

# People detained under Section 136 MHA taken to Police Custody

Health and Wellbeing Board

Date: 27 May 2015

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Wards:	All
Locality Affected:	All
Parishes Affected:	All

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## 1. Purpose and Reasons

- 1.1 The purpose of this paper is to highlight the current position regarding the number of occasions whereby those detained under S136 of the Mental Health Act are taken to Police Custody as the Place of Safety. This review will consider the position in both Wiltshire and Swindon for the period from October 2014 to March 2015 inclusive. This paper will concentrate solely on local data within Wiltshire and Swindon; a comparison against other Police Forces will be provided once data for the 6 month period becomes available.
- 1.2 The paper will also detail a case study to highlight the experiences of those detained under Section 136 who are taken to police custody.

## 2. Recommendations

The Board is recommended to:

- 2.1 Note the issues raised in the report, and recognise progress that has been made.
- 2.2 Continue to work together through the Crisis Care Concordat to ensure police custody is only used in exceptional circumstances.

## 3. Detail

Background

- 3.1 The Mental Health Act Codes of Practice 2015 states in paragraph 16.38 that a *police station should not be used as a Place of Safety except in exceptional circumstances*. This viewpoint is also highlighted within Section B6 of the Mental Health Crisis Care Concordat.
- 3.2 During 2014, the Section 136 protocol was rewritten to ensure that people were not excluded from a Health Based Place of Safety due to intoxication, as per Section B9 of the Crisis Care Concordat.
- 3.3 At this current time, the Section 136 protocol states that police custody is still the default Place of Safety if someone is violent or all Health Based Places of Safety are unavailable. Whilst a person will be accepted at a different Health Based

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Further information on the subject of this report can be obtained from Sgt Mike Hughes, 01380 861746, [Christine.clifford@wiltshire.pcc.pnn.gov.uk](mailto:Christine.clifford@wiltshire.pcc.pnn.gov.uk).

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Place of Safety if the nearest unit is unavailable, this can lead to a significant increase in journey time for the patient, police and ambulance service and does not meet the aim of Section B6 of the Concordat where *arrangements should be in place to handle multiple cases*.

- 3.4 A previous report published in January 2015 highlighted that Wiltshire Police ranked mid-table among all Police Forces across the country, with 17% of people detained under Section 136 being taken directly to a police station as opposed to a Health Based Place of Safety.

## Findings

- 3.5 For the 6 month period from October 2014 March 2015, a total of 14 people detained using Section 136 were taken to police custody. Of these, 10 went to Swindon Police Station and 4 went to Melksham Police Station.
- 3.6 To break this down further, the following table highlights the differences seen on a month by month basis

Month	No. of 136 detentions directly to a police station	No. of 136 detentions that went directly to a health based place of safety	% of S136 detentions that went directly to a police station
October	4	28	13
November	3	23	12
December	4	21	16
January	1	26	4
February	1	24	4
March	1	20	5

- 3.7 Of those taken to police custody during the six month period, two were due to all three Health Based Places of Safety being unavailable (already occupied), nine were due to the violent/aggressive behaviour of the person detained and three were for other reasons including the Health Based Place of Safety refusing to accept as detainee intoxicated, the detainee also being arrested for a criminal offence and also the distance to travel to the next available Health Based Place of Safety (local unit occupied) in dangerous weather conditions.

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- 3.8 The table highlights that there has been a marked improvement compared to the previous 6 month period, both in the overall number of detentions and also the proportion taken to police custody.
- 3.9 As the above data shows, the picture can vary month by month but improvements have been made in recent years, notably due to a decrease in the number of U18s being detained and also due to intoxication no longer causing someone to be excluded from a Health Based Place of Safety. It should be noted however that during the six month period there was still one instance where access to the Health Based Place of Safety was refused on the grounds of intoxication (Wiltshire).
- 3.10 Whilst the improvements made during the six month period should be commended, it is important to recognise that the situation can quickly change and efforts must continue to ensure that police custody is only used in exceptional circumstances.
- 3.11 Unfortunately, following the successes of the previous 6 months, data for April has shown an increase in the number of Section 136 detainees taken to police custody to six. Of the six, five were in Wiltshire and one in Swindon.
- 3.12 The reasons for using police custody during April can be broken down into three due to violent/challenging behaviour, one as all Health Based Places of Safety were full, one was the decision made by the police officer without consulting the Health Based Places of Safety and one was refused by the Health Based of Safety because the detainee was intoxicated.
- 3.13 The six S136 detentions taken to police custody during April accounts for 25% of total number of 24 detentions during the month.

## Case Study

- 3.14 It is important to recognise the impact that being detained under Section 136 can have on the service user and also the agencies involved. To illustrate this, the following is a timeline of a recent Section 136 detention taken to police custody in April 2015:

1212hrs – police contacted by a member of the public reporting concerns for a male walking barefoot in the street, shouting at the public

1241hrs – male located by officers and detained under Section 136. Taken to Health Based Place of Safety but refused to accept as male was volatile and vocal to staff

1450hrs – male arrived at police custody

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1729hrs – Mental Health Act Assessment commenced in police custody and it is decided that an application for admission for assessment under Section 2 should be made

2247hrs – Custody advised that a hospital bed is still being sought but one would not be available until at least the morning

0953hrs – Custody advised that attempts continuing to find a hospital bed

1329hrs – Custody advised that a bed has been located

1500hrs - Paperwork for admission to hospital completed. Transport still to be arranged

1959hrs – Patient left custody and conveyed to hospital

- 3.15 From the time of arrival at the police station, the patient spent over 29 hours in police custody. This is despite the Mental Health Act Assessment taking place within the three hour timeframe mentioned within the Crisis Care Concordat. This extended period of detention in police custody was due to significant delays in locating a hospital bed followed by a five hour wait for transport to arrive. Clearly it is not ideal for anyone to be detained for so long when in need of a hospital bed but the inappropriateness of such a long period of detention is only heightened when the individual is held in a police cell.

## Next Steps

- 3.16 Notwithstanding the significant fall in those taken to police custody due to all Health Based Places of Safety being occupied, alternative provision needs to be considered in such circumstances rather than police custody. The Mental Health Codes of Practice 2015 states in paragraph 16.36 that *health based places of safety should ensure that they have arrangements in place to cope with periods of peak demand, for example using other parts of a hospital, neighbouring health based places of safety, or alternative places of safety*. Paragraph 16.37 goes on to suggest other appropriate options to consider include a residential care home, home of a relative or other areas of a psychiatric hospital.
- 3.17 Further consideration also needs to be given to dealing with violent/aggressive people detained under Section 136 to ensure that police custody is only ever used in *exceptional circumstances*. It is recognised that the level of perceived violence can be very subjective but given some other Forces have had no detainees under Section 136 taken to police custody, options need to be explored as to how these difficult situations are managed within Wiltshire and Swindon.

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## 4. Alternative Options

4.1 None.

## 5. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

5.1 Report is for information only.

### Legal and Human Rights Implications

5.2 Report is for information only.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

5.3 Report is for information only.

### Diversity Impact Assessment

5.4 Report is for information only.

### Risk Management

5.5 Report is for information only.

## 6. Consultees

6.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## 7. Background Papers

7.1 None.

## 8. Appendices

8.1 None.