
Review of Section 136 Mental Health and Place of Safety

Document Information

This document describes the national and local challenges presented by the increase in the number of section 136 presentations. Relevant national guidelines are discussed and suggestions to address the challenges locally presented.

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Author:	Aileen O'Brien		
Owner:	Dr Emma Whicher		
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Section 136; Summary of challenges and implications for South West London and St Georges Mental Health NHS Trust

1. Document Overview

This paper describes the recent national changes in the use of S136 of the Mental Health Act, which have been precipitated by the Bradley and Adebowale reports into interfaces between criminal justice and mental health services for the Board's consideration.

In addition this paper considers the impact of these on SWLSTG and the local challenges presented by recent increases in the number of section 136 presentations. Finally this paper discusses suggestions to address these challenges in SWLSTG and the Trust's role in wider developments in the management of people detained under S136; for the Board's view..

2. Introduction

2.1 Section 136 of the mental health act 1983 allows a police officer to remove a person they believe to be mentally disordered and in "immediate need of care or control" from a public place to a designated place of safety, in the interest of that person or for the protection of others. The place of safety can be a police station, an accident and emergency department or a designated unit in a psychiatric hospital.

2.2 The individual may be detained for up to 72 hours, so that they can be assessed and a decision made about treatment under the Mental Health Act, and to make any necessary arrangements for aftercare if appropriate. There are three possible legal outcomes following assessment of a person detained under Section 136. The individual can be allowed to leave with or without the offer of community follow up. Admission to hospital may be offered and this can be accepted voluntarily or the person can be admitted formally under the Mental Health Act.

3. Overview

3.1 In recent years the number of individuals detained under section 136 of the Mental Health Act in the United Kingdom has dramatically increased. Between 2009 and 2010 7,035 people were detained in hospital under S136, and by 2012 the number had risen to 14,902 (National Statistics for Health and Social Care, 2012). However the number being formally admitted after assessment has remained stable.

3.2 There has recently been much media debate about Section 136 following the widely publicised report by Her Majesty's Inspectorate of Constabulary, Her Majesty's Inspectorate of Prisons, the Care Quality Commission and Healthcare Inspectorate Wales (2013) that examined the extent to which police custody is used as a place of safety. The report described three situations where the police station is being used; when the individual is felt to be too violent to be assessed in an alternative place, when the individual is too intoxicated to be assessed (many 136 suites will refuse intoxicated patients) or when the 136 facility is full. The report concluded that police cells are being overused and that a higher proportion of people detained should be brought to a Section 136 Assessment Suite.

3.3 The problems nationally in accident and emergency have been well publicised with increasing numbers of patients attending and public concerns being expressed about staffing shortages. The four-hour waiting target was missed across the NHS from January to March- the first overall breach for nine years, with 94 out of 148 providers missing the mark. St Georges, which saw 147,234 patients in its A&E in 2012, just hit the target last year but 8,000 patients had to wait more than four hours for treatment.

4. National and London-wide Guidelines

4.1 In 1995 the Royal College of Psychiatrists and the British Association of Accident and Emergency Medicine (A and E) convened a joint working group to examine psychiatric services in A and E departments. They highlighted concerns in relation to the use of both A and E departments and police stations which were further substantiated following the publication of the report from House of Lords/House of Commons Joint Committee on

Human Rights, Deaths and Custody 2004/2005. This clearly identifies concerns in relation to the provision of Place of Safety being outside mental health services.

4.2 The working group identified a number of differing practices in relation to Section 136 provision, and also a lack of nationally identified standards. Subsequent work resulted in the establishment of a number of standards set in three broad areas:

- The physical facilities which constitute a Place of Safety
- Staffing in a Place of Safety
- Policy in relation to the use of Place of Safety

4.3 The Bradley Report 2009 set out standards around the interface of the criminal justice and mental health systems. Bradley states; “it has become increasingly apparent that when people with mental health problems in the community are in crisis, neither the police nor the mental health services alone can serve them effectively and it is essential that the two systems work closely together.”

4.4 Bradley felt that “although people who come into contact with the police under Sections 135 and 136 of the Mental Health Act 2007 may not fall into the category of ‘offenders’, this represents an important aspect of the police/health interface. One of the key issues here is the appropriateness and importance of the ‘place of safety’ for individuals who it is deemed necessary to make subject to the Act. Despite the recognition of the unsuitability of police custody as a place of safety studies have shown that this continues to be used on a fairly wide basis. The use of Section 136 is a prime example of why the police and health services need to work so closely together. Even once a person has been removed to a place of safety, the speed of assessments is further determined by the resources and willingness of local health and social services to attend within suitable time frames. All partner organisations involved in the use of Section 136 of the Mental Health Act should work together to develop an agreed protocol on its use. Discussions should immediately commence to identify suitable local mental health facilities as the place of safety, ensuring that the police station is no longer used”

4.5 In July 2011 The Royal College of Psychiatrists published CR159: Standards on the Use of Section 136 of the Mental Health Act 1983. This produced 24 recommendations including that the police station should not be used as a place of safety; and that it is the responsibility of the commissioners to organise regular meetings of stakeholders involved **in section 136.**

4.6 The Association of Chief Police Officers (ACPO) and the Department of Health presented a joint paper to the Ministerial Board in February 2012 on the situation regarding Section 136 Places of Safety across the county. This paper recommended that the future NHS Commissioning Board (NHSCB) should commission health-based places of safety alongside offender health services.

4.7 The Royal College of Psychiatrists reported guidelines for commissioners in relation to section 136 in 2013. The six recommendations of this report were-

- The custody suite should be used as a place of safety in exceptional circumstances only.
- A vehicle supplied by the ambulance provider should be able to attend promptly so that it is used for conveyance unless the person is too disturbed.
- The AMHP and doctor approved under Section 12(2) of the Mental Health Act should attend within three hours in all cases where there are not good clinical grounds to delay assessment.
- The first doctor to perform a Mental Health Act assessment should be approved under Section 12(2) of the Act.
- A monitoring form should be agreed locally to meet all the national requirements and should be completed in all cases.
- Commissioners should ensure that there is a multi-agency group meeting to develop, implement and quality assure the agreed policy. This group should review the monitoring data. It should also consider how the need for use of Section 136 might be reduced.

4.8 Recently the Mental Health Partnership Board for London produced standards for improving section 136 provisions across London although these are not yet published. The report was based on a survey of every accident and emergency and place of safety in London (over 400 units). They described the situation of patients being refused admission to a place of safety commonly- because of intoxication, physical health problems, boundary issues or because the place of safety is full. There is a description of police waiting with patients in vans and the stress the situation is causing to the often fragile relationship between police and mental health services.

4.9 The Mental Health Partnership Board based many of their standards on the work by Oxleas NHS Foundation Trust who have produced a flow chart to aid management of section 136. In the flow chart it is recommended that intoxicated patients (described as having slurred speech / unable to walk unaided) should be going to A and E. This report stated the view that A and E is underused as a place of safety with patients being taken to mental health units who should have gone to A and E; stating “ *where the person has a physical injury, illness or condition (including intoxication) that requires medical attention they should be taken to A & E*”. The report highlights concerns around intoxicated patients with the view that those who are unable to walk or stand unaided should be taken to A & E and that intoxicated patients who are so disorderly that they present a risk of harm to themselves or others and cannot be safely managed at a health based facility should be accepted by the police. This report recommends following the Oxleas flow chart. It is highly critical of situations where the police are left waiting in vans for a bed in a 136 suite or equivalent and are positive about Trusts where patients are moved onto open wards for assessment to free up a 136 bed. (Although this has been discussed locally this solution has not been felt to be appropriate by Trust managers.) The report identified problems with communication across ambulance services, mental health services, the police and A and E.

4.10 Lord Adebawale produced a comprehensive recent report in 2013 examining serious incidents including deaths of patients with mental health problems in police custody. The report describes a lack of mental health awareness amongst officers with patients reporting feeling that the police understanding of mental illness was poor and describing the need for greater empathy and respect.

4.11 In relation especially to section 136 the Adebawale report described problems of interagency working; “There are serious questions as to the nature of the engagement

between the police and mental health professionals”

4.12 The report suggests that better protocols are needed relating to section 136 “so that appropriate pathways can be developed for people who are drunk, as opposed to having a mental health problem”. The report recommends de-briefing after incidents; identifying ways to pool resources; and identifying approaches for the use of security within NHS premises. Other recommendations include joint training with the police and mental health services. Adebowale pointed out that there is a lack of training in suicide prevention amongst the police and recommends regular 136 meetings to improve information sharing.

4.13 The report states *“The commission mentions and welcomes the joint work of the Mental Health Partnership Board and especially welcomes the suggestion that every suite has a designated senior Section 136 coordinator with responsibility for identifying places of safety that will accept patients; as well as responsibility for negotiating access to the nearest A & E department.... The Commission considers that the same approach to emergency care for cardiac crisis should be applied to mental health, with fewer, well-resourced clinically led centres, with highly trained staff who can reliably respond to the police in emergencies, and build credible relationships with Mental Health Liaison Officers. It is also important to have strategic and physical links with A&E to enable access to PICUs (psychiatric intensive care units). The location of such specialist resources should be considered in relation to ease of access and demographic demand for such services.”*

4.14 It is apparent that there are some inconsistencies in these guidelines and reports especially regarding intoxication; the NHS Oxleas flowchart suggests that the very intoxicated go to A and E whereas The Royal College of Psychiatrists suggest that the intoxicated patients should not be turned away from a mental health unit “unless they need acute medical intervention or are too behaviourally disturbed to be safely managed”.

4.15 The general consensus therefore is that police stations should be used only in exceptional circumstances but there is no consensus regarding where intoxicated patients should be going and at what level of intoxication A and E rather than a mental health unit is appropriate. There are potential problems with intoxicated patients in A and E being in a less secure setting with the possibility of absconding whilst still on section, and they are likely if intoxicated to breach the four hour assessment target in A and E.

5. Ward One emergency assessment suite

5.1 Description of 136 Suite

The Ward One emergency assessment suite is the only designated place of safety in the Trust and as such serves all 5 boroughs. The suite comprises two secure rooms (similar to the seclusion room) and one “soft” interview room. The unit was originally designed with the capacity of up to two simultaneous 136 admissions in mind. Each patient in the 136 suite has one designated nurse assigned to them who is with them at all times. This will usually be a member of the ward 1 nursing team.

5.2 Process

The police should ring to inform staff that they are bringing a patient to the suite. The nursing staff alert the relevant borough approved mental health professional (AMP) and crisis and home treatment team. After an initial brief assessment focusing on physical health needs by the duty core trainee doctor there is a mental health act assessment with the AMP and two section 12 approved doctors. In working hours ideally one of the doctors should be from the person’s catchment area and out of hours it is the duty specialist registrar’s role. In reality in working hours the relevant catchment area doctor may often not be available and then the independent section 12 approved doctors are used. Out of hours the relevant duty social work department is called. The duty AMP will be covering all emergency duty social work for the area including child protection work. If the patient is too intoxicated to be assessed they remain in the assessment suite until they are able to be assessed. Although the section 136 lasts for up to 72 hours the Trust policy is that all assessments should happen within 2-6 hours. There are regular meetings between 136 staff, police borough mental health leads and the borough approved mental health professionals. London ambulance services have been invited but have not attended.

5.3 Section 136 Activity

A recent detailed audit of all assessments from Feb-July 2012 took place. As part of a BSc project a medical student examined rio notes looking at the reason for admission and at especially at rates of intoxication.

5.4 A total of 245 individuals were assessed during that time period in the suite.

Threatening self-harm was the most common reason for being brought to the 136 suite (n=100, 44.8 percent). 108 (44.1 percent) patients were found to be intoxicated with drugs and / or alcohol at the time of section. Intoxication proved to result in longer assessment times and a decreased likelihood of admission to hospital when compared to non-intoxicated patients (p<0.000).

5.5 In 2013 for the same period (February to July) 334 people were admitted to the suite-

2013	No of presentations	Admissions to hospital
February	42	16
March	40	18
April	52	25
May	55	27
June	69	33
July	76	33

This is a 36% increase in numbers. This has had an impact on the intensity of work and number of staff required to provide high quality care in the S136 suite. Over the period described the resources needed to do this have also increased.

5.6 Voluntary presentations

It has become recently apparent that a proportion of the individuals brought to the section 136 suite, have called emergency services themselves and have asked to be taken to

hospital. It is therefore of some concern that they are being placed on section 136. Preliminary discussion with the police suggests that they are less comfortable about taking patients to accident and emergency. The scale of this problem is not clear and is being audited currently.

5.7 Simultaneous presentations

There is an especial concern about the capacity of the suite; both physical capacity and in terms of staffing levels; when there are multiple presentations. Although originally designed for two patients three can be managed with one being seen in the soft interview room. What happens when there are more than three patients is currently under review; The director of nursing and medical director have been working with the staff in the 136 suite to look at alternatives for people brought in intoxicated and under S136.

5.8 Minors

Twenty people under the age of 18 have been admitted thus far in 2013 to the section 136 suite. Most of these were 17 years old, one was 9 years old, two were 14, one 15 and one was 16. Three were admitted to Aquarius and one was admitted to ward 1 whilst an adolescent bed was found. The other sixteen were not admitted to hospital. When a minor is in the section 136 suite it then closes to other admissions so that they are separated from adult patients. The support from child and adult services and from Aquarius ward is very good when minors present, so these episodes have been managed effectively

5.9 Alcohol and drugs

In 2012 the Association of Chief Police Officers and the Independent Police Complaints Commission introduced a new term “drunk and incapable”; “unable to “walk unaided, stand unaided, is unaware of their own actions or unable to fully understand what is said to them”.

The guidance was that a person found to be drunk and incapable should be treated as being in need of medical assistance at hospital. This is a clear issue in the 136 suite and there are concerns about the risk in managing so many very intoxicated patients. There have been cases of damage to the suite by intoxicated patients. There are also concerns

about the risk of alcohol related physical health problems. The Oxleas flow chart recommends that very intoxicated patients should be assessed in accident and emergency; this has not been the practice locally. As a result the 136 suite have not been able to display the Oxleas 136 flow chart. By assessing patients at the 136 suite rather than asking they go to A and E the RCPsych guidelines are therefore being followed but not the more recent not NHS London guidelines.

5.10 Care quality commission

The CQC performed a planned visit to the Section 136 suite in 2012 and had no concerns; the only recommendation was that the operational policy be updated which has happened.

5.11

Patients are asked on leaving the section 136 suite to rate on a likert scale how satisfied they are with the service they have received and asked to make suggestions for any improvements. These have not yet been analysed but will inform future developments

6. Summary of Challenges and risks

1. The number of patients coming to the section 136 is rising and this is having an impact on the ward 1 staff
2. There is particular issue about the proportion of patients attending the suite who are intoxicated
3. There is a risk of having more than three individuals in the suite simultaneously
4. Intoxicated patients pose particular challenges as the number detained under S136 by the police are increasing, but assessment is taking longer as it often has to wait until the person has "sobered up". As a consequence this reduces the capacity of the suite. Anecdotally patients who have asked to be brought to hospital are being placed on a section 136 which presents a risk of legal challenge
5. if A and E is used a place of safety individuals on a 136 are highly likely to breach the 4 hour assessment target especially if intoxicated, and are at risk of absconding
6. Refusing to admit people to the suite if full presents a risk to the patient and a risk of damaging the relationship between the police and mental health services

7. Research and Development

Public awareness regarding section 136 is increasing and it is becoming a prominent issue both across London and nationally. The staff of the S136 have led on this and interdisciplinary research is already happening at the Trust and medical school surrounding the issue of section 136 including-

- The most recent published literature review of section 136 has included in the authorship Steve Gillard (psychiatry section lead at St Georges Medical school), Aileen O'Brien and Professor Mary Chambers
- Mirella Genziani, PhD student, Faculty of Health, Social Care and Education, Kingston University & St. George's University of London is currently doing a PHd entitled "Decisions and dilemmas surrounding the use of Section 136 of the UK Mental Health Act", supervised by Professor Chambers.
- The BSc project referred to above is being submitted for publication and another student is doing a Bsc this year, following up the same cohort of patients, both supervised by Aileen O'Brien.
- Cheryl Hunter, service director, and Aileen O'Brien have been successful in securing a £10 000 bid from South West London Academic, Health and Social Care System to provide training in brief alcohol interventions in 136 suite, improve physical assessments and introduce police training. As part of this satisfaction with the service received in the 136 suite is being monitored.
- Mary Chambers, Aileen O'Brien and Mirella Genziani have presented the 36 work internationally at the International Congress of Mental Health and Law

- Two of the Trust SPRs, Jeremy Rampling and Janet Chui, have been part of the NHS London working party to improve 136 provision across the city.

8. Strategy and Opportunities for the Trust

8.1 The Trust has a key role in the development in S136 provision in South West London and across the capital. It is envisaged that the Trust works to remain the lead provider of S136 suite provision in South West London. This will require development work with commissioners, the police and local authorities, to consider capacity and improving pathways for people detained under S136.

8.2 Immediate interventions that may reduce the pressure on the 136 suite are under development. These include improving the throughput of service users through the 136 suite more efficient especially in terms of the response time of the AMPS and section 12 approved doctors. Work with Wandsworth local authority has resulted in 24hr provision of AMPHs Furthermore there is an interim plan in place to use one of the beds on ward one as an “alcohol bed” i.e. to move an intoxicated male patient on to the ward until the full assessment can take place. This has the potential to release a physical bed in the assessment suite.

8.3 However there is a wider need to address the appropriate pathway for both patients asking to come to hospital for an assessment and those who are intoxicated; and to develop a protocol with the police that does not involve them being placed on section 136. This will need executive leadership in negotiations with the Borough Commanders

8.4 The wider and longer term challenges need a more strategic approach. This is a national rather than local problem. The multidisciplinary research taking place in the section 136 suite demonstrates a proactive approach to try to improve the service our users receive and presents opportunities for the Trust to lead in developing solutions. This includes opportunities to involve commissioners who thus far have had relatively little involvement, and to increase engagement with accident and emergency services; the accident and emergency mental health Consultant lead has proactively engaged with the 136 police liaison meetings so initial liaison has started.

8.5 There are opportunities for innovative solutions; suggestions and examples internationally and in the UK include mental health street triage, alcohol assessment units (including “drink tanks” and even “drink buses”). The street triage scheme sees mental health nurses accompany officers to incidents where police believe people need immediate mental health support. The aim is to ensure that people get the medical attention they need as quickly as possible. Initial reports from established street triage schemes in Leicestershire and Cleveland show that it can help to keep people out of custodial settings and reduce the demands on valuable police time.

8.6 The national association of psychiatric intensive care units (napicu) is addressing the issue, Aileen O'Brien is an executive and there is a preliminary plan to organise a one day event inviting national stakeholders especially at commissioning level.

8.7 Any of these strategies will need the support and engagement of the commissioners and of NHS London however the Trust is uniquely placed to lead the way in the improvement of services for this vulnerable group of service users, as we are a key provider of S136 provision and have a track record of research into innovative approaches to this area. Furthermore the trust has a lead role increasing the wider understanding of mental health amongst the police.

In summary recent reviews into the interface between criminal justice and mental health services have led to a focus on the use of S136. Locally this has led to a significant increase in the number of people brought to the S136 suite. There have been problems related to capacity and the specific issues of managing intoxicated people. However the trust is leading research in this area. In addition the trust has a strategic role bringing together all stakeholders to improve the patient pathway and develop innovative solutions such as street triage working with the police.

9 References

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A Criminal Use of Police Cells?

The use of police custody as a place of safety for people with mental health needs
A joint review by Her Majesty's Inspectorate of Constabulary, Her Majesty's Inspectorate of Prisons, the Care Quality Commission and Healthcare Inspectorate Wales to examine the extent to which police custody is used as a place of safety under section 136 of the Mental Health Act 1983

2013 Guidance for commissioners: service provision for Section 136 of the Mental Health Act 1983 Position Statement PS2/2013
Royal College of Psychiatrists London

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