance must be used. In certain circumstances this may require a 999 call if situation is deemed a medical emergency.

7.5 In consideration of the journey to ED or the PoS, particular thought should be given to whether it is safe to do so, where the person is agitated. Police may be required to support within the designated method of conveyance.

7.6 The use of physical restraint or force may be required when removing a person, or in a place of safety, for the protection of the person or others (such as the public, staff or patients). If physical restraint is used, it should be necessary and unavoidable to prevent harm to the person or others, and be proportionate to the risk of harm if restraint was not used. The least restrictive type of restraint should be used (16.24 MHA CoP).

7.7 In circumstances when there is a risk to the public or others that cannot be managed by another way, the Police may need to use physical restraint in a health-based place of safety. They would be applied and justified in the same way to any use of force by a Police Officer and guided by their training and polices.

8 Designated Places of Safety (PoS)

A place of safety is now defined in the Act as:

– A hospital

– An independent hospital or care home for mentally disordered persons

– A police station

– Residential accommodation provided by a local social services authority

– Any other suitable place (with the consent of a person managing or residing at that place).

The legislation continues to provide for a range of locations to be used as a place of safety, which allows for local flexibility to respond to different situations. A person in mental health crisis should be taken to or kept at a place of safety that best meets their needs. The expectation remains that, with limited exceptions, the person's needs will most appropriately be met by taking them to a 'health-based' place of safety - a dedicated section 136 suite where they can be looked after by properly trained and qualified mental health and other medical professionals. There will however, be situations in which it is appropriate to use other suitable places, or where other suitable places can supplement the use of health-based places of safety.

Mental Health Place of Safety (MH PoS)

8.1 The Crisis Clinician when contacted will identify, based on the clinical presentation explained to them, and in combination with the Police Officer, the most appropriate PoS for that individual. This in most cases will be a hospital or other health-based place of safety where mental health services are provided. This will be referred to as the Mental Health PoS (MH PoS). These are suites based on CNTW hospital sites and are open 24 hours a day all year round and have no age restrictions. They can only accommodate one person at any one time. See Appendix 8 for protocol of guidance for persons detained under Section 136 in a Mental Health Place of Safety (MH PoS) under the age of 18.

8.2 CNTW Mental Health PoS are located at:

- Hopewood Park, Ryhope (South)
- St Nicholas Hospital, Gosforth (Central)
- St George Park, Morpeth (North)
- Carleton Clinic, Carlisle (North Cumbria)
- West Cumberland Hospital, Whitehaven (West Cumbria)

8.3 The allocated crisis nurse would attend the allocated suite and support the person at the suite. They will:

- Read the person their rights and ensure they understand, and explain the process

- Complete a screening for level of intoxication, (relating to alcohol or any other substances) if appropriate and review if the person is able to understand and engage within the assessment. The nurse's view following this screening will be discussed with the AMHP and Doctor to make a decision around fitness for assessment. At no time is it appropriate or lawful to use breathalysers in this screening.

- Ensure the person's immediate needs are met, with food and drinks etc

- Conduct the joint risk discussion matrix (Appendix 3) with Police to assess if ongoing Police support is required. Cumbria – Joint Risk Assessment Matrix (JRAM – Appendix 7) currently in use while review ongoing. See point 8.6 for more detail relating to this.

- If police support is not required, then the crisis nurse will contact crisis shift co-ordinator/manager/onsite manager to ask for an additional resource to support the suite, at no time will any health/social care professional be left alone with the individual in the suite.

- If there is a disagreement about Police support/risk level, this should be escalated in each agency. Escalation should be initiated via the Crisis Nurse/Police in attendance at the suite. Initially to from Sgt/Insp to Crisis team manager/POC and then C/Insp/Supt to Associate Director for Crisis service /Senior Manager on call if required.

- The person will always be accompanied in the suite and must not be left alone in the suite at any time.

- CNTW recognise the value of family members/ carers in supporting those in crisis, including those detained under S136. However due to the size of PoS suites, and to ensure safety, this will have to be limited to one family member/ carer within the suite to support, if felt appropriate by the crisis nurse in attendance.

- The crisis nurse will identify a suitable waiting area nearby and other family members can be kept informed of developments, by an agreed communication method.

- Gather information from the healthcare record (RIO) and discussions with the person to handover to the AMHP and Doctors on arrival

- Ensure full and completed documentation within healthcare record (RIO) including the Section 135/136 form.

8.4 If the MH PoS for the locality is in use consideration should be given to other options, considering all factors. This should include avoiding lengthy transfers in a police vehicle, and enable a prompt attendance of AMHP/Section 12 doctors. No-

one should be automatically taken to EDs or Police custody due to a lack of MH PoS.

8.5 Consideration should be given to attending the nearest alternative MH PoS, or other suitable place maybe considered. If a person is detained in North Cumbria locality and the two suites are unavailable, consideration needs to be given by SPA line practitioner to speaking to Lancashire and South Cumbria NHS Foundation Trust (LSCFT) to see if suites in Kendal or Barrow are available, as a first measure. This would enable the person to stay within their locality, and reduce the need for cross boundary working between police forces and local authorities.

8.6 The decision for Police to leave the MH PoS suite is joint decision with Police and staff. If there is dispute this must be escalated immediately in both organisations, to resolve and come to an agreement, but Police should remain until resolved, as this is a Police power. Staff should accept responsibility from Police for the person, only when they feel it's safe to do so. Best practice indicates this should happen as quickly as safe and practicable, releasing Police to leave as appropriate. If there is an escalation in risk, for example violence, damaging property, AWOL etc. then Police must be called back urgently via 999. Please note British Transport Police (BTP), or a force from outside of the MH PoS area (e.g. Durham Police when person detained in Sunderland) cannot be called back, so this should be taken into account as part of the risk assessment, when the decision is made about Police leaving. If Police assistance is required in such circumstances, it would be the local force (Cumbria/Northumbria) called via 999 to support.

The person is not 'admitted' to suite, so the legal status is different to that of an inpatient. There are no powers under the MHA to treat (including enforcing medication) even if clinically indicated (although it may be that treatment could be legally justified under the Mental Capacity Act (MCA)). The guidance on seclusion, (Chapter 26 of the MHA Code of Practice) does not apply. Whilst awaiting Police support, it may necessary to use appropriate proportionate safeguards, such as restraint, or the use of force, or isolating someone in the area, in order to safely manage the situation, until Police support arrives, via 999 call. The Trust seclusion policy does not apply to S136 suites.

In such cases, the hospital response team should be called via the internal alarm system to provide support, since crisis clinicians who provide support at the suite are not trained in the management of violence and aggression physical interventions. There must be a CNTW incident report completed, and clear detailed justification in the person health records of actions taken and rationale for this.

Other suitable place

Another suitable place would be decided based on a number of inter-related factors including for example, the physical environment, the condition and behaviour of the person, and potentially any relationship between the person and that place. The following factors should also be taken into account:

- A suitable place of safety should, ideally, provide a therapeutic environment as part of, or associated with, local health and care services.

- There should be a quiet, comfortable and private space for the person to wait, and potential physical risks should be identified and mitigated so far as is possible.

- When considering the suitability of a place, the behaviour of the person being detained is likely to be a key consideration. A temporary or ad hoc space such as a private dwelling, which is not inherently secure or professionally staffed, may not for example, be suitable for someone who is unresponsive and unco-operative.

- In some circumstances a person may be less distressed if taken to or kept at a place of safety with which they are familiar. This may be particularly true for example, in relation to children or older people, or possibly those who have experienced mental health crises on several occasions and who may have a relationship with a particular support organisation. However, no assumptions should be made about potential personal preferences.

- In addition, if contemplating using a person's home, the police officer should have regard to any information – readily available to the police and their partner agencies – indicating that use of that address as a place of safety could be detrimental to the detainee's welfare (for example, safeguarding concerns, or previous incidents at the address).

- It must be agreed by the occupier (or one of the occupiers) of that place that the Place of Safety can be used and the person detained (whether or not they are also the occupier/one of the occupiers). It must be noted that reference to Chapter 16 of the Code of Practice, applies but parts of this this are now out of date, and it should be read in conjunction with guidance released by Department of Health (DoH) & Home Office (HO) in October 2017 – Guidance for implementation of Changes to Police Powers and Place of Safety provision in the MHA 1983.

- In section 136 cases, the use of a person's home/family member home, as a place of safety would usually involve the person being taken – on the authority of a police officer – to their home or the home of someone they know, such as a family member, guardian, or friend, where they might be able to benefit from familial support and reassurance pending an assessment. The Police would be required to remain present at all times.

8.6 In these cases the discussion generally involves the AMHP & Section 12 doctor before deciding the best option.

8.7 The PoS discussion and decision would be led by the Crisis Clinician based on the best and safest option for the person.

8.8 **Emergency Department**

Emergency Departments (ED) should only ever be used when there is red flag trigger and a medical assessment/treatment is required of their physical health

condition. Intoxication alone is not a reason for a person to be taken to an ED, however should the intoxication be so severe that it leads to other health related issues then an ED must be considered. The Police must stay with the person through the time in ED.

8.8.1 If the person is admitted to the general hospital, then a discussion must take place between police, Crisis team, the appropriate S12 doctor and AMHP about completing the S136 assessment and/ or discharging the Section 136 and an appropriate support or plan being put in place for a later assessment. An admission should not lead to a lengthy stay for police in the hospital and should not unduly delay the formal S136 assessment being undertaken.

Police Station

8.9 A police station may now only be used as a place of safety for a person aged 18 and over in the specific circumstances set out in The Mental Health Act 1983 (Places of Safety) Regulations 2017, namely, where:

- the behaviour of the person poses an imminent risk of serious injury or death to themselves or another person;

- The decision-maker should consider whether, if no preventative action is taken:

- The person's behaviour presents a risk of physical injury to the person or to others of a level likely to require urgent medical treatment and that risk already exists or is likely to exist imminently.

- 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 reasonably practicable, a healthcare professional will be present at the police station and available to them. This within Northumbria & Cumbria Police area will be provided by Nurse Practitioners in Custody, and can be supported in relation to mental health needs by Criminal Justice Liaison Nurses and locality crisis service where appropriate. The Nurse Practitioner should check the person's welfare at least once every thirty minutes, and any appropriate action is taken for their treatment and care; and so far as is reasonably practicable, the nurse remains present and available to the person throughout the period in which they are detained at the police station; and if either of these conditions cannot be met arrangements must be made for the person to be taken to another place of safety.

- The authority of an officer of at least the rank of Inspector must be given for the use of a police station in such circumstances – unless the person making the decision is themselves of such a rank or higher.

- The custody officer must review at least hourly whether the circumstances which warranted the use of a police station still exist. If they do not, the person must be taken to another place of safety that is not a police station.

- Due to the rare nature of this any detention under Section 136 in police custody, this should be incident reports within CNTW online incident reporting system, and will be subject to a multi-agency review.

It should be noted that being intoxicated and/or uncooperative may not necessarily, in themselves, meet the threshold. Past behaviour (for example a criminal record for a violent offence) can be relevant, but should not be taken as an indication, in isolation from any demonstrable current behaviour, that the person poses an imminent risk of serious injury or death to themselves or others.

When a police station is used as a place of safety in the absence of a health-based place of safety being available, an assessment should be made as quickly as possible and made a priority by the doctor and AMHP.

Any transfers between PoS should be discussed with the AMHP/Section 12 doctor and Crisis Nurse in attendance if from MH PoS to ensure it's in the best interests of the person detained. Clear records via Appendix 4, on the electronic notes (RIO) of time at the first arrival at PoS and then subsequent moves.

Detention period and extensions

The maximum period for which a person can be detained at a place of safety under section 135 or 136 is 24 hours, with the possibility of this period being extended by a further 12 hours in specific circumstances.

The detention period for those detained under begins:-

- Where a person is removed to a place of safety under section 136 – at the point when the person physically enters a place of safety. Time spent travelling to a place of safety or spent outside awaiting opening of the facility does not count;

- Where a person is kept at a place under section 136 – at the point the police officer takes the decision to keep them at that place.

The clock continues to run during any transfer (if this is necessary) of a person between one place of safety and another.

If a person subject to section 136 is taken first to an Emergency Department of a hospital for treatment of an illness or injury (before being removed to another place of safety) the detention period begins at the point when the person arrived at the Emergency Department (because a hospital is a place of safety).

Extension can be made in limited circumstances, because of the person's condition (physical or mental), it is not practicable to complete an assessment within the 24 hour period. This might arise, for example, if the person is too mentally distressed, or is particularly intoxicated with alcohol or drugs and cannot co-operate with the assessment process. A delay in attendance by an Approved Mental Health Professional or medical practitioner is not a valid reason for extending detention. A decision to extend the detention period can only be taken by the responsible medical practitioner. This is defined as "The registered medical practitioner who is

responsible for the examination of a person detained under section 135 or 136". This will be the Section 12 doctor from CNTW, in these cases. The reason for this extension must be detailed documented within the healthcare record, progress notes. **This should be highlighted within the Section 135/136 form on Rio also.**

If the person is being held at a police station, and it is intended for the assessment to take place at a police station, the authorisation to extend the maximum detention period must also be approved by a police officer of the rank of Superintendent or higher (since it is expected that it would be unusual for a person to continue to meet the criteria to be held at a police station for up to 36 hours).

9 Community Treatment Orders (CTOs) and Section 136 Detentions

9.1 If a patient on a CTO is detained by police under Section 136 powers, and if the patient's usual RC is not available, the assessing AMHP and S12 doctor should consider next steps, as soon as practicable, and choose between the options of recalling the patient into hospital or discharging the S136 detention.

10 The Assessment Team

10.1 Depending upon the person's address, their age and needs depends on which professionals undertake the assessment. In most cases this may be the person's own consultant if known to CNTW services, or it may be the on call Consultant or Crisis Service Consultant. Doctors examining patients should, wherever possible, be approved under Section 12 of the Act. Where the examination has to be conducted by a doctor who is not approved under Section 12, the doctor concerned should record the reasons for that (Section 16.46 of the MHA CoP 2015).

10.2 Section 13 of the MHA puts a duty on the local authority to undertake the assessment. It states; '**If a local social services authority have reason to think that an application for admission to hospital or a guardianship application may need to be made in respect of a patient within their area, they shall make arrangements for an approved mental health professional to consider the patient's case on their behalf'.**

Whilst it is acknowledged that best practice is that the home authority conducts the assessment, due to local knowledge and information available as well as continuity, the legal 'default' is that it is the responsibility of the 'host' authority (where the person physically is) to carry out the assessment. There is a cross boundary protocol in place within North East area, (but currently not Cumbria), which provides for the LAs to work together to support each other and consider the LA best placed to provide an AMHP to undertake assessment, based on location and knowledge of case.

There maybe a need in some cases to look for an AMHP or doctor to have some experience or specialism with the area of expertise – Children and Young people, Older People and Learning Disability.

10.3 The Crisis Nurse in attendance will be responsible for contacting the appropriate Section 12 approved doctor(s) for the assessment according to protocols for individual locality rotas, including if it is another trusts' responsibility.

10.4 Decisions to delay for a specialist or Section 12(2) MHA medical practitioner should be balanced against the delays in assessment and any reason for proceeding without resort to a Section 12(2) MHA medical practitioner or a specialist, should be documented. This would be a discussion between the AMHP and Section 12 Doctors.

11 The Assessment Process

11.1 The purpose of the Section 136 detention is to have the person examined by a doctor and interviewed by an AMHP. Usually two doctors are involved in an assessment where practicable as, if the patient is liable to detention under Section 2 or Section 3 MHA, the recommendations of two doctors would be required.

11.2 Assessment by the doctor and AMHP should begin as soon as possible after the arrival of the individual at the place of safety. In cases where there are no clinical grounds to delay assessment, it is good practice for the doctor and AMHP to attend within three hours; this is in accordance with best practice recommendations made by the Royal College of Psychiatrists. Where possible, the assessment should be undertaken jointly by the doctor and the AMHP. (Section 16.47 of MHA CoP 2015)

11.3 They will then make a clinical judgement following this, if the person should be admitted informally, detained under the MHA or discharged. Discharged from the assessment does not necessary mean no further mental health intervention or support, it may mean they will be under home based treatment from the crisis service, referred to another service or be asked to see their GP. The GP should be notified of the assessment from the assessing doctor in writing or verbally if felt appropriate.

11.4 Delays to assessments, not based on clinical grounds should be reported accordingly and should be highlighted with service management for review. This should be documented within the section 136/135 form in the healthcare record (RIO).

12 When does the Section 136 detention end?

12.1 The following are the only circumstances that the Section 136 detention ends; it cannot be removed by a Police Officer.

A. If a doctor assesses the person and concludes that the person is not suffering from a mental disorder then the person must be discharged, even if not seen by an AMHP. The detention would immediately come to an end.

B. The authority to detain a person under Section 136 ends as soon as the assessment has been completed and suitable arrangements have been made. This may include detention under part 2 of the Act, informal admission, an offer of community treatment or other arrangements necessary for a safe discharge including necessary social arrangements.

C. Expires at the point of maximum time limit – 24 hours (or 36 if extension made)

If the conclusion of the assessment is that the person will return home, then they may require support in getting home, depending on multiple factors, of presentation and risks, as well as practicality considerations e.g. distance, funds available to them. Crisis Clinician needs to support and consider arrangements with assessing team/Police if present. Taxi's can be arranged if local, but other means may need to be considered if further away. Discussion with Associate Director/Senior manager on call for agreed costs must be sought.

Appropriate follow up made where required/needed.

13 Retaking a person who escapes – Section 138

13.1 Section 138 deals with powers to retake a person subject to section 136 who escapes from custody.

13.2 Given the reduction in the usual maximum time for which a person may now be detained under section 135 or 136 to 24 hours, the timescales in section 138 have been reduced accordingly. Amendments to section 138(3) provide:

- Escape during removal to a place of safety
  Where a person escapes in the course of being removed to a place of safety under or 136 (s)he may not be retaken under this provision after a period of 24 hours has expired from the time of that escape.

- Escape from a place of safety

  Escape from a place of safety where a person escapes after arrival at a place of safety (s)he may not be retaken under this provision after the maximum time that they could have been detained in that place. In most cases that will be a total period of 24 hours but account also needs to be taken of any extension to that period (up to a maximum of 12 hours), where this has already been authorised by the medical practitioner under section 136B, at the point of any escape.

Some examples to assist in understanding this:

- If a person is detained under section 136 at 10:30 and escapes while being transported to the place of safety at 11:30 (s)he may be retaken up to but not beyond 11:30 the following day.

- if a person is taken to a place of safety and escapes after being there for three hours - and no extension to the 24 hour period has been authorised at that stage - (s)he may be retaken under these provisions within the following 21 hours but not beyond that period.

- If a person has been at a place of safety for 20 hours and a medical practitioner has authorised a further period of detention of 6 hours, and the person then escapes, (s)he may be retaken under these provisions within the following 10 hours, but not beyond that period.

14 Record keeping

14.1 The patient's electronic healthcare record must be completed fully during and following the detentions. This would include completing the following:

- Section 136/135 recording form (Appendix 4) – Crisis Nurse in attendance to complete fully and in detail. Must include time of arrival at first PoS as this is when 24 hours commence. Include also if a person is excluded from a place of safety in a hospital and taken to a police station as a place of safety a record should be made of the decision, of who made the decision, and the reason it was made

- Progress Notes – entries should be made to document all decision making clearly and clinical presentation throughout the stay at the suite and or contact with Crisis Nurse in attendance

- Progress Notes/ Core Assessment and Risks assessment documentation should be completed/updated as appropriate – CNTW Doctor following assessment with a letter to the GP as necessary

- Incident Reporting – if any incident occurred, including delays by Ambulances, AHMP, doctors, Police related matters, offences etc. Completed by all involved.

The CNTW MH PoS environment will be monitored and checked to ensure this is fit for purpose, and any issues with the environment and items, are identified and actioned in timely manner. Responsibility for this sits with the Team Manager of co-located/allocated Crisis Resolution & Home Treatment team. This will be undertaken on a monthly basis. Following the completion of attached checklist, any exceptions to be reported to the Community Clinical Manager for Access within the associated locality; with subsequent reporting into Clinical Business Unit meetings. Original copies of completed checklist to be retained by the Team Manager within the associated Crisis Resolution Home Treatment team. See Appendix 6 – MH PoS Checklist.

14 Monitoring Compliance

14.1 CQC request the following data is collated and monitored in relation to Section 136:

- The age, gender and ethnicity of people brought to the place of safety

- The number of requests received from the police for people to be brought to the place of safety

- The number of people referred to the place of safety who are resident out of area

- The number of times people were accepted
- How often health-based places safety cannot be accessed and the reasons for each time this happens
- The time taken to start MHA assessments, the reasons for delays, transfers between places of safety
- The reasons for using alternatives to the designated place of safety

14.2 CNTW will monitor all Section 136 data and reviews and delays, incidents, and outcomes. This data will be collated in Northumbria by Street Triage and jointly with Police, and in Cumbria by RIO system and crisis services leading.

14.3 Multi-agency reviews will be held where appropriate; this may be instigated and led by CNTW or another agency, as appropriate. The aim is to receive feedback, examine activity and incident data from all agencies involved, discuss where there have been difficulties or complaints, respond to any shortcomings and highlight good practice or where the service has worked well. This will be fed into the Local Police and Partners/Agency lead Meetings.

15 Implementation

15.1 This policy has been reviewed taking into consideration the MHA Code of Practice (2015), and the multi - agency guidance document.

15.2 This will be monitored locally by the Police and Partners liaison groups and organisationally for CNTW by Access North/Central/South/North Cumbria CBUs. The overall governance will be the Mental Health Act legislation committee.

16 Training/Awareness

16.1 All staff should have an awareness of the Section 136 of the MHA as part of the CNTW 'Mental Health Act Training'. Police and Partners awareness sessions are also available for teams that include the practical elements of the Section 136 process.

17 Standards/Key Performance Indicators

17.1 This policy will be operated in compliance with the Royal College of Psychiatry Report: Standards on the use of Section 136 of the Mental Health Act 1983 (2007) September 2008, and the Code of Practice to the MHA 2015; Also CQC standards in relation to a safer place to be.

18 Leaflet Process for Policies

18.1 Any information given to patients needs to be in an accessible format, accurate and 'branded' correctly. Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust (the Trust) follows the process around production of this information as outline

in the Trust's policy, CNTW(O)03 - Accessible Information for Patients, Carers and Public.

18.2 Patient Information leaflets will be reviewed every 3 years with the exception to those documents which are reviewed on an annual basis. However, should there be any changes in legislation or practice; all documents will be reviewed immediately irrespective of review date.

18.3 Patient information leaflets (Appendix 5) are available electronically and in other languages and linked to the Patient Information Centre Website.

19 Associated Documentation

- CNTW(O)21 - Security Management Policy – Practice Guidance Note
  - SM-PGN-06 - Police Liaison
- CNTW(C)03 - Leave, AWOL and Missing Patient Policy
- CNTW(C)05 - Consent Policy
- CNTW(C)16 – Positive and Safe - Prevention and Management of Violence and Aggression
- CNTW(C)34 - Mental Capacity Act Policy
  - MCA-PGN-02 – Advance Decision to Refuse Treatment and Advance Statements
- CNTW(C)47 - Community Treatment Order Policy

20 References

Mental Health Act 1983 as amended by the Mental Health Act 2007
The RC Psych Report (Standards on the use of Section 136 of the Mental Health Act 1983(2007) September 2008
Mental Health Act 1983 Code of Practice TSO, 2015
Reference Guide to the Mental Health Act 1983 TSO, 2015
Mental Health Act Manual, Richard Jones, 2015
Mental Capacity Act 2005 Code of Practice, TSO,2007
Guidance for the implementation of changes to police powers and places of safety provisions in the mental health act 1983 (October 2017). Home Office & Department of Health.

21 Monitoring Tool

21.1 **Statement -** The Trust is working towards effective clinical governance and governance systems. To demonstrate effective care delivery and compliance, policy authors are required to include how monitoring of this policy is linked to auditable standards/key performance indicators will be undertaken using this framework.

MHA-PGN-06 - Section 136 Mental Health Act 1983 Policy - Monitoring Framework			
Auditable Standard/Key Performance Indicators		**Frequency/Method/Person Responsible**	**Where results and any associated Action Plan will be reported To implemented and monitored;** (this will usually be via the relevant Governance Group).
1.	All 136 referals are made to the relevant crisis team	**Local Police & Partner Groups & Access North/Central/South CBUs.**	Mental Health Legislation Committee
2.	Assessment by the Registered Medical Practitioner and AMHP take place within 3 hours.	**Local Police & Partner Groups & Access North/Central/South CBUs.**	Mental Health Legislation Committee
3.	Assessment are jointly undertaken by the RMP and AMHP	**Local Police & Partner Groups & Access North/Central/South CBUs.**	Mental Health Legislation Committee
4.	Full compliance is made with the requirement to provide the person with information regarding their detention	**Local Police & Partner Groups & Access North/Central/South CBUs.**	Mental Health Legislation Committee

22.2 The Author(s) of each policy is required to complete this monitoring template and ensure that these results are taken to the appropriate Quality and Performance Governance Group in line with the frequency set out.