

## Place of Safety Policy

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## Contents

<b>1. Introduction</b> .....	<b>2</b>
<b>2. Purpose or aim</b> .....	<b>3</b>
2.1 Policy principles (brief overview of Section 136 principles).....	3
<b>3. Scope</b> .....	<b>4</b>
<b>4. Definitions</b> .....	<b>4</b>
<b>5. Roles and responsibilities</b> .....	<b>4</b>
<b>6. Training</b> .....	<b>4</b>
<b>7. Monitoring or audit</b> .....	<b>4</b>
7.1 LEGISLATION COMPLIANCE .....	5
7.2 EQUALITY IMPACT ASSESSMENT.....	5
<b>8. References</b> .....	<b>5</b>

## 1. Introduction

A Place of Safety is now defined under the Mental Health Act 1983(Places of Safety) regulations 2017 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)

Avon and Wiltshire Mental Health Partnership NHS Trust presently provides 4 health (Hospital) based places of safety which are situated at

- Southmead Hospital (Bristol)
- Green Lane Hospital (Devizes)
- Fountain Way (Salisbury)
- Sandalwood Court (Swindon)

Health based places of safety provide care for those individuals who are subject to detention under section 135 or section 136 of the Mental Health Act 1983.

The Mental Health Act Code of Practice 2015 (16.31) states that a jointly agreed local policy between Local Social Services Authorities (LSSA's), hospitals, NHS commissioners, police forces and ambulance services, must be in place governing all aspects of the use of Section 135 and section 136 of the Mental Health Act 1983 and agreed health based places of safety within their localities.

The Mental Health Act 1983 (Places of Safety) Regulations 2017 has effected changes to the law in respect of sections 135 and 136 of the Mental Health Act 1983 (s135/6 MHA). The main changes to the Act as described in the new Government guidance can be summarised as follows:

- Section 136 powers may now be exercised anywhere other than in a private dwelling
- It is now unlawful to use a police station as a place of safety for anyone under the age of 18 in any circumstances
- A police station can now only be used as a place of safety for adults in specific circumstances, which are set out in regulations
- The previous maximum detention period of up to 72 hours has been reduced to 24 hours (unless a doctor certifies that an extension of up to 12 hours is necessary in certain clinical circumstances), and commences as soon as the person arrives at any place that is defined in the Policing and Crime Act 2017 as a Place of Safety.
- Before exercising a section 136 power police officers must, where practicable ,consult one of the health professionals listed in section 136(1C), or in regulations made under that provision
- A person subject to section 135 or 136 can be kept at, as well as removed to a place of safety. Therefore, where a section 135 warrant has been executed, a person may be kept at their home (if it is a place of safety) for the purposes of an assessment rather than being removed to another place of safety
- A new search power allows police officers to search persons subject to section 135 or 136 powers for protective purposes.

(Guidance for the implementation of Police powers for places of safety provisions and the Mental Health Act 1983(2017))

This policy must therefore be read in conjunction with the most recent changes to legislation as set out in the Mental Health Act 1983(Places of safety) Regulations 2017 and the [joint protocols agreed between Avon and Wiltshire Mental Healthcare NHS Trust and its partner agencies](#). These joint protocols contain detailed information regarding agreed processes and responsibilities under section 135/6 MHA1983 and the operation of health based places of safety. It is these protocols which should be followed in day to day practice and they can be found on the Trust intranet in the MHA Administration section.

Due to the nature and size of the trusts geography, the physical location of the places of safety within the Trust and the operation of two separate Police forces within the Trusts geographical boundaries, two protocols have been agreed .The first protocol covers the areas of Bristol, Bath and North East Somerset (BaNES), North Somerset and South Gloucestershire. The second covers the areas of Wiltshire and Swindon.

## 2. Purpose or aim

### 2.1 Policy principles (brief overview of Section 136 principles)

Section 136 (1) of the Mental Health Act states: "...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 within the meaning of s 135..."

The purpose of such a detention remains in place to enable the person to be examined by a registered medical practitioner , be interviewed by an Approved Mental Health Professional (AMHP) and for making any necessary arrangements for ongoing treatment or care .The 2017 Act however amends the period of time for which a person removed to a place of safety under section 136 may be detained from a period not exceeding 72hours to a period not exceeding 24 hours ((unless a doctor certifies that an extension of up to 12 hours is necessary).

It remains the case that this section is not a substitute for an application for detention under the Mental Health Act, nor is it a substitute for the use of other police powers.

Police stations should now only be used as a place of safety in circumstances where the behaviour of the individual who has been detained poses an imminent risk of serious injury or death to themselves or another person and that due to this risk no place of safety other than a police station can be reasonably be expected to detain the individual. Under the same legislative amendment it is now unlawful to use a police station as a place of safety for anyone under the age of 18 in any circumstances.

A person may still be moved from one place of safety to a different place of safety before the end of the maximum 24 hour period for which they may be detained. The 24 hour period begins from the time the person arrives at the first place of safety and cannot be extended if the person is transferred to another place of safety. The use of consecutive periods of detention under Section 136 is unlawful.

Doctors examining patients should, wherever possible, be approved under Section 12 of the Mental Health Act 1983. If the assessment is carried out by a doctor who is not Section 12 approved, the reasons should be recorded (MHA Code of Practice 2015 (16.46)).

Assessment by the doctor and AMHP should begin as soon as possible after the arrival of the person 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 (MHA Code of Practice 2015 (16.47))

A record of the person's time of arrival must be made as soon as the person arrives at the place of safety. As soon as detention ends, the person must be told that they are free to leave by those who are detaining them. This information should be shared between the transferring and receiving place of safety, in the event of a transfer.

Where the place of safety is Avon and Wiltshire Mental Health Partnership NHS Trust the hospital managers must ensure that the provisions of Section 132 (Duty of hospitals to give information to detained patients) are complied with. Access to legal advice should be facilitated whenever it is requested. An interpreter should be obtained when required.

Detaining a person in a place of safety under Section 136 does not confer any power under the Mental Health Act to treat the person without their consent. Treatment can only be given under common law if the person has capacity to consent and does so consent. Treatment may be given under the [Mental Capacity Act 2005](#) if the person lacks the capacity to consent and treatment would be in his/her best interests. Any restraint used in these circumstances must be reasonable in the circumstances and proportionate to the degree of harm that would come to the person if not restrained.

Once the assessment has been concluded, it is the responsibility of the doctors and AMHPs involved to make any necessary arrangements for the person's treatment and care (MHA Code 2015 (16.73).

### 3. Scope

This policy applies to all activity relating to and all healthcare staff involved in the detention of individuals under Section 135/6 of the MHA who are brought to a health based place of safety operated by Avon and Wiltshire Mental Health Partnership NHS Trust

### 4. Definitions

- **Local Authorities** – The local authority (or council) responsible for social services in a particular area of the country.
- **Approved Mental Health Professional** – A social worker or other professional approved by a local social services authority (LSSA) to carry out a variety of functions under the Act.
- **Doctor** – A registered medical practitioner.
- **Place of safety** – A place in which people may be temporarily detained under the Act.
- **Hospital Managers** – The organisation (or individual) responsible for the operation of the Act.

### 5. Roles and responsibilities

Executive Directors, Clinical Directors and Service Line Managers will be responsible for ensuring that local procedures are agreed for each Care Group they manage and that these are updated periodically.

All Trust staff who are involved in providing care for patients who are detained under Section 136 of the [Mental Health Act 1983](#) are required to work within the scope of this policy document

When a Safeguarding referral is made, an adverse incident must be also recorded as detailed in the [Incident Policy](#). Referrals could be related to the detainee or disclosures made by the detainee.

### 6. Training

All Trust healthcare staff involved in the care of individuals detained under Section 136 of the [Mental Health Act 1983](#) receives training in the application of the Act as identified within the Trusts training Matrix.

### 7. Monitoring or audit

Review of this policy will commence 1 year after implementation or in light of legislative or organisational change.

## 8. LEGISLATION COMPLIANCE

This policy must be read in conjunction with:

- Section 135 and 136 of the Mental Health Act 1983
- The Mental Health Act 1983(Places of safety) Regulations 2017
- Guidance for the implementation of changes to police powers and places of safety provisions in the mental health act 1983 (2017)
- The Mental Health Act code of Practice 2015
- [The joint protocols agreed between Avon and Wiltshire Mental Healthcare NHS Trust and the Local Authority Bodies, Police Forces and Ambulance Services which operate across the Trusts geographical boundaries](#). This policy is compliant with the Human Rights Act 1998.

### 8.1 EQUALITY IMPACT ASSESSMENT

Under the [Equality Act 2010](#) a public authority must, in the exercise of its functions, have due regard to the need to a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The nine protected characteristics in the [Equality Act 2010](#) are, age, disability gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation.

The policy must be read in the context of the statement of guiding principles found in Chapter 1 of the [Mental Health Act Code of Practice 2015](#).

This policy has been assessed using the [Equality Impact Assessment Screening Tool](#). The assessment concluded that the policy, properly followed, would have no adverse impact on any of the nine protected characteristics in the [Equality Act 2010](#).

## 9. References

- The Mental Health Act 1983(Places of Safety) regulations 2017
- Mental Health Act Manual Code of Practice (2015) – Chapter 16
- Section 135 and 136 of the Mental Health Act 1983
- Guidance for the implementation of changes to police powers and places of safety provisions in the mental health act 1983 (2017)
- [The Equality Act 2010](#)
- [Incident Management Policy](#)
- [Safeguarding Children Policy](#)
- [Safeguarding Adults](#)

<b>Version History</b>				
<b>Version</b>	<b>Date</b>	<b>Revision description</b>	<b>Editor</b>	<b>Status</b>
1.0	11/05/2016	Approved and ratified	Clinical Operations manger	Final
2.0	16/06/2017	Administrative review Expiry date extended by six months	Clinical Operations manger	Approved
3.0	26/09/2017	Expiry date extended by three months as current legislation is being reviewed	Director of Nursing	Approved
4.1	11/12/2017	Policy updated in light of legislative change. Approved by Quality and Standards Committee	Clinical Operations Manager	Approved
4.2	20/12/2018	Minor amendment to ensure that whenever a Safeguarding referral is made an adverse incident form is also completed.	Associate Director of Nursing	Approved