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23 June 2017

Freedom of Information Request – Ref: FOI067-1718

Thank you for your recent Freedom of Information request about S136/ Place of Safety.

1. **Please can you provide me with any operational policy relating to your 136 suite/places of safety**
2. **Please can you provide me with any local protocols in place which provide exclusion clauses for accepting detainee's to the 136 suite/Places of \safety**

Please find the Trust's S136 Policy attached which covers Question 1 & 2 above.

Should you have any queries in relation to our response in this letter, please do not hesitate to contact me. If you are unhappy with the response you have received in relation to your request and wish to ask us to review our response, you should write to:-

Anna Hilditch
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If you are not content with the outcome of any review, you may apply directly to the Information Commissioner's Office (ICO) for further advice/guidance. Generally, the ICO will not consider your case unless you have exhausted your enquiries with the Trust which should include considering the use of the Trust's formal complaints procedure. The ICO can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely,

Lisa Evans

LISA EVANS
Information Governance Officer
2gether NHS Foundation Trust

Mental Health Act 2007
Section136 Policy, Procedure and Guidance
FINAL VERSION (amended Jan 10 2017)

Version:	1.0
Consultation:	Heads of Profession, [2]gether NHS Foundation Trust (2GNHSFT) Gloucestershire Hospitals NHS Foundation Trust (GHNHSFT), Gloucestershire Constabulary, Gloucestershire County Council, South Western Ambulance Service Foundation Trust (SWASFT), British Transport Police (BTP) and non-statutory sector.
Ratified by:	Director of Quality and Performance
Date ratified:	TBA
Name of originator/author:	David Pugh, Independent Consultant MHA and MCA on behalf of the IAMG
Date issued:	TBA
Review date:	TBA
Scope	All staff engaged within the Section 136 process: 2GNHSFT doctors, nurses and Approved Mental Health Professionals (AMHPs); GHNHSFT Emergency Department doctors and nurses; Glos. Constabulary police officers and custody sergeants, British Transport Police, G4S and SWASFT

REVISIONS HISTORY

Issue Number	Date	Author(s)	Principal Changes
1	Pre-2012	GCC various including David Pugh, Steve Dawson from the 1990's	• Not known
2	July 2012	Caroline Driscoll and David Pugh	• Revisions to take account of MHA Commission Guidelines, the National Police Improvement Agency (NPIA) 'Guidance on responding to people with mental health or learning disabilities' (2010) and Royal College of Psychiatrists (RCP) 'Standards on the use of Section' 136 of the MHA 1983' (July 2011) • Tightening of criteria to use police stations as a POS • Amendment of legal process for transfer to Emergency Depts from the health POS • Inclusion of option of completing MHA assessment within Emergency Dept in limited circumstances • Tightening of circumstances in which assessment delayed because of influence of alcohol or drugs and use of an 'alcometer'.
3	June 2015	David Pugh	• Revisions take into account of CQC Thematic Review of MH Crisis Care (2014/15), revised MHA Code of Practice (Feb 2015), DH/Home Office 'Review of the operation of Section's 135/136 of the MHA in Eng and Wales', College of Emergency Medicine Investigation (Oct 2014), Mental Health Crisis Care Concordat (DH Feb 2014), Sainsbury Centre for Mental Health 'Review of Section's 135 and 136 of the MHA' (Dec 2014) and House of Commons Home Affairs Select Ctte on Police and Mental Health (2014) • Introduction of clear policy statements • Tightening of criteria for use of police stations as a POS • Policy of CYP in a police station as a 'never event' • Safeguarding/clinical alert where a person aged 17 years and under is detained in a police PoS and 16 years and under when in a health PoS • A maximum period of detention of 24 hours under Section 136

			• Conveying by ambulance in line with South West Region Mental Health Protocol • New sections on definitions, information sharing, monitoring and alternatives to Section 136 through the new Mental Health Acute Response Service (MHARS) • Option of discharge of a detainee in limited circumstances without being seen by an AMHP • Commitment to explore alternative Places of Safety including children and young people & Nursing Homes where residents go missing • A new appendix on combined police and health data collection set.
4	January 2017	David Pugh & Karl Gluck on behalf of IAMG	• A number of amendments to bring the policy into line with anticipated changes in the Policing and Crime Act 2017 and concerns expressed by both Gloucestershire police and British Transport Police. Changes made to sections 3.4, 3.6, 7.7, 7.8, 7.11, 7.13, 7.14, 7.15, 7.19 & 9.1. The most significant change was made to section 7.15 reducing the criteria where police stations can be used as a Place of Safety.

Contents:

1. Introduction

1.1 The policy and procedures in this document relate to Section 136 of the Mental Health Act (MHA) 1983 (2007). They do not apply where a person has been arrested for an offence and is subsequently thought to be mentally disordered. Procedures are in place to ensure that such persons are dealt with appropriately in accordance with the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998.

1.2 People detained under Section 136 are subject to arrest. The power of arrest under Section136 is a preserved power under Section 26 of the Police and Criminal Evidence Act (PACE) 1984. A person detained under Section 136 may be searched by the constable to ascertain what they have on them which could be used to harm themselves or others, damage property or assist them to escape (see MHA CoP 16.66 – 16.71). Police Officers are required to consider the 'necessity test' prior to arrest. Essentially this means that the arrest must not just be lawful (EHCR), but necessary and proportionate to the circumstances.

1.3 This policy and procedure takes account of the provisions of the law and Home Office, Department of Health, and Mental Health Act Commission guidelines, National Police Improvement Agency (NPIA) '*Guidance on responding to people with mental health or learning disabilities'* (2010) and Royal College of Psychiatrist '*Standards on the use of Section136 of the MHA 1983'* (July 2011). The current revision takes account of CQC's Thematic Review of MH Crisis Care (2014/15), the revised MHA Code of Practice (Feb 2015), DH/Home Office '*Review of the operation Section's 135/136 of the MHA in Eng and Wales'*, College of Emergency Medicine Section 136 Investigation (Oct 2014), Mental Health Crisis Care Concordat (DH Feb 2014), Sainsbury Centre for Mental Health '*Review of Section's 135 and 136 of the MHA'* (Dec 2014) and House of Commons Home Affairs Select Committee on Police and Mental Health (2014).

1.4 This policy has been reviewed under the auspices of the Inter-Agency Monitoring Group (IAMG).

1.5 The aim of the policy and procedure is to ensure that:-

- A person detained under Section 136 receives the attention and the most appropriate form of care he/she needs while respecting his/her rights as an individual;
- This attention and care is provided in the most appropriate place and by the people best qualified to provide it and;
- The attention and care is provided as soon as possible with the minimum of disruption and stress to the person concerned.

2. Purpose

2.1 The policy reflects the commitment of all the agencies involved to work together to provide appropriate assistance to people with a mental disorder. It outlines the roles and obligations of each authority and is intended as guidance as to the procedural requirements to be followed in respect of persons detained under Section 136 of the Act.

2.2 The purpose of the legislation is to enable a person to be medically examined by a registered medical practitioner and interviewed by an Approved Mental Health

Professional (AMHP), and for an assessment to be made of the person's total situation as quickly as possible, in his/her own interests and/or for the protection of others, so that any necessary arrangements can be made for ongoing treatment and care (see 2.4 below).

2.3 The registered medical practitioner should normally be a doctor who is approved in accordance with Section 12 of the MHA. In those circumstances where the doctor is not approved then the doctor examining the patient will need to discuss the case with the Section 12 doctor before any decision is made.

2.4 If the doctor who examines a person detained under Section 136 fails to detect any form of mental disorder, the person should be discharged from detention under Section 136 immediately, even if not seen by an AMHP, as there can be no reasonable legal grounds for the holding power to continue (CoP 16.50). The AMHP and doctor share a responsibility to agree the satisfactory return to the community of a person assessed under Section 136 which may involve Crisis Resolution and Home Treatment Team (CHTT) (CoP 16.73).

2.5 The registered medical practitioner and the AMHP have a separate function to carry out. The contribution of each should complement that of the other in the interests of formulating a plan of action that can be jointly agreed, wherever possible, and implemented.

3. Policy

The following are the key local policy statements driving implementation of Section136 in Gloucestershire:

3.1 Primary emphasis on the least restrictive option in order to reduce the need for detention under Section136 where this can be done safely and lawfully
3.2 Engagement in the process as much as possible – *'no decision about me, without me'*
3.3 Timely sharing of detainee personal information in a crisis situation between the person with perceived mental health needs health, social care and the police to create the least restrictive option (B6.2 Concordat)
3.4 Police stations will only be used as a place of safety under Section 135 (1) and Section 136 in exceptional circumstances e.g. the detainees behaviour should pose an unmanageably high risk to other patients, staff. This will be defined in the regulations accompanying the Policing and Crime Act.
3.5 Match and exceed the Concordat expectations to reduce the use of police stations as POS by 50% by 2014/15 (B6.4 Concordat)
3.6 In line with the Policing and Crime Act Police cells must not be used for people of 17 years and under.
3.7 A safeguarding /clinical alert will also be made where a person of 16 years and under is taken to the Maxwell Suite
3.8 Whilst current legislation allows for individuals to be held for up to 72 hours at a PoS this policy states that individuals should be assessed within 24 hours
3.9 Detainees will be given the opportunity to comment on their experience of Section136 detention shaping the development of the service
3.10 Mental Health Act assessments will be carried out at Emergency Departments where the detainee has a need for physical treatment and transfer to the Maxwell Suite would delay the assessment

4. Definitions

The Act / MHA	Mental Health Act 1983 as amended by the Mental Health Act 2007
AMHP	Approved Mental Health Professional.
EDT	Emergency Duty Team (scope includes Adults and Children and Young People)
Liable to be detained	Within this context this includes people who are actually detained under the MHA (such as people who can be lawfully stopped from leaving hospital) and people who could be detained but for some reason are not (such as people on Section17 leave or for whom an application for detention has been completed but they have not yet been admitted to hospital).
LSSA	Local Social Services Authority
MCA	Mental Capacity Act
MHARS	Mental Health Acute Response Service
POS	Place of Safety
PMS	Police Medical Services
Section12 Doctor	A doctor approved under Section 12 means a doctor who has been approved by the Secretary of State as having special expertise in the diagnosis or treatment of mental disorder. Doctors who are 'Approved Clinicians' are automatically treated as being approved under Section 12.

5. Duties

5.1 This policy is led by 2Gether NHS FT and jointly agreed with Gloucestershire Constabulary, Gloucestershire County Council, Gloucestershire Hospitals NHS Foundation Trust, British Transport Police and South Western Ambulance Service NHS FT.

5.2 Director of Quality and Performance (Nursing, Social Care and Allied Health Professionals) Directorate.

Responsibility for the development, maintenance, review and ratification of this document lies within the **Director of Quality and Performance (Nursing, Social Care and Allied Health Professionals) Directorate**. The Director of Quality and Performance (Nursing, Social Care and Allied Health Professionals) has board level responsibility for the development of this document and may delegate this responsibility to a subordinate.

5.3 The 2gether NHSFT Governance Committee

The Governance Committee will be notified of the ratifying of these guidelines.

5.4 Locality Directors

Locality Directors are responsible for ensuring that their teams are aware of the guidelines and are implementing it fully and correctly, and will investigate failures to comply with the guidelines.

5.5 Matron Managers, Lead Professional for Social Care, Ward/Unit Managers and Team Leaders

These managers will ensure all staff are aware of the guidelines. They will ensure that failures to comply with the policy are reported and take corrective action to prevent a recurrence.

5.6 All Staff

All staff with a responsibility for patients subject to Section136 have a duty to comply with this policy.

Police officers are required to consider this policy in the decision process, in line with the *National Decision Model* (NDM) and should seek guidance from the Control Room Inspector, when necessary, to ensure a patient orientated approach is taken.

6. Legal Context

6.1 Section136 of the Mental Health Act 1983 (2007) states:

> "(1) If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks 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 (POS) within the meaning of Section135."
>
> "(2) A person removed to a Place of Safety under this Section may be detained there for a period not exceeding 72 hours for the purpose of enabling him to be examined by a registered medical practitioner and to be interviewed by an approved *mental health professional* and of making any necessary arrangements for his treatment or care."

6.2 Section 135(6) states:

> "that a Place of Safety means "residential accommodation provided by a local Social Care and Health authority under Part III of the National Assistance Act 1948, a hospital, a police station, a mental nursing home or residential home for mentally disordered persons or any other suitable place the occupier of which is willing temporarily to receive the patient".

6.3 Section44 (3) of the Mental Health Act 2007 amended Section136 of the MHA 1983, making it possible for a constable, AMHP or person authorised by them to transfer a person detained in a Place of Safety (POS) to one or more POS.

6.4 The revised MHA Code of Practice makes it clear that '*Section136 is not intended to be used as a way to gain access to mental health services and the person should be encouraged to take a route via primary care services, or to contact local mental heath community services'.* A police officer may escort a person who is voluntarily seeking urgent mental healthcare to an appropriate service. (CoP 16.21).

7. General Procedural Guidelines

7.1 **Rights of people detained in POS** (CoP 16.66 – 16.69). The principles of the PACE Code of Practice will be applied to persons removed to a police station as a place of safety under Section's 135 and 136 (with the exception of Section15 of Code C). A person should expect to receive a copy of the Notice of Rights and Entitlements, which states that an individual can tell the police if they want access to a solicitor, if they want someone to be told they are at the police station and if they want medical help. This should be both orally and in writing.

7.2 A person detained under Section136 may be searched by the constable to ascertain what they have on them which could be used to harm themselves or others, damage property or assist them to escape.

7.3 Where a hospital is used as a Place of Safety, the managers must ensure that the provisions of Section132 (giving of information) are complied with – see Appendix 1 '*Admission of mentally disordered persons found in a public place'* In addition, access to legal advice should be facilitated whenever it is requested.

7.4 Police Officers who attend, or come across an incident involving a person who appears to be suffering from mental disorder in a place to which the public have access, by payment or otherwise, (where Section136 of the MHA may be relevant), will first consider:

- Whether there is a power of arrest for any substantive offence: if this is the case police may follow their usual procedures under PACE and arrest for the substantive offence. However, the decision to arrest or alternatively detain under Section136 will depend on the circumstances and seriousness of the substantive offence. An early opinion from police medical services regarding fitness to be interviewed and the Court Diversion Community Mental Health Service regarding a mental health assessment should be sought.

7.5 Where there is no power of arrest for a substantive offence the officer should consider:

- Whether there is a need under the MHA for immediate "Care or Control": Section136 should be used only where there is an evident need for care or control with respect to risk to the individual or any other. When a Police officer decides to arrest a person within the provisions of Section136, the Police Officer will convey the person directly to a Place of Safety (subject to 7.11 below).

7.6 **Mental Health Acute Response Service (MHARS).** This new service is available to assist the officer on the ground make the most informed decision on behalf of the person who appears to be in a mental health crisis.

7.7 MHARS is a single unified team holding three main functions:

- A new and centrally located **Triage Team/Urgent Response Team (URT)** which will complement the
- Development of the existing three local **Rapid Assessment and Home Treatment Teams** and the

7.8 The URT will be open to anyone coming into contact with the police outside of custody who are considered to be suffering from a mental health crisis and need of crisis intervention. If the police officer has concerns about someone in crisis they must seek advice and guidance from this Team, where practicable, via telephone without the need to call Team members to the scene. Initial contact will come via the Waterwells Control Room. Staff in the URT will contact the referring officer and complete an initial triage to ascertain the level of intervention required. If the need for a face-to-face triage assessment is identified the clinician will attempt to carry out the assessment as soon as possible.

7.9 The following are the main possible outcomes:

i) **On-going care from the Rapid Assessment and Home Treatment Team** (RAHTT) if the assessing clinician decides the person requires further assessment/and/or home treatment and care

ii) **Detention under Section136**

iii) **Referral to a 2gether NHSFT service** if the person is 'known' and or an open case e.g. CYPS, GRIP, Recovery Team

iv) **Advice/signposting** which could involve another statutory service such as Turning Point, Social Services or a non-statutory service such as the Independence Trust

v) **No Further Action.**

7.10 **Consent and Information Sharing:** The sharing of relevant information is a central part of this policy. Keeping information secure and confidential should not be confused with keeping information secret. Consent to share information with other professionals should always be sought from the person being assessed and documented accordingly. Staff need to differentiate between refusal and valid consent and the inability to give valid consent because of a lack of mental capacity. If consent cannot be gained at the time of the crisis it will be revisited with the person ASAP. Information will only be shared without consent if the Police and URS staff consider that the decision to share falls within the Gloucestershire Information Sharing Partnership Agreement (GISPA) and crisis specific '*Information Sharing Within a Mental Health Crisis Protocol'*. These documents aim to facilitate the appropriate and lawful sharing of information to meet the needs of people in mental health crisis while protecting their individual rights.

7.11 **Conveying**: Following detention by a police officer immediate consideration should be given to calling an ambulance, the preferred method of transport under the MHA Code of Practice (16.32 and 16.41). Police vehicles should only be used where there is extreme urgency, where there is an immediate risk of violence or where it is deemed that conveyance by Police would be the least restrictive option (e.g. delay in waiting for an ambulance would unnecessarily delay assessment). An ambulance should always be used where there is risk of collapse and death or prolonged restraint. Where police transport has to be used a member of the ambulance crew can be asked to be present in the police vehicle and the ambulance requested to follow behind to enable a response to any medical emergency. See also para 7.13 on the role of the Emergency Department and SWASFT 'South West Regional Mental Health Joint Protocol (Aug 2014).

7.12 The SWASFT 'South West Regional Mental Health Joint Protocol' (Aug 2014) aims to ensure that services provided to patients in mental health crisis are managed in

accordance with the Mental Health Crisis Care Concordat. Section's 135 and 136 are categorised as a 'Green 2' call which will automatically dictate a thirty minute response, unless there is a physical reason necessitating a faster response.

7.13 **Emergency Department (ED):** Where the detainee needs urgent medical treatment they should be taken to the Emergency Department. This includes individuals who are 'drunk and incapable' and showing any aspect of incapability (e.g. walking unaided or standing unaided) which is perceived to result from that drunkenness.. A person found to be drunk and incapable by the police should be treated as being in need of medical assistance at the ED or other alcohol services. The same should occur for those people who appear to be intoxicated by drugs to the point of being 'incapable' but have been detained under s136. The law must be adhered to in the usual way and the s136 pathway should be followed, but the individual should be taken to ED for medical clearance. This can only be done with the detained persons consent, or if they lack capacity and it is in their best interests via the provisions of the MCA 2005. In such circumstances the 72 hour period for Section136 will only start to run upon arrival at the designated POS following completion of treatment at the ED. The ED is **not** a locally designated POS. An ambulance should always be used where there is risk of collapse and death. The police may travel with the detainee to the ED. Equally if the detainee is taken by the police the ambulance may be requested to follow behind the police vehicle in case an urgent medical response is required. The police must remain at the hospital for the duration of the physical treatment. However, even in these circumstances a very high priority demand on the police would take precedence. The ED will attempt to 'fast track' the detainee. After physical health treatment is complete where it would be in the best interests of the detainee, the mental health assessment could be carried out at GHNHSFT. Where the hospital agree to act as a PoS on a one off basis in order to facilitate the mental health assessment the police will remain at the hospital until the mental health assessment is complete, or it has commenced and agreement has been reached that the police can leave pending completion of the assessment. If the Section136 mental health assessment is not possible at GHNHSFT the detainee will be transferred by police or ambulance to the most appropriate POS, usually the Maxwell Suite. If continued physical treatment is required then the AMHP, or registered medical practitioner will be consulted on the most appropriate way forward to meet the needs of the detainee and the requirements of Section 136.

7.14 Regard should be had to the impact different POS may have on the person held and hence on the outcome of the assessment. Police Custody suites are not appropriate as a POS for the detention of 136 patients, and should only be used as described below and in line with the regulations accompanying the Policing and Crime Bill.

7.15 **Police stations will be used as a POS in the following circumstances**:

- Where the person concerned is unmanageably violent or where the arresting officer is concerned that the person may become unmanageably violent. The overall consideration must always be the safety of everyone involved.
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7.16 Under the revised Mental Health Code of Practice detainees may be **transferred** between Places of Safety. Section 44 (3) of the Mental Health Act 2007 amended Section 136 of the MHA 1983, making it possible for a constable, AMHP or person authorised by them to transfer a person detained in a POS to one or more other POS for the purposes of carrying out an assessment of the individual's mental health under the Act. The preferred method of transfer is by an ambulance.

7.17 To ensure that Service Users are cared for in the least restrictive environment (Code of Practice Chapter 1) involved agencies need to work in co-operation. A situation may arise where the risks to the service user and staff in the healthcare POS becomes unmanageable compromising safety. Should this situation occur the healthcare POS suite coordinator can contact the police Control Room to seek assistance in the ongoing management of the person detained under Section 136.

7.18 In the event that the detainee has been taken to the Police POS if the risk factors reduce and the needs change, a custody sergeant or AMHP should consult with the suite coordinator of the Wotton Lawn Hospital POS to seek agreement for transfer.

7.19 Where there is no need for care or control, the attempt, or threat to commit suicide does not necessarily dictate detention under Section 136.

- Where there is evidence of an overdose, or an obvious injury, then an ambulance should be called.
- The person should not be detained under Section 136, but conveyed by ambulance to the Emergency Department (ED).
- The decision whether or not to escort the injured or ill person to the ED will be the subject of a joint risk assessment between the police officer and the ambulance personnel present.
- If the person refuses to be taken to the ED, the police and ambulance personnel present should carry out an assessment of mental capacity regarding this decision *and* reconsider the use of Section 136 according to agreed protocols (also see Mental Health Conveyance Policy and Multi-Agency MCA Policy, Procedure and Guidance. The final decision will sit with the ambulance clinician. Section 20 and 21 relate to the ambulance police and responsibilities respectively).
- Where there are no such medical concerns, consideration should be given to alternative care including transport for the individual to the home address or other safe place.

7.20 If a person is conveyed voluntarily to the ED in these circumstances (i.e. not under arrest or detention under Section 136) then it will be for the ED staff to consider the necessity for mental health assessment, alongside any medical treatment within the Department, that is deemed necessary normally in consultation with the Mental Health Liaison Service.

8. Procedural Guidelines - Police Station POS

8.1 The normal procedures for dealing with detained and arrested persons will be followed.

8.2 On arrival at the police station the Custody Officer must be satisfied that the custody suit is only being used as the last possible Section 136 POS and

a) Open a custody record and fully comply with the conditions of PACE 1984 relating to detained persons i.e. to have another person of his/her choice informed of his/her arrest and whereabouts plus the right to legal advice (PACE Section 58).

b) Where the detainee has been exposed to CS spray decontamination arrangements will be put in place.

c) Inform the detained person of the reasons for his/her admission to the police station and his rights.

d) Read and provide the detained person with a copy of their rights under the Police and Criminal Evidence Act (PACE 1984).

e) Police Medical Services ((PMS) may conclude that the detainee no longer meets the criteria for Section136 and continued assessment. This could be as a result of a) intoxication where the detainee no longer displays any evidence of mental disorder one the influence of drugs and or alcohol has worn off, or b) the identification of physical causes that mimic mental disorder e.g. fever based illness that requires medial treatment. The police medical service may discharge the Section136 if s/he can categorically state that there is no evidence of mental disorder.

f) Contact an AMHP and arrange for their attendance at the police station as soon as possible (maximum four hours). This may sometimes need to be balanced with other demands on AMHPs, Section 12 registered medical practitioners and the Section 12 doctor. Where possible the AMHP will contact the individual's GP. Ideally, the interview by the AMHP and the examination by the registered medical practitioner should take place at the same time. The PMS should be involved if there are concerns about the individual's physical health or questions about the individuals 'fitness to be detained'. Currently PMS are not Section 12 Approved, but can act as the second doctor if a civil Section is required, particularly if the PMS doctor has already met or physically examined the detainee. The latter would only be in exceptional circumstances.

f) The Custody Officer is responsible for the completion of police computerised monitoring records.

8.3 The AMHP should ensure, through discussion with the Custody Officer, that as far as possible, the examination / assessment interview is undertaken jointly with the registered medical practitioner.

9. Procedural Guidelines – Maxwell Suite POS

9.1 The Maxwell Suite at Wotton Lawn Hospital is the designated NHS POS for the purpose of Section 136 and Section 135 (1) assessment in Gloucestershire. This is the only hospital that will act as a POS. In only the exceptional circumstances will the ED (see section 7.13 of this policy) be used as a designated POS for routine assessment of patients detained under Section 136. Routine assessment can be defined as all assessments that do not require specialist physical assessment and treatment that necessitates the patient being taken to ED.

9.2 Where a police officer decides to detain a person within the provisions of Section 136 the police officer via the Control Room will discuss with the Suite Coordinator to confirm whether the person concerned should be conveyed directly to Wotton Lawn Hospital POS by ambulance or in exceptional circumstances by the police in line with the MHA Code of Practice. The detainee will be informed of their right to legal advice, fully searched prior to placing in vehicle and any items that may cause injury or harm to self or others will be removed and handed over to Suite staff for safe keeping. Part A of Appendix 2, form *'Place of Safety Receipt MHA S135/136 2G-MHA-S136-08'* will be completed by the police.

9.3 136 Detainees who after arrival/acceptance at the Suite are assessed as requiring physical interventions beyond those which can be provided in the Maxwell Suite

will need to be taken to the ED. The Section 136 will continue on the basis that treatment for the physical condition is necessary in order to complete the MHA assessment. The reason for this must be clearly documented in the patient's record. The individual requiring physical intervention is transferred with their capacitated consent, or under the provisions of the Mental Capacity Act 2005. After physical health treatment is complete the mental health assessment should be carried out at GHNHSFT where this is in the best interest of the patient. It should be noted that the ED is **not** a locally designated POS for routine assessment of patients detained under Section 136. However, in the above circumstances where it is patient's best interests to be assessed in the ED Department then the Department may act as a Place of Safety for the purpose of MHA assessment.

9.4 Should the period of physical treatment exceed beyond 72 hours then the Section 136 lapses. Should the 136 lapse then the existing Mental Health pathways for assessment and treatment apply.

9.5 Prior to arrival at the Maxwell Suite the officer will, via the Control Room, inform the Maxwell Suite Coordinator that a person detained under this Section is being brought to the Suite (Part A of Appendix Form 2, *'Place of Safety Receipt MHA S135/136 2G-MHA-S136-08'* to be completed). The officer will request a Police National Computer (PNC) person check and local intelligence search.

9.6 During the telephone contact details regarding the individual detained will be discussed including (wherever possible):

- Name, date of birth, presentation, reasons for detention, known risks, relevant results of local intelligence and PNC checks (above details to be recorded on Appendices 2 and 3). Following this initial verbal screening agreement to bring into the Maxwell Suite Section 136 Suite will be made with the Suite Co-ordinator.
- The Section 136 Suite Coordinator will make an immediate referral to the duty AMHP for the patient's home locality, or place where arrested if an out of LSSA person. Sufficient detail should be provided to enable the AMHP to check the LSSA and Health databases and begin to prepare for the mental health assessment by liaising with health and social care professionals and relatives as appropriate, ensuring that there is no conflict of interest as defined under The Mental Health (Conflict of Interest) (England) Regulations 2008.
- If the person is 17 years of age or under the Suite Coordinator will assess the current situation in the Maxwell Suite and make a decision as to whether it is appropriate for them to be brought into the unit. Consideration will be given to whether the Suite is already occupied by an adult and if there is any risk to either detainee by accepting a young person into the Suite. The same principle applies if the young person is already in the Suite and an adult is brought in. CYPS specialist staff should always be involved in the assessment of people under the age of 18 years. A safeguarding/clinical alert must be made if a young person of 16 years or under is admitted to the Maxwell Suite.

9.7 It is the police officers responsibility to:

a. Escort the detained patient to the POS, delivering an appropriate report of the circumstances leading to detention and complete Part A of Appendix Form 2,

'Place of Safety Receipt MHA S135/136 2G-MHA-S136-08'. Information is required from the police officer to ensure all relevant details are available to assessing clinicians including monitoring data.

b. Offer initial assistance to the assessment suite staff and the AMHP, to ensure the safety and security of the detainee, themselves, all other patients and staff
c. To remain at the assessment suite until, the staff have settled the detainee, and *mutually agreed*, based on a joint risk assessment, that police presence is no longer required. Police officers will leave the suit as soon as is reasonably practical or if there is an overriding need in the community. They may be required to return to the Maxwell Suite in exceptional circumstances due to unmanageable violence.
d. Any deterioration in the person's physical condition will be addressed by the use of current emergency provisions. The On-Call Community doctor should be contacted for non-emergency situations.

9.8 Appendix 4 provides detailed '*Section 136 Assessment Suite Operational Guidance'.*

10 Procedural Guidelines for 136 Suite Co-ordinator

10.1 On receipt of initial contact from the police the Suite Co-ordinator must complete the Place of Safety Receipt Form (Appendix 2). This will include the following:

- Name
- Date of Birth
- Address
- General conditions/appearance
- Estimated time of arrival.

10.2 The Suite Co-ordinator will immediately establish whether the detainee is known to the service and, where necessary, access the appropriate health records. All information i.e. case notes should be made available to the professionals involved in the assessment. *Particular care should be taken to establish if the patient is subject to Community Treatment Order (CTO). A patient under a CTO needs to be reviewed with respect to possible recall to hospital by their Responsible Clinician (RC) as they cannot be immediately detained in hospital*. The Suite Coordinator will then complete relevant documentation and enter details onto RIO.

10.3 Should the Suite co-coordinator be concerned about physical wellbeing due to the possibility of alcohol intake an alcometer is available for the purpose of assessment. This is in the context of establishing blood alcohol levels in relation to physical wellbeing and in conjunction with managing risks associated with excessively high blood alcohol levels. It is not being used to determine fitness or otherwise for mental health assessment. The detainee has the right to refuse this intervention.

10.4 The Suite Co-ordinator will arrange for the duty AMHP to be notified. The Suite Coordinator will make an immediate referral to the duty AMHP for the patient's home locality, or place where arrested if an out of LSSA person. Sufficient detail should be provided to enable the AMHP to check the LSSA and Health databases and begin to prepare for the mental health assessment by liaising with health and social care professionals and relatives as appropriate, ensuring that there is no conflict of interest as defined under The Mental Health (Conflict of Interest) (England) Regulations 2008.

10.5 The Suite Coordinator will ensure that a suitable reception area is made ready. This includes the use of CCTV for everybody's safety.

10.6 The Suite Coordinator will meet the police officer and the detainee and escort them to the reception area.

10.7 The Suite Coordinator with the police officer present will make an initial assessment of the detainee with regards to:

- Mental State
- Security Needs
- Safety Needs including risk assessment and observation levels required to maintain safety and ensure that supervision is provided.

The Suite Coordinator will consider any special needs arising for example from the person being a child or young person under 18 years, a person with learning difficulties, a person with a physical disability, with specific cultural needs or mental capacity concerns for which an advocate or interpreter might be required.

10.8 The Suite Coordinator may need to make preliminary arrangements to prepare for the possibility of admission following the assessment. However, it remains the responsibility of the AMHP and registered medical practitioner to make any necessary further arrangements for the person's treatment and care (CoP 16.73). The Suite Coordinator with the detainees consent will carry out a basic physiological screening using the National Early Warning Score (NEWS). This must be completed for all detainees unless they have attended the Emergency Department for treatment prior to attending the Maxwell Suite or the Maxwell Suite is the 2nd Place of Safety and the physical health screening has been completed at the 1st Place of Safety.

10.9 Admission to hospital of the detained person will only follow assessment by the registered medical practitioner, second doctor if necessary and AMHP and a decision regarding admission has been made.

10.10 The Suite Coordinator is responsible for the completion of the appropriate part of the Section 136 Place of Safety Receipt Form – Appendix 2.

10.11 Police and criminal evidence (PACE) "fitness to detain" procedures do not apply at the Suite but all parties will assume responsibilities for monitoring the detainee's physical health and use current procedures where appropriate. Any medical emergencies will be responded to in line with these including use of 999 services where appropriate.

10.12 **Treatment and Restraint**

A person detained under Section 136 can only be treated in the absence of consent under the Mental Capacity Act. The same principal applies to physical restraint management. Refer to the relevant restraint for the particular care group, the Prevention & Management of Violence and Aggression (PMVA) Policy and Chapter 26 of the MHA CoP.

10.13 **Admission to hospital**

If it is decided that the most appropriate course of action is for the detainee to be admitted then the normal admission procedure should be followed. Any formal

detention process used in Sections of the Mental Health Act will be coordinated by the AMHP as per customary practice. Please note that the Suite is a POS and not a hospital and requirement for the Mental Health Act Assessments and Duty of Care to the client retain the same priority and status of any other urgent community assessment. The registered medical practitioner in liaison with the inpatient consultant/team is responsible for identifying a suitable admission bed.

10.14 The AMHP will be responsible for arranging patient transportation, which will almost always be by ambulance.

10.15 **Best Practice**

The Suite Co-ordinator will ask the detainee if they wish to have a relative/friend informed or attending. An explanation of Section 136 will take place to ensure the detainee understands the process and this will also be provided in writing – Appendix 1 'Admission of mentally disordered persons found in a public place'.

10.16 **Terminating Section 136.**

See Section 12 of this Policy and Procedure.

11. The Assessment - Procedural Guidelines – Maxwell Suite POS

11.1 The following constitutes guidance to Registered Medical Practitioners and AMHPs involved in assessing a person detained in a Place of Safety within the provision of Section 136.

11.2 In order for the requirements of Section 136(2) to be met the person detained must be examined by a Registered Medical Practitioner and interviewed by an AMHP in order for any necessary arrangements for that person's treatment or care to be made. The Registered Medical Practitioner should normally be a doctor approved within the provisions of Section 12.

11.3 The Mental Health Act Code of Practice requires that target times are established for the commencement of the assessment process following the person's arrival in the Place of Safety. All assessments must be carried out expeditiously, but in any case within the following target times:

11.3.1 The examination by a registered medical practitioner and interview by an AMHP should commence within **three hours** of notification by the Custody Officer or Wotton Lawn POS Suite Coordinator unless the assessment has been deferred due to the effect of unknown substances. This may sometimes have to be balanced with other registered medical practitioner or AMHP demands.

11.3.2 If consultation between the registered medical practitioner and the AMHP suggests that a full Mental Health Act assessment is required, it would be best practice for all assessors to attend together. The examination will be undertaken by a Registered Medical Practitioner (wherever possible approved under Section 12 of the Act). Where the examination has to be conducted by a doctor who is not approved, the reasons for this should be recorded. These interviews should, as far as possible, take place jointly - registered medical practitioner and AMHP.

11.3.3 Assessments aim to be completed within four hours Reasonable allowance should be made for geographical constraints, the time of the request and the availability of the second doctor or other professionals such as interpreters or advocates.

11.3.4 If it appears that compulsory admission to hospital or another psychiatric facility is felt necessary, then the opinion of a Second Doctor is required. The Act prefers that this should be the detainee's GP or a Second Section 12 registered medical practitioner. The Act also prefers that the Second doctor should be someone having prior knowledge of the detainee particularly if the first doctor or the AMHP does not. The AMHP will ensure that there are no conflicts of interest between the assessors, or between any of the assessors and the patient. The AMHP will endeavour to arrange for the patients who appear to have a learning disability or who are under or close to the age of 18 years to be assessed by professionals who have knowledge and experience of working with the specific care groups. It is permissible for Group 4 Security medical staff to act as second doctors if it is not possible or practicable to obtain the services of a doctor who has had previous knowledge of the detainee.

11.3.5 The purpose of the examination and interview is to assess the needs of the person which may result in that person's admission to a psychiatric hospital. The Code of Practice (16.45) indicates:

"The same care should be taken in examining and interviewing people in places of safety as in any other assessment. No assumptions should be made about them simply because the police have been involved, nor should they be assumed to be in any less need of support and assistance during the assessment..."

11.3.5 If the doctor who examines a person detained under Section 136 fails to detect any form of mental disorder, the person should be discharged from detention under Section 136 immediately, even if not seen by an AMHP, as there can be no reasonable legal grounds for the holding power to continue (CoP 16.50).

11.3.6 The assessing doctors will perform an assessment as outlined in Chapter 14 of the Code of Practice. One of the assessing doctors will make a record of the assessment on Rio. It is not usually necessary or appropriate for a MHA assessment to be a full core assessment. A brief note of the salient information, the person's mental state, the decision and aftercare arrangements in the continuation section will suffice. If the person is not detained, one of the assessing doctors should write to the person's GP with the details of the assessment.

12 Administration of Medication

12.1 Where any medication is administered prior to or during transport to the hospital/psychiatric facility it is the responsibility of the administering doctor to make arrangements for an appropriately trained nurse or paramedic to accompany the detainee.

12.2 Normal written recording protocols for the administration of medication will apply and accurate information relating to type of medication, quantity and time must be passed in writing to the receiving medical practitioner on admission.

13. Terminating Section 136

13.1 One of three outcomes is usual following the implementation of Section 136:

a) Compulsory admission to hospital under the appropriate Section of the Mental Health Act 2007. When this is necessary the following points need to be borne in mind:

i. Compulsory transfer between POS is subject to Code of Practice Chapter 17 and the multi-agency Policy on 'Conveying – Joint Protocol Concerning the Duties, Responsibilities and Authority to Compulsorily Convey People who are Subject to Orders under the MHA 1883/2007' (this policy is currently under review).

ii. In exceptional circumstances, when there is an urgent need to transfer the patient compulsorily to hospital, Section 4 may be considered.

b) Voluntary admission (Section 131) to hospital as an informal patient.

c) The individual can be released from the Place of Safety with or without the offer of follow-up care and support in the community. However, if the person is assessed as having a mental disorder and follow up care is deemed appropriate and accepted by the individual then:

i. The AMHP is responsible for arranging any follow-up care and support in the community, including alerting the existing care team as appropriate. In many circumstances this may involve the MHARS or referral back to primary care teams.

ii. The AMHP and the registered medical practitioner are jointly responsible for arranging the safe return of the person to the community, including transport and any future treatment and care. In practice this is a joint decision and may also involve family and members of the CHTT (CoP 16.73). Medical needs would be followed up by the Doctor and social needs by the AMHP.

13.2 The AMHP and doctors involved are responsible for completing any relevant monitoring requirements including Part B of the Place of Safety Receipt Form - Appendix 2. This form is scanned and uploaded into RIO (Electronic Recording System).

14.0 Conflict resolution/arbitration

14.1 The overall management of Section 136 involves discussion and planning across different disciplines and agencies. This may occasionally give rise to differences of opinion which will need to be resolved.

a) The Force Control Room Inspector and relevant senior clinicians including Locality Services Manager or On Call Manager Out of Hours will be responsible for the resolution of immediate problems and difficulties on a 24 hour basis.

b) If agreement cannot be reached between the parties indicated above the matter should, in due course, be brought to the attention of the relevant personnel listed below for the purposes of "hot debrief" and rapid problem solving.

- Identified Force Mental Health single point of contact (SPOC)
- Locality Director Countywide Locality

c) Broader policy issues will be brought to the meeting of the Inter-Agency Monitoring Group (IAMG). The role of the group will be to monitor the operation of the policy

and to provide a forum where all issues concerning Section 136 can be discussed and resolved. This group is accountable to the Mental Health Partnership Board.

15.0 Complaints

15.1 In the event that the detainee should wish to make a complaint, the existing complaints' procedures from the appropriate agencies should be followed.

16.0 Implementation

16.1 This policy will be subject to partner agencies governance arrangements around implementation of new and revised policies.

16.2 The policy will be made available on all partner agency websites.

16.3 Each partner agency should have a process for ensuring the policy is disseminated to all relevant staff.

17.0 Monitoring and Review

17.1 2gether NHSFT and Gloucestershire Constabulary will work together to provide an overall data set on the use of Section 136 in Gloucestershire both within health and police POS. This will provide comparable data between the use of the Maxwell Suite and police POS. Reports will be provide to the IAMG on a 3 monthly basis. Appendix 3 'Combined Police and Health Service Section 136 Data Collection Set' describes what data will be collected.

17.2 The policy will be reviewed by 2gether NHSFT within the context of the Inter-Agency Monitoring Group (IAMG) and involving all key partners within 2 years of publication and/or in resonse to any legislative/case law changes which directly impact on Section 136.

17.2 Practical issues relating to Section136 will be discussed at the Inter-Agency Monitoring Group.

18. References

- Mental Health Act 1983 amended 2007
- Mental Health Act 1983 (2007) Code of Practice 2015
- Mental Health Act Manual - Richard Jones 17th Edition
- Policy on Physical Intervention (PMVA)
- 'Guidance on responding to people with mental ill-health and learning disabilities' (DoH/NPIA 2010
- Gloucestershire multi-agency Mental Capacity Act Policy, Procedure and Guidance, May 2011. http://www.gloucestershire.gov.uk/mcapolicy
- Standards on the use of Section 136 of the Mental Health Act 1983 (England and Wales). Report of the Royal College of Psychiatrist. College Report CR159 July 2011. Royal College of Psychiatrists, London. http://www.rcpsych.ac.uk/files/pdfversion/CR159x.pdf
- Gloucestershire Information Sharing Partnership Agreement (GISPA) and crisis specific '*Information Sharing Within a Mental Health Crisis Protocol'* (***final draft agreed in July IAMG)
- SWASFT 'South West Regional Mental Health Joint Protocol' (Aug 2014)

- CQC's Thematic Review of MH Crisis Care (2014/15)
- MHA Code of Practice (Feb 2015)
- DH/Home Office 'Review of the operation of Section's 135/136 of the MHA in Eng and Wales'
- College of Emergency Medicine Section 136 Investigation (Oct 2014)
- Mental Health Crisis Care Concordat (DH Feb 2014)
- Sainsbury Centre for Mental Health 'Review of Section's 135 and 136 of the MHA' (Dec 2014)
- House of Commons Home Affairs Select Committee on Police and Mental Health (2014)
- Section 135 of the MHA 1983/2007: Warrant to Search for and Remove Patients.

19.0 Associated Documentation

Mental Health Crisis Care Due Regard Statement (July 2014).

20. Contact Information and Addresses.

Contact Information and Addresses	**Telephone**
Hospitals	
Wotton Lawn Hospital Horton Road Gloucester GL1 3W	**(01452) 894500**
Gloucestershire Police	
CI Criminal Justice Department	
Force Custody Manager Chief Insp. Deputy Head, CJD Gloucester Police Station – Bearland Longsmith Street Gloucester, GL1 2JP	**01452 335255**
Force Control Room Inspector	
Custody Suites: Gloucester Cheltenham Stroud	**101**
British Transport Police	
Gloucester Office	**01173054040**
BTP First Contact Centre (open to public)	**0800405040**
Approved Mental Health Professionals: (via GCC Customer Service Contact Centre)	
Day time rotas	**01242 426868**
Cheltenham Tewkesbury and North Cotswolds Social Care Specialist:	
Stroud and Cirencester Social Care Specialist:	**01242 634036**
Gloucester	**01453 562119**
Forest of Dean Social Care Specialist:	**01594 593000**
Out of hours AMHPs Emergency Duty Team Team Manager	**01452 614758 (staff)**
South Western Ambulance Service Foundation	

Contact Information and Addresses	Telephone
Trust (SWASFT)	
Health Care Professional Contact	**08451206342**
Gloucestershire CCG	
For urgent funding decisions	**???**
Duty Psychiatrist – Office Hours	**01452 894500**
Duty Psychiatrist – Out of Hours	**01452 894500**