

# Understanding patients' views of Section 136 of the Mental Health Act 1983 in Kirklees

## Detailed Report

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## Report details

This is a detailed report outlining the findings and recommendations of the work completed by Healthwatch Kirklees whilst looking in to the use of Section 136 of the Mental Health Act 1983.

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## Executive summary

In November 2013, concerns were raised by West Yorkshire Police in Kirklees about the number of individuals detained using Section 136 of the Mental Health Act (1983), who were being held in police custody, rather than in specially designed, staffed and equipped Section 136 Suite. Between December 2013 and April 2014, Healthwatch Kirklees looked at this further, and engaged with patients and professionals to find out their views about the use of Section 136 in Kirklees.

Those individuals who shared their experiences of Section 136 explained that there had been variability in the way that it had been used, with some police officers and clinical staff showing great kindness to themselves or the person they care for, and others being heavy handed or unconcerned about their needs. They felt that deterioration in their mental health had been overlooked until Section 136 was necessary, and that services weren't accessible to them. Fundamentally, they felt that the process, which by its nature will always be distressing and complex, had made them feel criminalised and in fear of the situation happening again. These concerns were not directed to a particular organisation involved in the process, but instead at the way that the different organisations work together, and the way that the system is limited and frustrating.

Professionals from West Yorkshire Police, South West Yorkshire NHS Foundation Trust and Kirklees Council, who are all involved in the delivery of Section 136, raised concerns about whether they had the amount of time and resource available to adequately meet all the requirements of this part of the Mental Health Act. They were frustrated by difficulties accessing ambulance services to transport patients, and the perceived absence of a protocol that documents how specific situations should be addressed.

Although work is already being done to address some of the concerns raised, such as developments to crisis services for people with mental health issues, and a protocol being put in place regarding transporting people held under the Mental Health Act, there is still work to be done. It's important to ensure that all professionals and patients are aware of their options so they can seek or provide appropriate support, and that capacity issues surrounding Section 136 are properly addressed.

To see a full list of recommendations, please review pages 17 to 19 of this report.

### Acronyms

<b>SWYT</b> - South West Yorkshire NHS Partnership Foundation Trust	<b>S136</b> - Section 136 of the Mental Health Act (1983)
<b>YAS</b> - Yorkshire Ambulance Service	<b>MHA</b> - Mental Health Act (1983)
<b>CQC</b> - Care Quality Commission	<b>AMHP</b> - Approved Mental Health Professional
<b>HMIC</b> - Her Majesty's Inspectorate of Constabulary	<b>CPN</b> - Community Psychiatric Nurse
<b>H&amp;SCIC</b> - Health and Social Care Information Centre	<b>EDT</b> - Emergency Duty Team

# Introduction

## What is Section 136 of the Mental Health Act 1983?

Section 136 of the Mental Health Act 1983 (MHA) enables a police officer finding a person who appears to be suffering with mental disorder and in immediate need of care or control in a publicly accessible place, to remove that person to a place of safety.

A “place of safety” can be a hospital, residential care home, or the home of a relative or friend of the person detained. In “exceptional circumstances”, people can be taken in to police custody as a place of safety. Exceptional circumstances can include the person being intoxicated or behaving in an excessively aggressive manner.

Once detained under Section 136, there is a legal requirement that the individual has a Mental Health Act Assessment, completed by an Approved Mental Health Professional and an Approved Clinician. This has to take place within 72 hours of the arrest, but best practice states that this should happen within 3hrs of the person being detained. A doctor and an Approved Mental Health Professional assess the person under Section 136, not to decide whether or not they need to be sectioned, but to decide the best course of action for treatment, be that in hospital or in the community.

Common reasons for detention under Section 136 are the threat of self-harm or suicide and aggressive behaviour.

## National context

From the outset, it is important to state the police’s involvement with mental health crises is entirely necessary in some cases. Mental health services are not set up to manage all different types of crises, especially when patients are likely to display physical aggression. In these cases, it is very important the police and mental health services work together to ensure the safety of all people involved in addressing the crisis, but also that the individual is supported and cared for in a way that meets their mental health needs. This means that Section 136 should be a priority for all agencies involved in its delivery.

Across England and Wales in 2012/13, 21,814 individuals were detained and assessed under Section 136 of the Mental Health Act 1983 (S136). According to the statistics reported by the Health and Social Care Information Centre (H&SCIC), 14,053 of those individuals were assessed in a hospital setting (64%), and 7,761 were assessed in a police cell (36%).

The way in which S136 is used has recently come under scrutiny from Her Majesty’s Inspectorate of Constabulary (HMIC) and the Care Quality Commission (CQC) who conducted a detailed study of its use in 2013. The issues outlined in their report have been subject to wider discussion by charitable organisations and workers in this field, and below is an outline of the key concerns:

### Misrepresentation of data

When CQC figures surrounding use of Section 136 were released in 2012, they suggested that there had been a 135% increase in the use of this section between 2006/7 and 2011/12. Although it may seem that Section 136 is being used significantly more, the increase in numbers can be attributed to changes in the way services are delivered. CQC figures only cover those people who were assessed under S136 in a hospital setting, and over the last 5 years, there has been a substantial increase in the number of health facilities developed for specific use as a S136 assessment area. All these figures tell us is that there has been a substantial increase in the number of people assessed in a healthcare setting; people who were assessed in police

custody remain omitted from the figures, and it is only in 2012/13 that the H&SCIC has brought together figures from both police and health care settings, to provide more accurate data.

New experimental data from the H&SCIC shows that 82% of people detained under S136 did not go on to any further Section of the Mental Health Act in 2012/13. On a national basis, there is little, if any, recording of the subsequent path taken by individuals who are not admitted to hospital, nor of any follow-up work completed after the MHA assessment.

In some areas, there is little data-sharing between the health services and the police. This makes it difficult to gather a true understanding of the picture of detention in these areas.

### **Differences between a criminal arrest and a Mental Health Act detention**

When under arrest, an individual can initially be held in the police cells for 24hrs, and must undergo regular reviews during that time to check that the arrest remains appropriate. When put under Section 136, someone can be held for 72hrs without review of whether or not the section remains appropriate. This seems excessive, and it is felt that 24hours should be a long enough period of time to source an assessment, even if the detainee needs some time to no longer be under the influence of substances.

### **Waiting times**

The HMIC and CQC report (2013) states that, on average, an individual spends 10.5hrs in custody before an assessment (typically between 3 and 20hrs), but waits as long as 45hrs have been recorded. Long waits are incurred because trained staff are necessary to complete an assessment. As most individuals are detained under Section 136 between 6pm and 9am when there is less provision for assessment, this can lead to long delays.

### **Police inexperience surrounding mental health**

Police staff do not necessarily have appropriate experience or training to enable them to support someone with a mental health issue who is in custody. Police officers are rarely experts in mental health, and as such, are not always equipped to be sensitive to both the needs of the individual displaying disordered behaviour, nor of the subtle differences that might highlight whether behaviour is symptomatic of mental health problems.

### **Unavailability of health based places of safety**

The MHA Code of Practice states that police cells should only be used as a place of safety in exceptional circumstances, with the health-based places of safety the preferred location for this detention. However, according to the HMIC and CQC report (2013) police custody is being used as a place of safety in up to 76% of cases in some areas. There are legitimate reasons given for the use of police cells, such as the individual due to be assessed is behaving in an aggressive manner, or is under the influence of alcohol, but often the reason given by the police is that insufficient staff or beds are available at the health based places of safety.

### **Impact of detention in police cells on mental health**

Police are aware of the negative impact of their presence on the mental health of those under Section 136. People who have been placed in police cells following detention under Section 136 state that they feel:

- Criminalised - they had sometimes been placed in handcuffs and transported by police car to the cells. This made them feel that they would be perceived as law breakers, rather than people who were unwell

- Depersonalised - after being treated as a law-breaker and their individual needs and feelings being ignored
- Misunderstood and mistreated - if they had experienced poor treatment from police staff, who have made them feel stigmatised
- More unwell - periods of time in the police cells can lead to further distress and additional symptoms of mental ill health

### Differences between local arrangements

The Mental Health Act Code of Practice acts as guidance, and provides limitation on the way that Section 136 is provided across the country, but it is the responsibility of local commissioners and providers to establish how S136 should be delivered in their area within that guidance. That includes the location of place of safety within that area.

In their examination of different boroughs' use of S136, HMIC and the CQC found, although there is often a local strategy (or multi-agency policy) in place to address issues surrounding Section 136, these strategies vary. Some are well established and work effectively, and some are struggling to get full control over this issue. With no blueprint for how this should be done or what it should look like, the focus varies between local areas, which can lead to additional individuals being detained in police custody.

Unfortunately, in some cases, people continue to be held in police custody after assessment because there is not a bed available for them at the hospital. This is misuse of police time and resources, and inappropriate for the individual.

### Local context

In Kirklees, around 140 people have been assessed under S136 over the last year, although there have been some discrepancies in the reporting of the number of people who have been detained under Section 136. Police reporting states that between February 2013 and January 2014, 187 people were detained under S136, with 106 of those detained in police custody (57%), and 81 held in the Section 136 suites (43%). However, figures reported by South West Yorkshire NHS Partnership Foundation Trust (SWYT) state that over the same time period, only 57 people were assessed under S136 in police custody (44%), and 72 people were assessed in a health-based facility (56%), which makes a total number of S136 detentions of 129. Differentiations have been attributed to a change in the arrest made by the desk sergeant, from a S136 to a different charge.

If 44% of people are being assessed in the police cells; this would suggest that this isn't being used purely in exceptional circumstances.

There is no S136 suite in Kirklees; instead SWYT provides suites in the neighbouring areas of Calderdale and Wakefield at existing in-patient mental health facilities, and makes arrangement that enable Kirklees residents to be able to access those suites. There are concerns that this isn't accessible enough for the police force or for those who complete the assessments, and that this might be partially responsible for longer waits for assessment. At the S136 suite in Calderdale, 95% of Calderdale residents who are detained in the Suite are seen within a 4hours window (which is the local target), for Kirklees residents seen at that site, 72% are seen within 4hours.

Kirklees Council do provide a 7 day per week, 24/7 Approved Mental Health Professional service. There is no statutory requirement for the Local Authority to do this, but this has always been deemed necessary since the implementation of the Mental Health Act 1983.

## Why have we focused on this issue?

At the Kirklees Health and Wellbeing Board Informal Meeting in November 2013, Police Chief Superintendent, Tim Kingsman, raised concerns regarding the use of Section 136 of the MHA in Kirklees. He stated that:

- Police custody is being used routinely as a place of safety by the police; their records show around 62% of people who are detained under Section 136 are being taken to a police cell.
- Although recommendations state that someone detained under Section 136 should not wait longer than 3hrs for an assessment, some people are being held for much longer, as in a recent case, where the detainee waited for nearly 46hours.
- From the police's perspective, the service provided by the Section 136 suites in Calderdale and Wakefield is under-resourced and inadequate to meet the demand.

Preliminary research undertaken by Healthwatch Kirklees identified that, on a national scale, people who have been detained under Section 136 in a police cell felt criminalised by the process, misunderstood and mistreated, and more unwell. As such, Healthwatch Kirklees committed to undertaking a piece of work to better understand the experience of Section 136 from the perspective of those who have been detained and their carers in Kirklees. These are the objectives of that work:

- To develop a greater understanding of the picture of detention and use of Section 136 of the Mental Health Act 1983 across Kirklees
- To develop recommendations for change to the current system for detaining people under Section 136 through involvement of service users
- To work towards ensuring that people who are removed under Section 136 are taken to a place of safety that is appropriate for their needs, with police custody being used only in exceptional circumstances

The work was discussed at the Healthwatch Kirklees Trustee Board in January 2014, at which the board agreed that it was important to look into this further.

## What did we do to investigate?

In order to fully understand the picture of the use of Section 136 of the MHA in Kirklees, we spoke to people using mental health services, carers and professionals who have involvement in that process:

- We attended 3 Dialogue Groups (as arranged by the Inclusion Team at SWYT), some for people using services, some for carers, to explain the remit of the piece of work and to ask for feedback about people's experiences

- We developed a survey that asked questions specifically about individual experiences of Section 136. This survey was added to our website, tweeted to the general public, and was distributed to the contact list held by the Dialogue Groups.
- We attended a specific carers group delivered by St Anne’s Community Services who expressed an interest in the work, to discuss the concerns that they raised surrounding Section 136
- We met with professionals who work for West Yorkshire Police, South West Yorkshire NHS Partnership Foundation Trust and Kirklees Council, including representatives who work within the Section 136 Suite in Calderdale, as Approved Mental Health Professionals (AMHPs), for the Emergency Duty Team (EDT) and from the Mental Health Liaison Team
- We reviewed national research looking in to the use of Section 136
- We contacted the Customer Service Team at SWYT to establish whether any formal complaints had been logged with their service

Overall, 33 people made contact with us in some way through these meetings and the survey. As the numbers of people who are detained under Section 136 of the MHA are not particularly high (around 130 per year in Kirklees) and less than a quarter go on to a further Section of the MHA (between 30 and 35 people) we feel that this sample of people is representative of those who have experience of this detention.

## What did we find?

### From the perspective of people using Mental Health Services and Carers

All the survey responses we received and the feedback given to us at groups were provided by people who have been placed under Section 136 or who care for someone who has been detained under Section 136. In each of these cases, the person detained has been critically mentally ill, and has gone on to another Section under the Mental Health Act 1983 (MHA) following a MHA assessment. We have not been able to obtain the opinions of other people who have been placed on Section 136 and have not been assessed as in need of further detention, as these people are not necessarily in contact with mental health services, so we haven’t been able to approach them directly.

This means that the issues listed below come from the experiences of people who have been managing their severe mental health problem, or that of the person they care for. These respondents talked to us about finding themselves or the person they care for in the cells, and having other contact with the police, when they felt they should have had more support with their mental health in the community.

Many of the people who responded felt like concerns around Section 136 had been a problem for a long time, and that what we were asking was not anything new to them; they felt like the situation never seemed to improve. These are their key concerns:

#### 1. Feeling like a criminal

Service users and carers reported that being detained under Section 136 had led to them or the person they care for to feel like a criminal. The arrest, the transportation of the individual in a police car, and the placement in a cell or the police presence at the Section 136 Suite have all contributed to the individual feeling that they have done something illegal, not that they are unwell. Time in the cells can be difficult to cope with, especially as the person cannot have a

carer there to support them through the assessment. Additionally, it adds to the feeling that the individual's mental health problem is something for which they should be punished.

Although carers acknowledge that involving the police may sometimes be necessary, especially if the person they care for is at risk, they ask is it always proportionate to have them involved? They felt that there should be other ways to get access to urgent mental health care, so that the person they care for doesn't feel criminalised.

*“When she is well she worries about being taken by the police, it felt as if she was being punished for being unwell.”*

*“He felt like he had committed a crime when, really, he wasn't well; he thought he was a criminal because he was taken in a police car for assessment.”*

Service users also talked about how the process had increased their fear of being admitted to hospital and of enforced treatment, stating that having their freedom removed was detrimental to their mental health.

## 2. Inconsistent use of Section 136

Detention by the police under Section 136 is different in every case, as it should be, as each individual with a mental health issue is different in their presentation. However, service users and carers perceive that the changeable way in which Section 136 is used is very detrimental. They report huge variety in the way that the police managed a Section 136, from some saying that the “police were great”, to others saying that the police made incorrect choices, such as choosing not to place an unwell person on a section, but taking them to the Section 136 suite anyway, where they were turned away.

*“The last time my son was taken to the 136 unit in Wakefield by the police he was turned away and sent to the A&E because he had not been put on a 136. In A&E he caused complete chaos with security on alert. After he was sectioned one of the doctors told me that this should never have happened. The police left us there unattended.”*

Many of the people asked had been through, or had supported someone they cared for through several MHA assessments under Section 136, and reported that their experience had been different on every occasion, with some managed very well, and others turning in to “disasters”.

Also, there is variety in the way that the police manage risk, with service users reporting both that the police left too quickly, and carers saying that the police were overly risk averse.

*“The police were far too heavy handed - 5 police with my son putting up no resistance”*

In the cases where the police do not stay with the person whilst they are being assessed, service users can feel misrepresented to Suite staff. One service user we spoke to explained that they wanted the police to stay with them whilst they were being interviewed at the Suite; the police can confirm what has occurred and whether or not they feel the person is a risk to themselves or their community. In this case, the service user was concerned about assumptions that might be made by ward staff, simply because of their history or the fact that the police brought them in.

Although carers were not always positive about the protocol that the police followed, there was certainly a consensus amongst them that dealing with the mentally ill isn't the police's job. They could understand why the police might struggle to manage this properly, and felt that Mental Health Services should be better developed so that people do not get in to a position where the police are called.

*“It is unacceptable for people to be taken to police cells, it is not the job of the police officers to deal with people who have mental health problems. In my experience the Huddersfield police have been very helpful but it is not their job and really they should not be having to do the job that other services are failing to do.”*

### **3. Negative attitudes**

Both service users and carers have experienced problems due to the negative attitudes of some police and some staff from Mental Health Services. More concerns were raised about the attitudes of health staff than the police; as carers said, they don't expect the police to be experts in mental health, but they do expect this of crisis services and Section 136 Suite staff.

Service users expressed the concern that the police are not fully aware of mental health issues, and that they don't always respond in the right way to people who are ill.

*“The Police had NO Awareness of my Mental Health”*

This difference in understanding could be one of the reasons why the use of Section 136 varies from officer to officer, and why risk management can seem disproportionate. A greater awareness of mental health by the police would be welcomed by carers and service users.

In our discussions, one service user expressed the view that “I do not feel that health professionals really had my welfare at heart. I had so many issues with them which didn't help my health”. Although we would like to hope that all decisions are made with the welfare of the individual in mind, it is concerning that the people using services don't feel that this is the case. Other service users explained that they thought staff at the Suites made assumptions about their mental health based upon the fact that the police brought them in and what they already knew historically, rather than considering all information presented, as they would do with a new person.

*“The staff assumed that I had been “acting out of control”, since the police had brought me in, and they immediately secured me.”*

Many carers suggested that disengagement with community mental health services often preceded a period of time when their relative or friend was in most need of support. They struggled to understand why, when someone's mental health is clearly deteriorating, there isn't a greater commitment from CPNs and other staff in the community to keep the person that they care for engaged. Carers understand that people with severe and enduring mental health issues are difficult to retain, but they feel that some allowance for this should be made in the way that you can get access to support. The drop off in community support often means that the person they care for ends up back under Section.

### **4. Ignoring the warning signs**

A key concern reported on several occasion by carers was that mental health service providers largely ignored their opinions. They felt that prior to their relative or friend's acute need of mental health services, they had been desperately trying to get crisis services involved, but that the person they cared for had still ended up in the custody of the police.

*“It's very frustrating when we can see that the person needs help, we ask for help but we are fobbed off. Only when it's too late and the person is at their worst, that's when they start taking notice. By then it's too late, it's so frustrating when they don't listen to you in the first place.”*

Carers cannot understand why, when they have regularly tried to seek support for the person they care for who is deteriorating, their warnings are ignored, until the person they care for reaches crisis.

*“Before he was sectioned, my family had struggled to get support for my brother, despite asking Mental Health services for support on many occasions. Why does he have to be so unwell to get the support needed?”*

Carers acknowledge the importance of Community Psychiatric Nurses (CPNs), but feel that they do not know the person they care for as well as family members and friends, who can spot tell-tale signs, yet it is CPNs who have all the authority to access additional support. Carers feel that their vital role is being ignored, especially as they are often the people left to deal with the aftermath of any significant difficulties.

Some carers reported that when the person they care for presents as aggressive, their CPNs will not visit them, even though this is often at a time when the patient is most in need. Carers feel that this is ignorant of the person’s needs, and the absence of support from a professional could lead their friend or relative to be more unwell.

*“Sometimes CPNs say that they are not willing to speak to the person if they are too aggressive. But some CPNs who are good at their job they manage to speak to the person and calm them down. Sometimes all that is needed is a conversation, but some CPNs can be awkward and that makes the situation worse.”*

## **5. Inaccessible crisis services**

Carers expressed particular concerns about the disparity between access to physical and mental health treatment in a crisis. They felt that if you have an imminent presentation of physical health needs, you are offered open access to medical treatment through Accident & Emergency (A&E). If you seek help at A&E at the point of crisis for your mental health, you will be actively encouraged away from A&E to other lines of support. Carers question why people with acute mental health issues can’t get access to the help they need in crisis.

*“A person who breaks their leg or has an injury can go to the hospital and be seen to. But someone asking for help for their mental health is told to go elsewhere.”*

For carers, the crisis team seems wholly inaccessible. Several carers report that the crisis team did not offer any help when the person they care for was in crisis, even when they had been signposted to the team by staff at A&E.

*“I have had hospitals telling me to contact the crisis team, but talking to crisis team is like talking to a brick wall.”*

*“It is futile ringing the crisis team, we need someone who will actually listen to our views as we are caring for the person on a daily basis and know all the signs of someone heading for a crisis.”*

In one particular case, a carer reported that the person they cared for had been unable to get access to mental health crisis services because he was under the influence of alcohol:

*“My son asked for help from the crisis team, but because he had been drinking when he called, they said they couldn’t help him until he was sober. When he called when he was sober, they still wouldn’t offer him any help. They told him they hadn’t received his GP referral, and that something would be in place in a fortnight. He needed their help now, not in 2 weeks.”*

This carer was concerned that her son would never be able to get the help he needed whilst he was in crisis as he was an alcoholic.

## **From the perspective of professionals**

All feedback from professionals was received during a series of meetings with staff from West Yorkshire Police, South West Yorkshire NHS Foundation Partnership Trust and Kirklees Council. Professionals involved in this discussion were those who have responsibility for overseeing delivery of Section 136 and those on the frontline working with mentally ill patients held under Section 136.

As such, the key themes listed below come from the experiences of professionals who have regular involvement with the processes and procedures surrounding Section 136.

Many of the concerns raised refer more broadly to the delivery of mental health services, particularly around limited resources and constraints on services. Many staff spoke positively about what was available and working in partnership with other organisations, as well as outlining the issues raised below:

### **1. Keeping records**

As outlined in the Local Context section of this report, the number of people who have been recorded as detained under Section 136 varies greatly between the police and SWYT with almost a third more individuals recorded as having been detained under S136 in the police records. This creates an unclear picture of S136 detention in Kirklees, which means it is difficult to properly understand the scale of any problems.

Additionally, if the individual is not placed under a subsequent Section of the MHA, or admitted to the ward informally, there is no accessible record of the outcome for that patient. Although all Mental Health Act Assessment reports are uploaded to the RiO recording system, it isn't always clear whether referrals were made to other agencies, whether the assessed individual took those up, or what impact the assessment might have had. Difference in the amount of details recorded depend upon the Approved Mental Health Professional (AMHP) who assessed, and whether or not the assessment was completed in police custody or at the S136 suites. It is difficult to access the information to form a picture of the outcomes of Section 136 detentions as a whole.

### **2. Inappropriately accessing services**

Concerns were raised by different professionals about the way in which the police choose where to take someone who is mentally ill if they come in to contact with them. For those mentally ill people that have been placed under S136 by the police, they may well be taken to the S136 suite, but in some cases the police have not called ahead to check the status of the suite so do not know whether it is occupied or unavailable. They may also take people to the Suite who are under the influence of alcohol, when they cannot be placed there until they are sober. This causes delays and distress for the individual.

Professionals also reported concerns about police taking individuals in to Accident and Emergency Departments (A&E), either whilst they were being held under S136, or simply displaying symptoms of mental distress. Although this is the right place to take someone with a physical injury who is mentally unwell, it is the wrong place for someone to wait who is experiencing solely symptoms of mental ill health.

In some cases, the police do not place someone on a S136, but still take them to the S136 suite or in to A&E. When asked about this, police explained that they are simply trying to find the most appropriate location for the unwell person. They acknowledge that police custody is less than ideal for the individual, and feel like a health setting as a more appropriate location. This shows that there is a misunderstanding between health professionals and the police regarding the available options.

The other key issue regarding accessing services links to the perceptions of people who are using services and carers, that mental health services are not easy to access, especially at the point of crisis. This issue was highlighted from the perspective of carers and service users in the section above, but was also raised by professionals, who expressed concerns that there is a substantial difference between the way that service users, carers and professionals perceive the need for crisis care, with professionals finding some changes in presentation less concerning than a carer or service user might expect them to.

### **3. Time and resource constraints**

Professionals have an understanding of the time and resource constraints faced by their colleagues. For many, dealing with a patient under Section 136 is only part of their role and they may lack the resources to give this their highest priority.

Each different team expressed frustration at the way S136 is delivered because of the impact it has on their resources.

- The police are often asked to remain with the patient awaiting assessment at the S136 Suite to assist in managing risk, however this monopolises the time of those officers, much as transporting someone out of area to a Suite can. As such, this is always taken in to consideration when making the decision as to where to place someone held under S136, both for the officers and the desk sergeant
- At the S136 Suite in Calderdale, there is capacity for one individual, so on days when additional assessments need to be completed, there is no space available in the hospital setting
- For Approved Mental Health Professionals (AMHPs), MHA assessments are just part of their role as a social worker, occupational therapist, etc... They are only engaged with the patient during the assessment, which they arrange, and as such are providing an emergency service. AMHPs have to be involved with the process, and feel that the workload is increasing without a mirrored increase in resource.
- The Emergency Duty Team (EDT) are responsible for any out of hours urgent social care need or assessment. As such, although they are able to do MHA assessments, sometimes other urgent cases take precedence over these, and patients are left waiting. Additionally, the EDT is much smaller than the day team, despite more detentions taking place in an evening and overnight, which can lead to further delays in assessment.
- Several professionals involved with the assessments explained that although they acknowledge the importance of taking people to a health-based place of safety for assessment for that individual's health, if there are multiple assessments to be carried out, they can often be completed more quickly if the patients are located together, which can only take place at the police cells

Whilst raising their own individual issues, all professionals expressed a concern that this could impact the care that patients receive under S136. With many different agencies involved in S136 and no-one with overall responsibility, it's easy to understand why staff may not be available in

a timely way, and effective use of resource takes priority. This means that those individuals awaiting assessment are not being kept at the centre of service provision.

Achieving person centred care for an individual held under S136 is a difficult task, as the options you are able to present to the individual, and the understanding you can have of their care needs will always be limited, but with constrictions on time and resource this becomes even more challenging. Professionals feel that this is only likely to become more challenging, as they perceive that there will be an increase in demand for S136 if fewer people are able to access inpatient care.

#### **4. Waiting times for detainees**

Several professionals raised concerns about people waiting too long for an assessment of their condition, with some identifying timing issues as the biggest problem within S136 in Kirklees. The S136 Suite in Calderdale reports that 72% of people from Kirklees assessed at that facility between February 2013 and January 2014 have their assessment completed within 4hrs. Based on last year's figures, this means that 21 people were waiting for longer than that period of time. In the police cells, the average length of time spent in custody under S136 is just over 13hrs. Although some of this time may be attributed to allowing people time to become sober, it is still excessive when targets are 4hrs. It is unnecessary for someone who is unwell to spend so long in custody.

Professionals reported delays at several stages in the assessment process, not just waits for an assessment, but waits whilst a bed is located and for transport to come to collect the person; waiting after the assessment was an issue raised by carers too. This uses valuable resource at the Suites, as people have to stay there until a bed is found. Arrangements often take longer overnight, because some teams and services are unavailable or reduced, all leading to delays in getting the patient the support they need.

It can take people involved in the assessment a reasonable length of time to get to the location where the assessment will take place as they have to travel across and outside of the boundaries of Kirklees. For some professionals, they feel that a S136 suite in Kirklees would help to resolve this issue as it would reduce travel times, and possibly delays.

Professionals also suggested that the arrangement of assessments involved too many people, which could considerably slow down the process, causing delays.

#### **5. Lack of awareness of protocol**

Although there is a Section 136 multi-agency protocol document in place, staff on the working directly with patients, particularly AMHPs, are not being made fully aware of it. When asked to provide it, only 1 professional that consulted as part of this research was able to produce any version of the document. This means that some professionals are unaware of specific guidance and protocol, which is especially significant for more complex situations, such as how to deal with people aged under 18 who are under Section 136. Without awareness of the way each agency is supposed to work with regard to S136, working remits become blurred and the way the section is administered begins to vary.

There is a Section 136 working group who come together to discuss issues surrounding the way that processes work, but professionals reported that it is unclear how effective this has been recently, citing the absence of Yorkshire Ambulance Service as the reason for their concerns.

A particular concern raised was that it was unclear what the procedure is for deciding whether or not police presence is necessary at the S136 during an assessment. Without all parties being aware of how this should work, it's unclear if risk is being properly managed.

## 6. Transport

Issues surrounding the transportation of patients under Section 136 have been a key area of concern for most professionals. As stated above, many were frustrated that Yorkshire Ambulance Service (YAS) were not in attendance at the multi-agency S136 meetings; their involvement in the transportation of patients is crucial, as it improves the experience of the patient. Recommendations linked with the Crisis Care Concordat (2014) now state that YAS must chair this meeting, which ensures their attendance alleviating some tension.

A further issue is that there have been difficulties engaging the ambulance service in transporting people both under S136 for assessment and those who need to travel to an inpatient facility after assessment, particularly if the beds are out of area. It was felt that despite having an agreement in place that states that an ambulance will transport someone under Section 136 to a place of safety, this rarely happens in practice. Historically the arrangements for transporting people under S136 have been between the police and YAS, which means that AMHP and the S136 Suites have felt powerless to influence how the transportation happens. New protocols and procedures have recently been put in to place to address these issues, and the professionals who were aware are very welcoming of this, but some people that I spoke to hadn't been made aware.

## 7. Unable to access help

Staff are fearful that tightening budgets tend to accompany stricter criteria for accessing services, and whilst S136 is mandatory so people will continue to be assessed through this means, other services might be reduced. There is a concern that reduction in community and informal inpatient services could mean that the MHA is needed more, and there will be an increase in the number and frequency of assessments.

Staff expressed further concern for people who have disengaged, or struggle to get engaged with services, being even less able to get the support that they need. They feel that historically people with dual diagnosis have struggled to get crisis support, and that this could become more difficult, as it could for people who have chosen to disengage in the past.

## Conclusion

It is clear that there are concerns about Section 136 on both a national and a local scale. In many ways, the problems experienced in Kirklees mirror those that have been discussed nationally, such as delays in assessment, a lack of understanding of mental health from police officers, and unavailability of health-based places of safety. However the significance of the issue is greater in Kirklees as individuals held under Section 136 are being taken in to police custody more frequently than they should be. Many staff are unsure of local protocol and therefore patients and their carers are being left to feel criminalised and ignored.

The plight of people with mental health issues has never been more present in the public's eye, and as such there has never been a bigger gap between what mental health services can deliver and the expectation of what should be available. The problems surrounding the administration

of Section 136 are good examples of the frustrations people feel regarding access to urgent mental health care. The perception is that urgent physical health issues are addressed imminently and treatment is not limited; many people reported that they didn't feel they could access services when their mental health needs were urgent. Although some of the concerns are historic, and some changes have been brought in to place to address these issues, continued work is needed to bring about parity of esteem for physical and mental health.

Parity between urgent mental and physical health care should mean that patients have a number of ways to access that care, relevant to the severity of need. For physical health, we have A&E, Minor Injuries Units and NHS 111. For mental health it needs to be clear that there is a selection of access options available. With multiple crisis services available in the local area, with 24/7 access, this should enable other options besides Section 136, with specialist mental health service intervention often being a much preferred alternative to police involvement. At Calderdale Royal Hospital and Huddersfield Royal Infirmary, a Mental Health Liaison Service has just been put in to place to improve access to mental health services for those who have a physical injury attending A&E. This is an excellent example of improving access for patients.

For someone detained under Section 136, it is important that there is a selection of options available to address their needs at that time. Although there is not a great deal of flexibility in the guidance for how the Section should be used, there can be a number of different appropriate places of safety. Apakama (2012) reiterated in her research that there is no "ideal" place of safety; that every situation is slightly different and that police custody and S136 suites should not be considered as the only options for "place of safety".

Currently, it would seem that consideration of time and resource is playing a substantial role in when deciding where to take someone placed under Section 136 in Kirklees. This is somewhat alarming as the primary concern in every case should be the individual, their needs, and ensuring that the principle of least restriction is adhered to. Staff have a responsibility to promote dignity and autonomy of the individuals throughout their assessment, and any subsequent treatment, and this needs to be reiterated through the way that Section 136 is delivered in Kirklees.

Over the last year, the spotlight has been on Section 136, both from regulatory bodies and government, and the media. There is a great deal of up to date national guidance available to govern the commissioning and delivery of Section 136, from the Royal College of Psychiatry's *Guidance for Commissioners* (April 2013), the Care Quality Commission's *Monitoring the Mental Health Act* (2013), the Government's *Mental Health Crisis Care Concordat* (2014) and Her Majesty Inspectorate of Constabulary and the CQC's *A criminal use of police cells* (2013). We would ask that all recommendations made in our work are considered in conjunction with guidance provided by these reports, which we hope should go some way to improving the delivery of Section 136 in Kirklees.

## Recommendations

The discussion of all the issues presented in this report, has identified several key areas where improvements could be made. Here we outline these areas and offer measured suggestions that we would endorse that would lead to improvement in the way people experience urgent mental health care, particularly Section 136:

## 1. Working together

It's important to look at working more effectively together, both between and within organisations. Staff members from different organisations may have some awareness of each other's roles and concerns, but aren't fully aware, and many do not have access to the procedural documents that should be available within their organisations. Key actions are:

- Effective use of the Section 136 Working Group to address strategic issues in the provision of Section 136 between organisations, with assurance that relevant information would be disseminated to staff working directly with individuals detained under Section 136
- Increasing awareness of the single multi-agency policy document in place surrounding Section 136 both across and within all agencies, and a commitment from all staff to adhere to this guidance whilst responsively addressing the needs of the individual
- Increased awareness of the procedure now in place surrounding transportation of individuals awaiting MHA assessment and who need transportation to other facilities post-assessment
- Developing a network through which frontline staff can communicate, share learning, and develop ways in which they can work together
- Development of the link between the Section 136 Suite and the police, enabling police to check the availability of the suite and whether the suite is the most appropriate place of safety
- Ensuring all police appropriately use the SPA to obtain advice around appropriate course of action for the individual

## 2. Awareness raising

It's necessary to increase the awareness of mental health issues and awareness of the care options available for individuals in crisis. For the police, Section 136 is just a small part of the work that they do, but they regularly contact people who are experiencing mental health issues. Their understanding of mental health, and of the options available to people who are critically mentally unwell can help them to decide the most appropriate avenue for care for that person. Evidence of the effectiveness of networking and training can be seen in the case of the Mental Health Liaison Team. Members of that team have shadowed the police, and vice versa, which has enhanced each other's understanding of what is available, what the priorities are and mental health overall. Understanding the options is also very important for other staff. Key actions are:

- Increasing provision of training around mental health for police to enable them to respond appropriately and in a measured way to people displaying symptoms of mental ill health
- Distributing details of the different crisis options available to police, staff and service users and carers to enhance the understanding of what is available, including different place of safety available under Section 136

## 3. Making changes to the culture

Keeping patients at the centre of all services should be the priority for all providers of mental health services. Additionally those services have a responsibility to ensure that those hardest to reach are not marginalised. The experience of service users and carers suggests that people feel services are not always provided with them in mind, assumptions are made based on their history, and that their concerns are not taken seriously. Although many professionals showed enthusiasm for engaging patients and offering person centred support, they too were frustrated by limitations, and felt that this could hinder the provision of services and access for those most in need. Key actions are:

- Reiterating to staff the importance of ensuring that the patient and their current presentation are what is under assessment, and that historic information, whilst relevant, does not determine their approach or the action taken
- Mental Health Service Providers working with service users and carers to aid their understanding of what services are available and at what point crisis services become available to them, and assist them in making better choices surrounding self-care
- Enhancing staff commitment to re-engaging with people who are disengaged or struggle to engage at all with services, especially those in crisis with substance misuse issues

#### 4. Record keeping

Without clear records, it is difficult to understand the true picture of the way that Section 136 is used. Inaccurate records that differ between organisations and the consistency of record keeping need to be addressed. It is important that that recorded information adds value, and that the way it is recorded is accessible to those who need it. Key actions are:

- Ensuring consistency in record keeping between West Yorkshire Police, SWYT and AMHPs, with a joint commitment to enhancing the detail of records kept, including information about the outcome of a Mental Health Act Assessment and any subsequent support offered

#### 5. Quality assurance

More needs to be put in place to assess the quality of the service people receive under Section 136. Key actions are:

- Increasing the priority of Section 136 and establishing appropriate targets that are regularly reviewed surrounding waiting times
- Doing more to understand the patient's experience of being held under Section 136 (e.g. where they would have preferred to be assessed, how they felt) to better understand the impact of the detention and how it could be made more comfortable

#### 6. Development

It is important that there are changes and developments made to the way in which Section 136 and crisis mental health care is delivered to meet the needs of patients and carers. Below, there is a list of key areas where development is needed with potential options for change. Healthwatch Kirklees do not expect that all these options will be completed, but does expect that something will be done to improve each key area:

- Increasing the capacity of existing Section 136 Suites - possible suggestions for how the capacity could be increased
  - Additional ward staff available to be released to support at the Section 136 Suite, enabling police to be relieved, and patients to receive additional support from qualified professionals
  - Development of a holding bed for pre and post assessment at the Suite, where people could be placed either who do not pose any great risk but may be under the influence of substances, or who had been assessed as in need of inpatient care, but a bed was not immediately available
- Improving the police's approach to mental health
  - Consistent approach from police officers and desk sergeants to addressing people with mental health problems under arrest in line with the Section 136 protocol document,

and a full awareness of the available options for someone experiencing a mental health crisis

- Commitment to only using police cells as a place in which to detain individuals in exceptional circumstances, to keeping restraints to an absolute minimum, to transporting people in an ambulance unless absolutely necessary for them to be in a police car
- Altering the AMHP service
  - Reviewing and streamlining the process for arranging a Mental Health Act assessment, to make arranging assessments easier and enable AMHPs to do some follow-up work
  - Ensuring that a consistent AMHP service is available 24hrs per day, with assessments taking place in the most efficient and timely way for the patient
- Offering additional crisis support
  - Informing service users and carers about the crisis support available in the community, and challenging historic perceptions of services through explaining how the provision of crisis support has changed
  - Promotion of SPA as a source of information for patients and carers in crisis
  - Increasing access to crisis support for people with substance misuse issues

## 7. Continued commitment to reviewing the need for a Section 136 Suite and in-patient beds in Kirklees

There has to be regular review of the delivery of all different services within the health care system, and Healthwatch Kirklees would welcome further review of the provision of these services from North Kirklees and Greater Huddersfield Clinical Commissioning Groups, as well as SWYT and West Yorkshire Police. Key actions are:

- Committing to further investigate the need for a Section 136 Suite in Kirklees
- Ensuring that regular reviews of the need for in-patient provision in Kirklees are undertaken

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