

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Iechyd, Gofal Cymdeithasol
a Chwaraeon
Ymchwiliad i iechyd meddwl yng
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National Assembly for Wales
Health, Social Care and Sport
Committee
Inquiry into Mental health in Policing
and Police Custody

Ymateb gan Goleg Brenhinol y
Seiciatryddion yng Nghymru

Evidence from The Royal College of
Psychiatrists Wales

Background

During two recent Assembly Committee inquiries 'the Emotional and Mental Health of Children and Young People' and 'Suicide Prevention', Assembly Members have heard from police representatives that an increasing amount of police resource is being used on managing mental health crises.

Police custody

Recent inspections of police custody in Wales have generally found the provision of healthcare to be good. There is also evidence from joint inspections of police custody that partnership working is improving, including joint work to address concerns about people detained under section 136 of the Mental Health Act being taken into custody.

Section 136 of the Mental Health Act 1983 enables a police officer to remove, from a public place, someone who they believe to be suffering from a mental disorder and in need of immediate care and control, and take them to a place of safety – for example, a health or social care facility. In exceptional circumstances (for example if the person's behaviour would pose an unmanageably high risk to others), the place of safety may be police custody. Section 136 also states that the purpose of detention is to enable the person to be assessed by a doctor and an approved mental health professional (for example a specially trained social worker or nurse), and for the making of any necessary arrangements for treatment or care.

What we know from inspection reports is that some people are being held in custody because they are a risk to themselves or others, not because they have committed a crime. Many of these cases involve children, people with mental health problems, or older people suffering from dementia. The police are almost entirely dependent on other agencies – primarily health and social services – to provide services that divert people with vulnerabilities away from custody, or to provide safeguards when vulnerable people are in custody (such as healthcare, or alternative accommodation for children).

Written evidence from the Royal College of Psychiatrists in Wales

The Royal College of Psychiatrists in Wales (The College) is the professional medical body responsible for developing and supporting psychiatrists throughout their careers, and in setting and raising standards of psychiatry throughout Wales.

The College aims to improve outcomes for people with mental disorders and the mental health of individuals, their families and communities. In order to achieve this, the College sets standards and promotes excellence in psychiatry; leads, represents and supports psychiatrists; improves the scientific understanding of mental illness; works with and advocates for patients, carers and their organisations. It also works on the promotion of health and safety in the community with other agencies, including local authorities, the police and probation services. The College has a vital role in representing psychiatric professional expertise to governments and other agencies.

The College would be very happy to provide any further evidence the Committee needs, in writing or in person.

Submission

1. Mental Health Crisis Care Concordat

1.1 The College sits as a member organisation of the Crisis Care Concordat.

1.2 The concordat delivery plan is currently being implemented. It's intended to ensure that people in crisis, or who are at risk of reaching a crisis, are receiving timely help, support, advice, treatment and care.

1.3 The delivery plan sets out six core principles:

- People have effective access to support before crisis point
- People have urgent and emergency access to crisis care when they need it
- People receive improved quality of treatment and gain therapeutic benefits of care when in crisis
- People are supported in their recovery, stay well, and receive effective support after crisis
- Better quality and more meaningful data and effective analysis is secured
- Effective communications and partnerships are maintained and improved

1.4 Multi agency 'Mental Health and Criminal Justice Partnership Boards' (MHCJPB), or equivalent boards/committees, have been established across each of the 4 police force areas in Wales to oversee and monitor their own regional action

plans developed to address the core principles of the Concordat and the actions set out in national delivery plan.

1.5 Regional boards/committees should have arrangements in place for receiving assurance from each of the partners that actions set out in regional plans are being implemented and are making a positive difference.

1.6 Regional boards/committees should also provide assurance to the national Concordat Assurance Group on a quarterly basis that progress is being made and that successful outcomes are being achieved.

1.7 The Concordat Assurance Group will provide a written assurance report to Welsh Government every 6 months that the delivery plan is being implemented and is effective and if not the reasons why and what remedial action is being taken.

1.8 Issues or challenges that have already been identified throughout the implementation of the Crisis Care Concordat include:

- Use of safe and appropriate conveyance/transport of people in crisis to places of safety or other services;
- ensuring effective prevention and/or early intervention services are in place;
- having effective diversion from criminal justice services to health and social care services in place, etc. and
- having a process or mechanism in place to solve challenges and/or problems is crucial for the successful implementation of the delivery plan.

1.9 As well as the issues identified above, other potential areas for consideration of an appropriate Task and Finish group include:

- The need for pooled or joint training across health, social care and criminal justice agencies
- The need to ensure genuine and meaningful service user involvement and that people's wishes and choices are at the forefront of service planning and delivery
- Making sure that effective protocols are in place across and between health, social care and criminal justice agencies
- Looking at ways to pool budgets and to jointly fund new initiatives

1.10 As well as determining what challenges or issues there are that need further consideration, and whether these are best addressed at a regional or national level, the Concordat Assurance Group also needs to agree what template should be used by regional partnership boards to provide assurance to the national Concordat Assurance Group on a quarterly basis.

2. Removal of an individual to a place of safety

2.1 The Policing and Crime Act 2017 and The Mental Health Act 1983 (Place of Safety) Regulations 2017, which also have the force of law, introduced some significant changes to section 135 (s.135) and section 136 (s.136) of the Mental Health Act 1983 (MHA). Joint guidance from the Department of Health and Home Office has also been published. These changes came into force on 11 December 2017.

2.2 Sections 135 and 136 of the Mental Health Act give police officers powers in relation to individuals who are, or appear, to be mentally disordered. Police officers may use powers of entry under Section 135 of the Act to gain access to a mentally disordered individual who is not in a public place. If required, the police officer can remove that person to a place of safety. A place of safety may be a police cell, a hospital based facility or 'any other suitable place, the occupier of which is willing temporarily to receive the patient' Section 136 of the Act allows police officers to detain an individual who they find in a public place who appears to be mentally disordered and is in immediate need of care or control. During this time period an assessment is undertaken to determine whether hospital admission, or any other help, is required. Section 136 is used significantly more often than Section 135.

2.3 For the majority of completed Mental Health Act assessments under both Section 135 and 136 in 2016-17, a hospital was the first and only place of safety. There were 33 completed Mental Health Act assessments under Section 136 that had been transferred from a police station, this is a 70 per cent reduction, compared with the 108 completed in 2015-16.

2.4 The Mental Health Crises Care Concordat is a Welsh Government and partner agency strategy and commitment. A key objective of this is to stop using police custody suites as a place of safety except in exceptional circumstances. Clearly this initiative has had a significant impact upon this area and great improvements have been made.³⁸

2.5 In June 2018, The College developed a report '*FAQ's on sections 135 and 136 of the MHA England and Wales, CR213*' in order to provide clinicians and other mental health professionals with easy access guidance on the recent changes to section 135/136 legislation by the Policing and Crime Act 2017 and the Mental Health Act 1983 (Place of Safety) Regulations 2017. The document was written for practitioners working in health- based places of safety (HPOS) and those responsible for the commissioning and governance of these services.

2.6 It is essential that all practitioners and managers of services concerned with those detained under s.135/s.136 are aware of the legislative changes as they could, in some areas, have a significant impact on service provision given the geographical variability of the provision and organisation of these services.

2.7 These powers are only available to police officers and they are responsible for deciding if the person is in a place where these powers can be exercised.

2.8 Key Changes to legislation through the Policing and Crime Act 2017 and The Mental Health Act 1983 (Place of Safety) Regulations 2017, introduced some significant changes to section 135 (s.135) and section 136 (s.136) of the Mental Health Act 1983 (MHA). These changes came into force on 11 December 2017.

- Police must consult a registered medical practitioner, a registered nurse or an approved mental health professional or other persons specified in the Act or its regulations, if practicable, before using s.136 (s.136(1C)). The regulations specify that an occupational therapist or a paramedic may also be consulted.
- The new legislation has removed reference to a place to which the public have access and therefore the often-paraphrased version of the old legislation requiring the person to be 'in a public place' in order for police to use of s.136 is no longer relevant. The amended legislation states (s.136(1)): 'If a person appears to a constable to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons (a) remove that person to a place of safety... or (b) if ... already at a place of safety ...keep the person at that place or remove the person to another place of safety.' Section 136 can now be used in any place other than a private dwelling or the private garden or buildings associated with that place (s.136 1A).
- The constable may, if necessary, use force under the powers of s.136 to enter any place where the power may be exercised (s.136(1B)).
- A child (i.e. a person under 18 years) **may not, under any circumstances**, be removed to, kept at, or taken to a police station as a place of safety under s.136 (s.136A(1)).
- Police stations can only be used as a place of safety for adults in specified circumstances. What these circumstances constitute is specified in the regulations (s.136A(2)(a)).
- There is a reduction in the permitted period of detention from 72 hours to 24 hours (s.136(2A)) with the possibility of a 12-hour extension (s.136B). To extend the period of assessment, the registered medical practitioner must decide that the extension is necessary because the condition of the person has meant it has not been practicable to complete the assessment in the first 24 hours.
- Section 136C allows a police officer to search a person subject to section 135, 136(2) or 136(4) if the officer has reasonable grounds to believe that the person may be a danger to themselves or others and may be concealing something on them which could be used to physically injure themselves or others.

2.9 For s.136 to be used there must be an 'immediate need for care or control'. If indeed immediate really does mean immediate then there should be no time to

consult, as in even the most efficient service it is likely that access to one of the prescribed health professionals and the identification of relevant information is likely to take some minutes.

2.10 Police officers frequently come across situations where there is no immediate need for care or control and where further information about the person such as background information, risk history or crisis plan may help their decision making. In the absence of an immediate need for care or control it may be appropriate, if safe to do so, for mental health services to offer an alternative response to the mental health crisis. This may include an emergency assessment by the mental health team if the person is able to give consent to the assessment or arrange further community support/review if the person is well known to the service and such a response is clinically indicated.

2.11 There should be local arrangements to have a single point of access to mental health professionals who are able to provide an immediate response. There should be clear information-sharing protocols and, as always, any discussion should be documented in the notes. Localities need to clarify what form this documentation should take if the person is not known to the service.

2.12 The decision to use a police station as a place of safety should be exceptional and be based on a thorough risk assessment that has regard to the possibility that underlying what appears to be a mental disorder is a potentially and rapidly fatal medical condition. There should be local monitoring systems to keep any use of police stations under review.

2.13 The HPOS for young people detained under s.135 and s.136 of the MHA may be a section 136 suite on an adult in-patient unit, on an adolescent mental health in-patient unit, or a separate facility, for example, linked to an accident and emergency.

2.14 Caution is needed when establishing bespoke section 136 facilities that are not linked to an inpatient unit. This is to ensure that the facility is safe and that the provision of a sufficient number of appropriately trained staff 24 hours a day is feasible and sustainable.

2.15 The environment must be developmentally appropriate in accordance with standards set out in the Royal College of Psychiatrists Quality Network for Inpatient CAMHs. (Quality Network for Inpatient CAMHS Standards. 8th Ed. 2016)

2.16 In the absence of an adolescent specific facility, an adult HPOS must accept and provide for the assessment of young people.

References

Health Inspectorate Wales (2018) Mental Health Hospitals, Learning Disability and Mental Health Act Inspections. Annual Report 2016-2017.

Royal College of Psychiatrists (2018) FAQ's on sections 135 and 136 of the MHA 1983
England and Wales CR213

Royal College of Psychiatrists (2016) Quality Network for Inpatient CAMHS
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