Tees, Esk and Wear Valleys
NHS Foundation Trust

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Section 136 – removal of mentally disordered persons without warrant

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Contents

1 Introduction

The Code of Practice, Mental Health Act 1983 (2015) requires that there is a jointly agreed local policy in place governing all aspects of the use of Sections 135 and 136 of the Mental Health Act 1983 (MHA) and sets out a number of factors on which good practice depends. The Government's Mental Health Crisis Care Concordat sets a national context around responses to mental health crises and mirrors this requirement at local level.

This local inter-agency policy for the implementation of Sections 136 across the Tees, Esk and Wear Valleys NHS Foundation Trust (TEWV) area aims to ensure that best practice in line with the principles and requirements of the MHA 1983 Code of Practice (CoP), other than those requiring amendment in light of the Policing and Crime Act 2017 (PaCA), are followed at all times and that the principles within the Mental Health Crisis Care Concordat are reflected at a local level.

This operational policy has been re-drafted in order to ensure that the changes made to the MHA by the PaCA are fully implemented from December 2018 and it has been developed collaboratively between the following agencies that are committed to ensuring its effective implementation:

- Tees, Esk and Wear Valleys NHS Foundation Trust (TEWV)
- Borough and County Councils of City of York , Darlington, Durham, Hartlepool, Middlesbrough, North Yorkshire, Redcar & Cleveland, Stockton
- Cleveland Police. Durham Constabulary. North Yorkshire Police. British Transport Police
- County Durham and Darlington NHS Foundation Trust (CDDFT)
- Harrogate and District NHS Foundation Trust (HDFT)
- North Tees and Hartlepool NHS Foundation Trust (NTHFT)
- South Tees Hospitals NHS Foundation Trust (STHFT)
- York Teaching Hospitals NHS Foundation Trust (YTH)
- North East Ambulance Service (NEAS)
- Yorkshire Ambulance Service (YAS)
- CCG Commissioners of MH services of County Durham CCG, North Yorkshire CCG, Tees Valley CCG, Vale of York CCG

2 Why we need this policy

- **It is a requirement of the Code of Practice MHA 1983 (2015)**
- **To ensure effective collaborative working arrangements between partner agencies**
- **The Policing and Crime Act 2017 made significant changes to Sections 135-138 of the MHA 1983.**

In summary, the key changes to the MHA in terms of sections 135 and 136 are:

- The definition of a Place of Safety (PoS) has been amended
- A police station is not a PoS for anyone under the age of 18 years
- The maximum period of detention under s136 is reduced from up to 72 to up to 24 hours. This may be extended by a maximum of up to 12 hours, but only in specified circumstances
- There is no longer a requirement for the person to be removed from a 'public place'. Removal can be from any place other than a house, flat or room where the person or another lives; or yard, garden or garage associated with that house, flat or room. The police officer may enter the place by force if need be
- Where practicable, a police officer must consult with a registered medical practitioner, a registered nurse, an Approved Mental Health Professional (AMHP), an occupational therapist or a paramedic before removing a person to, or keeping at, a PoS
- Regulations specify the circumstances in which an adult can be taken to a police station as a PoS and the monitoring that must occur whilst at the police station
- The introduction of a power to carry out 'protective searches' under section 136(C) of the MHA

2.1 Purpose

This operational policy is based on the 5 overarching principles of the CoP which should always be considered when making decisions in relation to care, support or treatment provided under the MHA.

- **Least restrictive option and maximizing independence** - where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery where possible.
- **Empowerment and involvement** - Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.
- **Respect and dignity** - Patients, their families and carers should be treated with respect and dignity and listened to by professionals.
- **Purpose and effectiveness** - Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.
- **Efficiency and equity** - Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

2.2 Objectives

With these principles forming the foundation of the policy, the policy reflects the following objectives:

- To complete the assessment as quickly as possible, taking into account the views of family or carers, where practicable and appropriate
- To ensure that the person being assessed remains in a safe environment and free from harm until the assessment is completed
- To ensure that during the assessment period any potential risks to the general public and those involved in the assessment, care and detention process are kept to a minimum and appropriately managed
- To ensure that appropriate arrangements are made for any care and treatment post assessment, whatever those arrangements may be

The purpose of Section 136 is to secure an examination by a Registered Medical Practitioner (RMP) and an interview by an Approved Mental Health Professional (AMHP) of a person detained under its powers and to make any necessary arrangements for their care and/or treatment.

This policy aims to ensure that within the Tees, Esk and Wear Valleys NHS Foundation Trust area this is carried out as efficiently and effectively as possible, in line with the MHA and the requirements and principles of the CoP, and provides the best possible experience and outcome for the person concerned.

The MHA 1983 Code of Practice 2015 (CoP) predates the Policing and Crime Act 2017.

Chapter 16 of the CoP provides statutory guidance on the use of Sections 135 and 136 of the MHA 1983 and should be read in conjunction with this document.

Definitions and timescales used in this document supersede those used in the CoP.

3 Scope

This policy covers Section 136 MHA – removal of mentally disordered persons without a warrant. It includes the definitions of a Place of Safety within Section 135. Any references to specific Sections of the MHA are references to the MHA as amended by the PaCA 2017.

3.1 Who this policy applies to

This policy applies to all Trust staff.

3.2 Roles and responsibilities

Role	Responsibility
All Trust staff	To follow the requirements and guidance included in this policy. To report the use of s136
Line managers	To ensure staff within their team are adhering to this policy
MHL Department	To compile data on the use of s136 and report on its use to the Mental Health Legislation Committee

4 Policy

4.1 Place of safety

The Policing and Crime Act 2017 has changed the definition of a place of safety.

The definition and guidance as to which PoS should be used in chapter 16 of the Code of Practice are superseded by the definition and guidance below.

A place of safety is defined by s135(6) MHA 1983 as:

1. Residential accommodation provided by a local social services authority under Part 1 of the Care Act 2014 or Part 4 of the Social Services and Well-being (Wales) Act 2014
2. A hospital, as defined by s145 MHA 1983
3. A police station, for those aged 18 years and over only
4. An independent hospital or care home for mentally disordered persons
5. Any other suitable place (please see definitions below)

Under s135(7) a house, flat or room where a person is living **may not** be regarded as a suitable place unless the officer believes that the environment and presentation of the person is such that it is suitable, *and* appropriate agreement is given as below:

- If the person believed to be suffering from a mental disorder is the sole occupier of the place, that person agrees to the use of the place as a place of safety; or
- If the person believed to be suffering from a mental disorder is an occupier of the place but not the sole occupier, both that person and one of the other occupiers agree to the use of the place as a place of safety; or
- If the person believed to be suffering from a mental disorder is not an occupier of the place, both that person and the occupier (or, if more than one, one of the occupiers) agree to the use of the place as a place of safety

Any place, other than 1- 4 above, or a house, flat or room where the person is living (as set out above), may not be regarded as a suitable place unless a person who appears to the constable exercising powers under this section to be responsible for the management of the place agrees to its use as a place of safety. An example of this may be a person who is made subject to s136 in a cinema and taken to the manager's office. The constable may, with the agreement of the manager, use the manager's office as a place of safety.

Section 136A limits the use of police stations as a place of safety.

A child or young person (under 18 years of age) **may NOT** be taken to a place of safety which is a police station.

Regulations specify the circumstances in which an adult may be taken to a place of safety which is a police station and the monitoring thereafter as set out in sections 5.2 and 5.5 below.

4.2 Section 136

Section 136 no longer refers to mentally disordered persons found in public places.

It refers to the removal of mentally disordered persons from any place without a warrant **other than** removal from;

- Any house flat or room where that person, or any other person is living, and
- Any yard, garden, garage or outhouse used in connection with the house, flat or room, other than one that is also used in connection one or more other houses, flats or rooms.

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, remove that person to a place of safety.

If the person is already at a place of safety the constable may keep them at that place of safety or remove them to another one.

The constable may enter any place, using force if necessary, other than a place where the power **cannot** be exercised as set out below:

- Any house, flat or room where that person, or any other person is living
- Any yard, garden, garage or outhouse used in connection with the house, flat or room, other than one that is also used in connection with one or more other houses, flats or rooms.

Before deciding to remove a person to, or to keep a person at, a place of safety the constable **must, unless it is impracticable to do so**, consult:

- A registered medical practitioner, or
- A registered nurse, or
- An Approved Mental Health Professional (AMHP), or
- An occupational therapist, or
- A paramedic

4.3 Maximum period of detention and extension

The Policing and Crime Act 2017 reduced the maximum period of detention under s136 from up to 72 hours to up to 24 hours

Section 136(2) sets out the time limits for detention. The person may be detained at the place of safety for no more than **24 hours** beginning with:

- If the person is taken to a place of safety, the time when the person physically enters that place of safety

- If the person is kept at a place of safety, the time when the officer takes the decision to keep them at that place
- A person may be moved from one PoS to another, as set out at section 4.7 below, and the clock continues to run

The registered medical practitioner (RMP) who is responsible for examining the patient detained under section 136 may, at any time *before* the 24 hour period expires, extend the period of detention by a further period of up to 12 hours commencing immediately from the end of the initial 24 hours, Section 136(B).

This extension can only be given if it is necessary because the condition of the person detained is such that it would not be practicable for the assessment to be carried out before the end of the 24 hours, or, if the assessment began, for it to be completed. An extension cannot be given to allow for delays in the attendance of assessors, or delays in identifying a suitable available bed if admission is required.

If the person is detained at a police station, and the assessment would be carried out or completed at the station, the extension can only be given if the RMP extends it and an officer of the rank of Superintendent, or above, approves it.

4.4 Policy process

4.5 Police officers initial actions

If a police officer comes into contact with a person who appears to be mentally disordered and requiring immediate care or control they will follow the guidance produced by their own force in terms of:

- The circumstances where entry using force is appropriate
- The circumstances where it is not practicable to consult prior to removal to a PoS
- The authority to 'hold' the person prior to using s136 power whilst they do consult

4.5.1 Consultation

Where it is not impracticable to consult, the police officer will contact the relevant agreed single point of contact for their force area. This could be different in different force areas and examples may include the Street Triage Team, MH professional in Force Command, staff at the MH PoS, Crisis Team or other. Local processes will set out the point of contact.

The consultation will include ascertaining whether the person is a detained patient who is absent without leave (AWOL), and, if so, the officer will be informed if a power other than s136 exists to return the patient under MHA 1983.

The purpose of the consultation is for the officer considering use of their powers under s136 to obtain timely and relevant mental health information and advice that will support them to decide a course of action. The nature of the consultation may vary across areas and in terms of individual circumstances. The police officer retains ultimate responsibility for the decision to use, or not, their powers under s136.

4.6 Determining the most appropriate place of safety

The officer will ideally make their determination based on the outcome of the consultation outlined above. If it has not been practicable to consult, the officer should make their decision taking into account the factors below.

If the person is under the age of 18 years, the place of safety CANNOT be a police station

There are no upper or lower age limits for any of the TEWV mental health based places of safety.

- A mental health based place of safety in the form of a dedicated s136 and/or crisis assessment facility will usually be the preferred option. See appendix 3

- The person appears to be intoxicated or under the influence of a substance (such as alcohol or illicit substances):
    - If the degree of intoxication is such that their immediate physical health is at risk they should be taken to the Emergency Department
    - A person who is intoxicated or under the influence of a substance but not at risk as above should be taken to a mental health based place of safety

- When considering whether a non-intoxicated person should attend the Emergency Department (ED), officers should take into account the potential for the person's behaviour being the result of, or the presence of, "Red Flag" criteria:
    - Dangerous mechanisms: eg blows, falls from more than 4 feet, RTC, evidence of drug ingestion or overdose, injury from edged weapon/projectile, throttling/strangulation
    - Serious physical injuries: eg head injury, unrousable to verbal commands, loss of consciousness at any point (even if conscious now), facial swelling, bleeding from nose/ears, deep cuts, suspected broken bones
    - Attempting/actual self-harm: eg actively head-banging, use of edged weapon/ligatures to self-harm, self-reported overdose/poisoning
    - Possible excited delirium: ie two or more of the following:
        - Serious physical resistance/abnormal strength
        - High body temperature
        - Removal of clothing
        - Profuse sweating or hot skin
        - Behavioural confusion/incoherence
        - Bizarre behaviour
- Other medical issues: e.g. low or high blood sugar levels, seizures.

- A police station can ONLY be used as a PoS if the person is aged 18 years or over and then in the following circumstances:
    1. The behaviour of the person poses an imminent risk of serious injury or death to that person or others (regulation 2(1)(a)(i))

2. Because of the risk posed, no place of safety other than a police station in the relevant police area can reasonably be expected to detain the person (regulation 2(1)(a)(ii))
3. So far as is reasonably practicable, a healthcare professional is present and available to the detainee throughout the period in which he or she is detained at the police station (regulation 2(1)(a)(iii)).

- The decision to use a police station as a place of safety requires authorisation of a police officer of the rank of at least inspector. If the decision-maker is themselves a police officer of the rank of inspector or higher, no authorisation is required.
- The authorisation of a senior officer must be given *before* the detained person arrives at the police station (or if the person is already at a police station, *before* a decision to keep him/her there is implemented).

- Other suitable places
    - The police officer must decide firstly whether the place is suitable in terms of:
        - physical environment
        - able to meet the needs of the person in terms of behaviour, security, safety
    - Secondly, that appropriate agreement is given
        - Either by the person who is the responsible manager, if not a private dwelling, or
        - If it is a private dwelling, by the person if they are sole occupier, by the person and one other if they are not the sole occupier, or by the person and the occupier if the person does not occupy that place

Prior to transport to a place of safety:

The police officer should ALWAYS request ambulance attendance to both advise regarding the ED as the preferred PoS and also to transport the person to the identified PoS, with police accompanying. Anybody with red flag criteria as set out above SHOULD NOT be transported in a police vehicle

If ambulance are unable/do not attend and there are no obvious red flag criteria, the person SHOULD NOT be turned away from the MH PoS. If the person becomes unwell at the MH PoS then they can be transferred under s136 to ED as PoS by ambulance

4.7 If the mental health unit is the place of safety

4.7.1 Contacting the place of safety

If the mental health unit is to be used as the place of safety, and contact has not already been made via consultation, the detaining officer will request the Communication Centre/Force Control Room (CC/FCR) to contact the Hospital to determine availability of the assessment facility for use, informing the CC/FCR fully of the circumstances and giving any details of the detainee that have been obtained.

CC/FCR staff will contact the Mental Health Unit, informing them of the detention of a person under s136, providing personal details of the person obtained by the officer and requesting that the assessment facility be made available.

In some cases the police officer may liaise directly with the Mental Health Unit rather than going through CC or FCR, particularly where their arrival at the Mental Health Unit is imminent, or they have consulted with them.

On being informed of an arrival under Section 136 Mental Health Act 1983 by the police, the Senior Nurse on Duty/Crisis Team staff member or other appropriate member of staff as agreed locally (referred to as S136 Coordinator from this point on) will ascertain and **record on Part A of the Section 136 Record Document** the following information if known at that point:

- Name, address, date of birth, GP practice
- Name and number of detaining police officer
- Location found and estimated time of arrival
- Brief details of the circumstances of the s136 use
- Whether a paramedic health check has been completed
- Any indication of alcohol or illicit substance use
- Whether the person has been searched
- Whether the person has been restrained and by what means
- Mode of transport to place of safety

The s136 Coordinator will then inform the police of the assessment facilities availability.

If the assessment facility is not available, another MH PoS, or other options for use as another suitable place of safety, should be considered

The police must be notified as soon as the mental health facility becomes available if alternatives are not available

4.7.2 Contacting the assessors

The s136 Coordinator will contact the relevant AMHP and relevant Registered Medical Practitioner, (RMP: eg Duty Consultant/Section 12 Approved Doctor) informing them of the s136, providing any details that they may have at that point, and notifying them of the estimated time of arrival and ensure that this contact is **recorded on Part C of the Section 136 Record Document.**

4.7.3 Arrival at the place of safety

On arrival at the assessment facility, the detaining Police Officer should inform staff if, and to what extent the person has been searched. The s136 Coordinator will confirm with the police that this is a s136 and not a ‘voluntary attender’.

If the person has not already been searched, Section 136C MHA 1983 authorises a police officer to search the person at any time while they are detained, including removal of outer coat, jacket and gloves and a mouth search if the constable has reasonable grounds to believe that the person:

- Is a danger to himself, herself or others, and

- Is concealing on his or her person an item that could be used to cause physical injury to himself, herself or others

The police officer may seize and retain anything found if there are reasonable grounds for believing that the person searched may use the article to cause physical injury to him/herself or other.

All other personal property should be secured until the assessment is completed.

The detaining Police Officer will complete Part B of the Section 136 Record Document.

The detaining Police Officer will inform the s136 Coordinator if the police wish to consider any other action, outside the remit of the mental health legislation. If so, the s136 Coordinator will ensure that the police are informed of the outcome of the assessment in order that they may respond accordingly.

Any information missing from Part A of the Section 136 Record Document will be added by the s136 Coordinator if ascertained after arrival.

4.7.4 Police presence at the place of safety

In all cases the police officer will remain in attendance to provide a safe handover to TEWV staff, and to allow for a joint assessment of any potential risks to the person, staff or public.

The assessment facility will be staffed as per local arrangements and there should be a minimum of 2 TEWV staff present in the assessment facility at all times.

The joint risk assessment outcome will be documented on Part D of the Section 136 Record Document.

Amber If amber risk level is identified, police officers will be required to remain for a period agreed between them and the hospital staff.

Red If red risk level is identified, police officers must remain until the risk is jointly re-assessed and has diminished, or, there are sufficient hospital based staff present to manage the risk.

Risks should be jointly reviewed on a regular basis. If risks require prolonged police attendance, or if there are any disputes regarding the continuing need for police attendance, the Duty Inspector will discuss continuing attendance with the Duty Senior Manager.

If risks change after police leave the premises, they may be requested to return and assist until the risk reduces.

4.7.5 Assessment

The assessment should commence as soon as possible after the arrival of the person at the assessment facility by a Registered Medical Practitioner, (RMP) (eg Duty Consultant/Section 12 Approved Doctor), and an Approved Mental Health Professional (AMHP). The locally agreed target for the assessment to commence is within 3 hours of arrival at the place of safety unless there are clinical grounds to delay the commencement of the assessment.

Section 136(2) MHA 1983 requires assessment by a RMP and an AMHP.

A 'second' doctor should only be contacted by the AMHP after the initial assessment by the RMP and interview by the AMHP has concluded that admission under MHA 1983 is indicated. CoP 16.74.

Where possible, the assessment *should* be undertaken jointly by the RMP and the AMHP.

However, medical staff *should* not delay their arrival to coincide with the arrival of the AMHP, and MUST NOT where this would take the commencement of the assessment outside of the 3 hour target, and AMHPs MUST NOT delay their arrival to await the outcome of the medical examination

Important

1. **The individual *must* be both assessed by a RMP and interviewed by an AMHP.**
2. **If the RMP examines the person *before* the AMHP arrives and concludes that they *are* suffering from mental disorder, but may not need to be admitted, the person should still remain at the place of safety until interviewed by the AMHP**
3. **If the RMP examines the individual *before* the arrival of the AMHP and concludes that *they are not mentally disordered*, they can no longer be detained under section 136 and must be immediately discharged from detention. The AMHP must be informed of this if they have not yet arrived at the place of safety. If the person appears to have 'other' needs for care and support they should be signposted to an appropriate service for assessment under the Care Act 2014, or offered the opportunity to wait and discuss with the AMHP.**

If the person detained under S136 is under the age of 18 years or has a learning disability/difficulty, the assessment team, wherever possible, will contact a s12 Approved Doctor with experience in working with Children and Young People or Learning Disabilities, either to carry out the assessment or to provide telephone advice to the RMP and AMHP carrying out the assessment

4.7.6 Assessment outcome

If the initial assessment has been completed and it is confirmed that the person suffers from mental disorder, a decision must be made regarding the need for further care or treatment; this could be as an out-patient or as an in-patient.

Community follow up

Where the person has a mental disorder but does not require admission to hospital, the AMHP will make arrangements for subsequent care and treatment. For example by informing the Care Coordinator of the s136 assessment, if the person is already known and open to services, arranging follow up appointments or Crisis Team involvement. If the person is not known to

services but appears to the AMHP to meet the criteria, they should be offered advice regarding an assessment under the Care Act 2014.

The AMHP must ensure that the person is aware of what follow up arrangements have been made. If the person has declined to see the AMHP then the staff at the place of safety will inform the patient about any follow up arrangements.

Appropriate arrangements must be made for the person to be returned to the community. This may include the s136 Coordinator calling a contract taxi.

Admission to hospital

Admission to hospital could either be under the MHA or with the capable consent of the person. Please refer to the Deprivation of Liberty Policy. If the person is to be admitted to hospital informally, then their consent is required and a capacity assessment must be carried out to establish the necessary capacity is present and that they are actually consenting, and recorded. If the person is to be detained under the Mental Health Act 1983, the AMHP will arrange for the attendance of a second registered medical practitioner, taking into account the Conflict of Interest Regulations, to provide the second medical recommendation following discussion with the other doctor and/or AMHP as required, and the AMHP may then make the application for detention.

If it is decided to admit, either informally or under the MHA, the relevant Crisis Team for adult services must be involved, if not already, and an appropriate bed must be identified.

Please note: The AMHP CANNOT make their application for detention under the MHA until an appropriate available bed has been identified

If the RMP assesses that admission is required, either informally or under the MHA, and there is likely to be a *significant* delay while the AMHP and/or second doctor attends, the person *may* be moved to an appropriate ward *within in the hospital where they are being assessed* to await further assessment by the second doctor and/or AMHP. S136and power to detain remains in place until either the assessment is concluded or the 24 hour period is reached. (There is no power to treat under part 4 of the MHA for person subject to s136)

The RMP should complete an appropriate medical recommendation at this point if admission is required under the MHA and make themselves available to discuss the assessment with the second doctor and/or AMHP.

If the person is to be admitted to a different hospital under Part II MHA 1983, conveyance to the hospital must follow the agreed Multi-agency Conveyance Policy.

If the person is to be admitted to a different hospital as an informal patient, transport that is appropriate to the needs of the patient must be used.

4.7.7 Treatment

Section 136 is excluded from Part IV MHA 1983.

If the person requires urgent treatment while subject to section 136 this can only be given:

- **With the consent of the patient, if they have the capacity to consent; or**
- **Under the MCA 2005, if the patient lacks the capacity to give consent and the treatment is in their best interests**

4.7.8 Rights

A person detained under section 136 MHA 1983 must receive a verbal and written explanation of their rights. The S136 Patient Information Leaflet will be available at the assessment facility to provide a copy to the person, and to explain the contents to the person.

This leaflet is also available on TEWV intranet in easy-read version and translated into the most common languages.

See TEWV section 132 procedure for further details.

If the person requires the support of an interpreter, please see TEWV Interpreting and Translation policy for further information.

4.7.9 Recording

The s136 Coordinator must ensure that **Parts A, B, C and D of the Section 136 Record Document** are fully completed and the whole document is then forwarded to the relevant MHL Department for their locality. This complete document is available as a stand-alone pack.

A referral must be created and a record of the assessment, including assessment of capacity and s136 assessment outcome, including any follow-up arranged, must be made in the electronic patient records.

AMHPs must complete their LA statutory MHA Assessment Report, and any associated documentation, eg capacity assessment, conveyance plan.

4.8 Action to be taken when the Emergency Department is identified as the place of safety

4.8.1 Contacting place of safety

If the Emergency Department (ED) is to be used as the preferred place of safety, whether or not the police officer has consulted someone, the detaining officer will request the Communication Centre/Force Control Room (CC/FCR) to contact the ED informing the CC/FCR fully of the circumstances and giving any details of the detainee that have been obtained.

CC/FCR staff will contact the ED, informing them of the detention of a person under s136, providing personal details of the person obtained by the officer. In some cases the police officer may liaise directly with the ED rather than going through CC or FCR, particularly where their arrival at the ED is imminent.

On being informed of an arrival under Section 136 Mental Health Act 1983 by the police, the Shift Coordinator or other appropriate member of staff as agreed locally (referred to as S136 Coordinator) will ascertain and record the following information if known:

- Name, address, date of birth, GP practice

- Name and number of detaining police officer
- Location found and estimated time of arrival
- Brief details of the circumstances of the s136 use
- Whether a paramedic health check has been completed
- Any indication of alcohol or illicit substance use
- Whether the person has been searched
- Whether the person has been restrained and by what means
- Mode of transport to place of safety

The s136 Coordinator will complete Part A of the Section 136 Record Document.

The s136 Coordinator will ensure, wherever possible, that an appropriate cubicle is made available to receive the person accompanied by police and to inform a doctor of the estimated time of arrival.

4.8.2 Arrival at the place of safety

On arrival at the ED, the detaining Police Officer should inform staff if, and to what extent the person has been searched. The ED member of staff responsible for the person (s136 Coordinator) will confirm with the police that this is a s136 and not a 'voluntary attender' or person subject to arrest.

The person may be searched as described in section 4.3.3 above5.3 above.

The detaining **Police Officer will complete Part B of the Section 136 Record Document**.

ED staff will triage the person and make an assessment of physical healthcare needs. If there are no physical healthcare needs the police will be requested to take the person to an alternative PoS, ideally a mental health PoS. It would be helpful if the triage assessment could be prioritised to enable the person and police to be allowed to leave the ED as quickly as possible.

It is essential that if the person is transferred to a subsequent place of safety that the **Section 136 Record Document** accompanies the person to the subsequent place of safety and is given to the staff at that place of safety.

4.8.3 Police presence at the place of safety

In all cases the police officer will remain in attendance to provide a safe handover to hospital staff, and to allow for a joint assessment of any potential risks to the person, staff or public.

The risk assessment outcome will be documented by the s136 Coordinator on **Part D of the Section 136 Record Document.**

If green or amber risk level is identified, police officers will be required to remain for a period agreed between them and the ED staff.

If red risk level is identified, police officers must remain until the risk is jointly re-assessed and has diminished, or, there are sufficient hospital based staff present to manage the risk.

Risks should be jointly reviewed on a regular basis. If risks require prolonged police attendance, or if there are any disputes regarding the continuing need for police attendance, the Duty Inspector will discuss continuing attendance with the Duty Senior Manager.

Where risks escalate after police leave the premises, they may be requested to return and assist until the risk reduces.

4.8.4 Assessment

It may be that the person has their physical healthcare needs assessed and they may be quickly addressed and determined as medically fit. In this case the ED would not contact the assessors. In this case they may be treated and transferred to a mental health place of safety.

If the person remains in the ED:

4.8.5 Contacting the assessors

The person should be seen by the Liaison Psychiatry Team, if available, to provide advice to the ED staff. If the available Liaison Psychiatry Team includes a section 12 doctor, they may commence the s136 assessment where this is contractually agreed. The s136 Coordinator will contact the AMHP and, if necessary, a Registered Medical Practitioner, (RMP: eg Duty Consultant/Section 12 Approved Doctor) and Crisis Team (for adults) informing them of the presence of a person subject to s136 in the ED and ensuring that this contact is recorded on **Part C of the Section 136 Record Document.**

Important

1. **The individual *must* be assessed and interviewed by *both* a RMP and an AMHP.**
2. **If the RMP examines the person *before* the AMHP arrives and concludes that they *are* suffering from mental disorder, but may not need to be admitted, the person must still remain at the place of safety until interviewed by the AMHP**
3. **If the RMP examines the individual *before* the arrival of the AMHP and concludes that *they are not mentally disordered*, they can no longer be detained under section 136 and must be immediately discharged from detention. The AMHP must be informed of this if they have not yet arrived at the place of safety. If the person appears to have 'other' needs for care and support they should be signposted to an appropriate service for assessment under the Care Act 2014, or offered the opportunity to wait and discuss with the AMHP.**

If the person detained under S136 is under the age of 18 years or has a learning disability/difficulty, the assessment team will, wherever possible, contact a s12 Approved Doctor with experience in working with Children and Young People or Learning Disabilities, either to carry out the assessment or to provide telephone advice to the doctor carrying out the assessment and the AMHP

4.8.6 Assessment outcome

Once the s136 assessment has been completed and mental disorder is confirmed, a decision must be made regarding the need for further care or treatment; this could be as an in-patient (either in the acute hospital or a mental health hospital) or as an out-patient.

Community follow-up

Where the person has a mental disorder but does not require admission to hospital, the AMHP will make arrangements for subsequent care and treatment. For example by informing the Care Coordinator of the s136 assessment, if the person is already known and open to services, arranging follow up appointments or Crisis Team involvement. If the person is not known to services but appears to the AMHP to meet the criteria, they should be offered advice regarding an assessment under the Care Act 2014.

The AMHP must ensure that the person is aware of what follow up arrangements have been made.

Appropriate arrangements must be made for the person to be returned to the community. This may include ED staff arranging transport.

Admission to Hospital

Admission to hospital could either be under the MHA or with the capable consent of the person. If the person is to be admitted to hospital informally, then their capable consent is required and a capacity assessment must be carried out to establish the necessary capacity is present and that they are actually consenting, and recorded. If the person is to be detained under the Mental Health Act 1983, the AMHP will arrange for the attendance of a second registered medical practitioner, taking into account the Conflict of Interest Regulations, to provide the second medical recommendation and the AMHP may then make the application for detention. A RMP in the ED who is not s12 approved may be used as the second doctor if the AMHP feels that this is appropriate and the first doctor should be available to discuss the assessment with the second doctor and the AMHP.

Once the decision to admit, either informally or under the MHA, is made, then dependent on clinical need the appropriate hospital must be identified. This could be admission to the acute hospital if the physical healthcare needs take precedence over the mental healthcare needs. This could be the case if, for example, the person is being admitted to treat the effects of an overdose. If admission to a mental health facility is appropriate the relevant Crisis Team for adult services must be involved, if not already, and an appropriate bed must be identified.

Please note: The AMHP CANNOT make their application for detention under the MHA until an appropriate available bed has been identified

If the person is to be admitted to a different hospital under MHA 1983, conveyance to the hospital must follow the agreed Multi-Agency Conveyance Policy.

If the person is to be admitted to hospital as an informal patient, transport that is appropriate to the needs of the patient must be used.

4.8.7 Treatment

Section 136 is excluded from Part IV MHA 1983.

If the person requires urgent treatment for mental disorder while subject to section 136 this can only be given:

- **With the consent of the patient, if they have the capacity to consent; or**
- **Under the MCA 2005, if the patient lacks the capacity to give consent and the treatment is in their best interests**

If the person requires urgent treatment for physical disorders while subject to section 136 this can be recorded and given under the authority used in ED, ie:

- **With the consent of the patient, if they have the capacity to consent; or**
- **Under the MCA 2005, if the patient lacks the capacity to give consent and the treatment is in their best interests**

4.8.8 Rights

A person detained under section 136 MHA 1983 must receive a verbal and written explanation of their rights. The S136 Patient Information Leaflet will be available at the assessment facility.

This leaflet is also available in easy-read format and translated into the most common languages can be accessed from TEWV MHL dept. or from TEWV staff via intranet if out of hours.

If the person requires the support of an interpreter, please refer to your own trust's/employing authority's relevant policy for further information.

4.8.9 Recording

The s136 Coordinator must ensure that Parts A, B, C and D of the Section 136 Record Document are fully completed and the whole document is then forwarded to the relevant MHL Department for their locality. This complete document is available as a stand-alone pack.

A record of the assessment and assessment outcome, including any follow-up arranged, should be made.

AMHPs must complete their LA statutory MHA Assessment Report, and any associated documentation, eg capacity assessment, conveyance plan.

4.9 Action to be taken when the Police Station is identified as the place of safety

A police station can only be used for adults aged 18 years and over and only in the exceptional circumstances set out above at 4.2 above.

It is preferable for a person who is believed to be suffering from a mental disorder to be detained in a hospital or other healthcare setting where mental health services are, or can be, provided.

4.9.1 Monitoring whilst in the police station

The custody officer is responsible for overseeing the period of detention. Regulations require that this includes ensuring that:

a. A healthcare professional (as defined by Section 60(2) of the Health Act 1999) is present *and available* to the detained person, so far as is reasonably practicable,* throughout the duration of the detention at the police station

b. The welfare of the detained person is checked by a healthcare professional at least once every thirty minutes and any appropriate action taken for their treatment and care

*Reasonably practicable above may be interpreted that whilst the healthcare professional is dealing with someone else, or takes a comfort break, or, if they are unexpectedly unavailable due to sudden ill health or injury and there is a short wait for a replacement, the condition would not be breached.

Where either or both of the requirements at a and b above cannot be met, the custody officer must arrange for the person to be taken to another place of safety

The custody officer is also responsible for ensuring that they review, at least hourly, whether the person's behaviour continues to pose an imminent risk of serious injury or death to themselves or others, and that because of that risk no place of safety other than a police station in the relevant police area can reasonably be expected to detain them. Where practicable, the custody officer must consult the healthcare professional who carried out the most recent 30 minute check.

The interval for the custody officer checks may reduce to not less than once in every 3 hours if the person is sleeping and the healthcare professional carrying out 30 minute checks has not identified a risk that requires more frequent waking

Where the custody officer determines that the criteria for using the police station as a PoS no longer exist, the person must be taken to another PoS that is not a police station.

The requirement to transfer due to unavailability of healthcare professional or the person no longer meeting the criteria do not apply if arrangements have been made which would enable the assessment to be commenced sooner at the police station than at another PoS and, that postponing the assessment would be likely to cause distress

4.9.2 Assessment at the police station

The custody officer must ensure that the person receives verbal and written information about their rights. The person should be provided with a copy of the document 'Notice of Rights and Entitlements'. It is important to recognise that although the Mental Health Act 1983 uses the phrase "remove to a place of safety", for the purposes of PACE the removal is deemed to be an "arrest".

The Police and Criminal Evidence Act 1984 requires the police to secure the attendance of an "appropriate adult" if the person being detained appears to be mentally disordered. In the case of a person detained under s136, this would only be necessary if the person has also been arrested for a criminal offence.

As the principle function of the appropriate adult is to protect the interests of a mentally disordered person, an AMHP involved in the assessment cannot perform this function.

This assessment should begin as soon as possible after the arrival of the person at the police station and the target is that it commences within 3 hours. The custody sergeant will contact either

the Forensic Medical Examiner (FME), who must be section 12 approved, or the TEWV on-call psychiatrist, dependent on what has been agreed locally and contractually. They will also contact the AMHP.

Important

1. **The individual *must* be assessed and interviewed by *both* a RMP and an AMHP.**
2. **If the RMP examines the person *before* the AMHP arrives and concludes that they *are* suffering from mental disorder, but may not need to be admitted, <u>the person must still remain at the place of safety until interviewed by the AMHP</u>**
3. **If the RMP examines the individual *before* the arrival of the AMHP and concludes that *they are not mentally disordered*, they can no longer be detained under section 136 and must be immediately discharged from detention. The AMHP must be informed of this if they have not yet arrived at the place of safety. If the person appears to have 'other' needs for care and support they should be signposted to an appropriate service for assessment under the Care Act 2014, or offered the opportunity to wait and discuss with the AMHP.**

If the AMHP is en-route to the police station, a person released from custody under such circumstances set out in 3 above may be informed of this fact and may wish to wait for the attendance of the AMHP in a suitable public waiting area at the police station.

It should be stressed to the person however that they do so of their own free will and that they are no longer in custody and are free to leave the police station at any time.

Section 136 permits detention not only until examination has been completed, but also until arrangements have been made for whatever treatment or care is required. *This may take more than one interview by either or both assessors.*

If a police station is being used as a place of safety, and the period of detention needs to be extended, this can only be done by the RMP with the agreement of a person of the rank of Superintendent or above.

If the person detained under S136 has a learning disability/difficulty, the assessment team will, wherever possible, contact a s12 Approved Doctor with experience in working with people with Learning Disabilities, to either to carry out the assessment or to provide telephone advice to the assessing doctor and AMHP.

4.9.3 Assessment outcome

Once the s136 assessment has been completed and mental disorder is confirmed, a decision must be made regarding the need for further care or treatment; this could be as an in-patient (either in the acute hospital or a mental health hospital) or as an out-patient.

Community follow up

Where the person has a mental disorder but does not require admission to hospital, the AMHP will make arrangements for subsequent care and treatment. For example by informing the Care

Coordinator of the s136 assessment, if the person is already known and open to services, arranging follow up appointments or Crisis Team involvement. If the person is not known to services but appears to the AMHP to meet the criteria, they should be offered advice regarding an assessment under the Care Act 2014.

The AMHP must ensure that the person is aware of what follow up arrangements have been made.

If the person is not admitted to hospital or other accommodation following assessment, the AMHP and the detaining Custody Officer, in consultation with the person concerned, should agree a satisfactory return to the community. The Custody Officer will record the persons agreed method of return to the community and any arrangements made on the custody log.

Admission to hospital

Once the decision to admit to hospital, either informally or under MHA 1983, is made then, an appropriate hospital must be identified.

If the person is to be admitted under the MHA 1983, the AMHP will arrange for the attendance of a second registered medical practitioner to provide the second medical recommendation and the AMHP may then make the application for detention. The first doctor should be available to discuss the assessment with the second doctor and/or the AMHP.

Please note: The AMHP CANNOT make their application for detention under the MHA until an appropriate available bed has been identified

Conveyance to the hospital arranged by the AMHP must follow the agreed Multi-Agency Conveyance Policy.

If the person is to be admitted to hospital as an informal patient, transport that is appropriate to the needs of the patient must be used.

Recording

Custody Officers will record the relevant information on the custody log. AMHPs must complete their LA statutory MHA Assessment Report, and any associated documentation, eg capacity assessment, conveyance plan.

4.10 Action to be taken when 'any other suitable place' is identified as the place of safety

It will not be possible to be as prescriptive as in the paragraphs above where somewhere other than a hospital or police station is used as a place of safety, but the same principles will apply.

Other places of safety

See paragraph 3.1 - Place of safety, for further information on the definition of place of safety.

4.10.1 Contacting the assessors

When the police officer has consulted an appropriate professional prior to using their power under s136, that professional will be responsible for contacting an AMHP and a RMP to attend the PoS. The police officer will be required to remain with the person until a handover to the assessors and risk assessment can be completed. **The police officer will be required to remain if an assessor is attending alone.**

If consent is withdrawn

If the person has capacity and has consented, as the sole occupier, to their house, flat or room being a PoS, or if another occupier has consented but either or both have now withdrawn consent, then the police officer may remove the person under s136(3) to another PoS, ideally a mental health based PoS. Similarly, if the PoS is a suitable place other than a house, flat or room and the

person responsible for the management of the place withdraws consent then the police officer may remove the person under s136(3) to another PoS, ideally a mental health based PoS.

4.10.2 Assessment

The assessment should take place as soon as possible by a Registered Medical Practitioner, (RMP) e.g. Duty Consultant/Section 12 Approved Doctor), and an Approved Mental Health Professional (AMHP).

Important

1. **The individual *must* be assessed and interviewed by *both* a RMP and an AMHP.**
2. **If the RMP examines the person *before* the AMHP arrives and concludes that they *are* suffering from mental disorder, but may not need to be admitted, the person must still remain at the place of safety until interviewed by the AMHP**
3. **If the RMP examines the individual *before* the arrival of the AMHP and concludes that *they are not mentally disordered*, they can no longer be detained under section 136 and must be immediately discharged from detention. The AMHP must be informed of this if they have not yet arrived at the place of safety. If the person appears to have 'other' needs for care and support they should be signposted to an appropriate service for assessment under the Care Act 2014, or offered the opportunity to wait and discuss with the AMHP.**

If the person detained under S136 is under the age of 18 years or has a learning disability/difficulty, the assessment team will, wherever possible, contact a s12 Approved Doctor with experience in working with Children and Young People or Learning Disabilities, to either to carry out the assessment or to provide telephone advice to the assessing doctor and AMHP.

4.10.3 Assessment outcome

If the s136 assessment has been completed and the presence of mental disorder is confirmed, a decision must be made regarding the need for further care or treatment; this could be as an out-patient or as an in-patient.

Community follow up

Where the person has a mental disorder but does not require admission to hospital, the AMHP will make arrangements for subsequent care and treatment. For example by informing the Care Coordinator of the s136 assessment, if the person is already known and open to services, arranging follow up appointments or Crisis Team involvement. If the person is not known to services but appears to the AMHP to meet the criteria, they should be offered advice regarding an assessment under the Care Act 2014.

The AMHP must ensure that the person is aware of what follow up arrangements have been made.

Admission to hospital

Admission to hospital could either be under the MHA or with the capable consent of the person. If the person is to be admitted to hospital informally, then their consent is required and a capacity assessment must be carried out to establish the necessary capacity is present and that they are actually consenting, and recorded. If the person is to be detained under the MHA 1983, the AMHP will arrange for the attendance of a second registered medical practitioner, taking into account the Conflict of Interest Regulations, to provide the second medical recommendation and the AMHP may then make the application for detention. The first doctor should be available to discuss the assessment with the second doctor and/or the AMHP.

If it is decided to admit, either informally or under the MHA, the relevant Crisis Team for adult services must be involved, if not already, and an appropriate bed must be identified.

Please note: The AMHP CANNOT make their application for detention under the MHA until an appropriate available bed has been identified

If the person is to be admitted under the MHA, conveyance to the hospital arranged by the AMHP must follow the agreed Multi-Agency Conveyance Policy.

If the person is to be admitted to a hospital as an informal patient, transport that is appropriate to the needs of the patient must be used.

4.10.4 Rights

A person detained under section 136 MHA 1983 must receive a verbal and written explanation of their rights.

4.10.5 Recording

The s136 Coordinator (if one is involved, such as a Street Triage Team staff member) must ensure that **Parts A, B, C and D of the Section 136 Record document** are fully completed and the whole document is then forwarded to the relevant MHL Department for their locality. This complete document is available as a stand-alone pack.

A referral must be created and a record of the assessment and assessment outcome, including any follow-up arranged, made in the electronic patient records.

AMHPs must complete their LA statutory MHA Assessment Report, and any associated documentation, eg capacity assessment, conveyance plan.

4.11 Transfer of a person from one place of safety to another

A person removed to, or kept at, a place of safety under section 136 may be moved to a different place of safety within the period allowed for in the power, see paragraph 3.1.

The person may be taken to a second or subsequent place of safety by a police officer, an AMHP or a person authorised by either the police officer or an AMHP. The decision to transfer a person between places of safety should reflect the individual circumstances, including the person's needs and level of risk and in all cases must be in the interests of the person's safety, welfare and promoting the person's recovery. **Unless it is an emergency, a person should not be transferred without the agreement of an AMHP, a doctor or other healthcare professional who is competent to assess the impact of the transfer on the person's safety and well-being (other than where the PoS is another suitable place and consent to remain has been withdrawn).**

A person should never be moved from one place of safety to another unless it has been confirmed that the new place of safety is willing and able to accept them (unless it is unavoidable in the circumstances, e.g., an emergency, such as moving to ED due to physical health needs).

The MHA 1983 Code of Practice states that the safe, timely and appropriate transport of the person to and between places of safety should be by ambulance and police transport should only be used exceptionally, such as cases of extreme urgency or where there is a risk of violence or absconsion.

4.12 Repeated detentions under section 136

When an individual is detained under s136 on more than two occasions in a 30 day period, or six occasions in a 6 months period, and no formal or informal hospital admission occurs; any signatory to this policy may call a multi-agency case review. The objective of the review will be to attempt to determine the overall needs of the individual, develop a management plan and an appropriate pathway to attempt to address the identified needs.

The multi-agency meeting can seek a review of the Risk and Relapse Management Plan for the person via Care Coordinator or Lead Professional; raise a concern via adult's or children's safeguarding (if appropriate), and/or refer into the individual's local team or refer into the Familiar Faces meetings, where applicable.

5 Definitions

[This section is a list of the terms used in this policy and what they mean]

Term	Definition
PoS	Place of Safety
ED	Emergency department of a hospital, also known as A&E
AMHP	Approved Mental Health Professional
RMP	Registered medical practitioner. This is any doctor
CAS	Crisis Assessment Suite
MD	Mental Disorder. The MHA defines mental disorder as 'any disorder of disability of the mind'
LA	Local Authority
CoP	Code of Practice for the Mental Health Act

6 Related documents

DH Guidance for the implementation of changes to police powers and places of safety provisions in the mental health act 1983 (October 2017)

Code of Practice MHA 1983 (2015)

Policing and Crime Act 2017

Section 135(1) and section 135(2) Policies (to be drafted as separate documents)

TEWV Deprivation of Liberty Policy

TEWV Missing Patients Policy

Multi-Agency Conveyance Policy

TEWV, and other organisations, Interpreting and Translation Policies

C&YPS Flow Chart to access Trier 4 bed

Locally agreed processes/protocols for local implementation

7 How this policy will be implemented

- This policy will be published on the Trust intranet both internally and externally
- Line managers will disseminate this policy to all Trust employees through a line management briefing.

7.1 Training needs analysis

Staff/Professional Group	Type of Training	Duration	Frequency of Training
All Trust staff with a professional registration	MHL Mandatory e-learning level 2	3 hours	2 yearly
All clinical staff without a professional registration	MHL Mandatory e-learning level 1	3 hours	2 yearly

8 How the implementation of this policy will be monitored

Auditable Standard/Key Performance Indicators		Frequency/Method/Person Responsible	Where results and any Associate Action Plan will be reported to, implemented and monitored; (this will usually be via the relevant Governance Group).
1	All CAS staff will complete the 136 monitoring form	During each s136 within the Trust	Completed forms will be forwarded to the relevant MHL office.
2	The MHL department will compile the data gathered from the 136 monitoring forms	After each s136.	Data is available for the MHL team manager
3	The MHL department will complete quarterly reports on the use of s136.	Quarterly	Reports are presented to the MHL committee

9 References

See related documents section

10 Document control (external)

To be recorded on the policy register by Policy Coordinator

Date of approval:	18 October 2023	
Next review date:	31 July 2024	
This document replaces:	MHA-0003-v9.4	
This document was approved by:	Name of committee/group	Date
	MHLC	31 August 2023
This document was ratified by:	Name of committee/group	Date
	Management Group	18 October 2023
An equality analysis was completed on this document on:	15 December 2020	
Document type	Public	
FOI Clause (Private documents only)	NA	

Change record

Version	Date	Amendment details	Status
9	21 Nov 2017	Full rewrite in line with new legislation	Withdrawn
9	Feb 2019	Review date extended with full 3 year review period applied at request of policy lead following consultation period - changing from review date 6 June 2018 extended full review date of 06/12/2020.	Withdrawn
9.1	February 2019	Minor amendment - Consulted again for any changes post implementation, Northallerton removed as TEWV PoS	Withdrawn
9.1	08 July 2020	Links to inTouch removed. Review date extended by six months to 06 June 2021.	Withdrawn
9.2	10 Feb 2021	Full 3 year review with updates to:- 1/ Policy template; 2/ 136 monitoring form reviewed, updated and formatted;	Withdrawn

		3/ Clarification of 4.7.5, 4.7.6, 5.3.5 and 5.3.6; 4/ CCG mergers reflected.	
9.3	14 Dec 2022	S136 Monitoring form - addition of box that asks staff to identify the 'police force'. (note - this was a request from the police and helps to improves data quality)	Withdrawn
9.4	15 Mar 2023	Updated to reflected changes in the new organisational structure. Section 8 – removal of reference to MHL interagency group as this meeting no longer takes place. Following discussion with Trust Crisis services police and AMHP service, the s136 monitoring form has been updated to better capture the information required. Additionally, appendix 2 has been added to give overview notes around the existing s136 process.	Withdrawn
9.5	18 Oct 2023	Minor wording change In sections 4.7.9 and 4.10.5, "Paris" was changed to "electronic patient record" In sections 4.7.9, 4.8.9 and 4.10.5, "MHA Department" changed to "MHL Department"	Published
9.5	Feb 2023	Review Date extended from 10 Feb 2024 to 31 July 2024.	Published

Appendix 1 - Equality Analysis Screening Form

Please note: The Equality Analysis Policy and Equality Analysis Guidance can be found on the policy pages of the intranet

Name of Service area, Directorate/Department i.e. substance misuse, corporate, finance etc.	Mental Health Legislation					
Policy (document/service) name	Section 136 – removal of mentally disorder persons without a warrant					
Is the area being assessed a…	Policy/Strategy	X	Service/Business plan		Project	
	Procedure/Guidance				Code of practice	
	Other – Please state					
Geographical area covered	Trust wide					
Aims and objectives	This operational policy is based on the 5 overarching principles of the Mental Health Act Code of Practice which should always be considered when making decisions in relation to care, support or treatment provided under the MHA. **Least restrictive option and maximizing independence** - where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery where possible. **Empowerment and involvement** - Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this. **Respect and dignity** - Patients, their families and carers should be treated with respect and dignity and listened to by professionals.					

	Purpose and effectiveness - Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.
Start date of Equality Analysis Screening (This is the date you are asked to write or review the document/service etc.)	01 October 2020
End date of Equality Analysis Screening (This is when you have completed the equality analysis and it is ready to go to EMT to be approved)	15 December 2020

You must contact the EDHR team if you identify a negative impact. Please contact the Equality and Diversity Team.

1. Who does the Policy, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan benefit?

All TEWV staff
All TEWV patients
Staff from partner agencies listed under working party

2. Will the Policy, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan impact negatively on any of the protected characteristic groups below?

Race (including Gypsy and Traveller)	No	**Disability** (includes physical, learning, mental health, sensory and medical disabilities)	No	**Sex** (Men, women and gender neutral etc.)	No
Gender reassignment (Transgender and gender identity)	No	**Sexual Orientation** (Lesbian, Gay, Bisexual and Heterosexual etc.)	No	**Age** (includes, young people, older people – people of all ages)	No
Religion or Belief (includes faith groups, atheism and philosophical belief's)	No	**Pregnancy and Maternity** (includes pregnancy, women who are breastfeeding and women on maternity leave)	No	**Marriage and Civil Partnership** (includes opposite and same sex couples who are married or civil partners)	No

Yes – Please describe anticipated negative impact/s

No – Please describe any positive impacts/s

3. Have you considered other sources of information such as; legislation, codes of practice, best practice, nice guidelines, CQC reports or feedback etc.? **If 'No', why not?**	**Yes**	**X**	**No**	

Sources of Information may include: • Feedback from equality bodies, Care Quality Commission, Equality and Human Rights Commission, etc. • Investigation findings • Trust Strategic Direction • Data collection/analysis • National Guidance/Reports		• Staff grievances • Media • Community Consultation/Consultation Groups • Internal Consultation • Research • Other (Please state below)

4. Have you engaged or consulted with service users, carers, staff and other stakeholders including people from the following protected groups?: Race, Disability, Sex, Gender reassignment (Trans), Sexual Orientation (LGB), Religion or Belief, Age, Pregnancy and Maternity or Marriage and Civil Partnership

Yes – Please describe the engagement and involvement that has taken place

The Mental Health act 1983 has been amended by the Policing and Crime Act 2017. Both the MHA, and the Policing and Crime Act were subject to extensive EIA and public consultation.

This Policy has been circulated for consultation with external providers and stakeholders.

This policy was discussed with TEWV's Equality, Diversity and Human Rights Team

No – Please describe future plans that you may have to engage and involve people from different groups

5. As part of this equality analysis have any training needs/service needs been identified?	
No	Please describe the identified training needs/service needs below No new training needs identified as a consequence of equality analysis. These legal provisions are covered in the Trust E-learning training programme and will be updated.

A training need has been identified for;					
Trust staff	No	Service users	No	Contractors or other outside agencies	No
Make sure that you have checked the information and that you are comfortable that additional evidence can provided if you are required to do so					
If you need further advice or information on equality analysis, the EDHR team host surgeries to support you in this process, to book on and find out more please call contact the team.					

Appendix 2: Overview Notes on s136

Pre-Arrival

Police considering use of s136 are required to consult with MH professional, where practicable, as per local arrangements. This could be staff at HBPOS, Crisis Team staff or other identified contact point.

Police contact MHBPOS to ascertain availability of MHBPOS. Police provide info required on Part A of monitoring form (other than Paris ID), ideally in advance of arrival. Police complete declaration on arrival.

MHBPOS in use, TEWV staff to consider timescales to free up, or identify alternative space, or alternative MHBPOS and inform police

Arrival

On arrival at MHBPOS, joint risk assessment completed and recorded on Part C. This must be reviewed if police remain. S136 coordinator to contact relevant registered medical practitioner (RMP) and Approved Mental Health Professional (AMHP) and commence completion of Part B

Only one RMP should be contacted as required by s136, unless it is very clear that probable admission under MHA will be required, (this should be the exception not the rule). The coordinator should notify the AMHP of this when contacting them to allow the AMHP to locate a second RMP. Assessment should commence within 3 hours of arrival. Neither RMP or AMHP should wait for the other if this will exceed 3 hours.

Assessment

Medical assessment – RMP may end s136 if there is **NO** evidence of mental disorder, bearing in mind person may already be known and have a diagnosis on Paris. Person may wait to see an AMHP but is free to leave.

If MD present, person **MUST** be interviewed by an AMHP, as required by s136, to make any necessary arrangements, eg follow up appt, notify care team if open etc.

RMP's who are not Approved Clinician's (AC) may consult with the on-call AC out of hours, or other medical AC in hours for advice.

The S136 coordinator or Crisis Team may assist the AMHP in making any necessary follow up arrangements and this should be agreed and clearly recorded.

If admission under the MHA is the outcome, the RMP and/or S136 coordinator are responsible for locating a bed, not the AMHP.

Extending

S136 may be extended for up to an additional 12 hours but only where the assessment cannot be concluded within 24 hours due to the condition of the patient, eg intoxicated, requiring medical intervention at ED. It **cannot** be extended due to inability to locate a bed.

Only the RMP carrying out the assessment may extend the power beyond 24 hours.

If the assessment is not complete at the 24, or exceptionally, the 36-hour point, the s136 ends.

Detaining

If med recs for detention are made, the person remains subject to s136 until an application is made by the AMHP. An application cannot be made until a bed is identified as the application must name the hospital the person is to be conveyed to and admitted to.

Neither s136 nor a completed application provide any authority to treat under the MHA. If medication to treat is required then alternative authority must be considered, eg capable consent or MCA and this must be clearly recorded within Paris.

Discharge

If the assessment is completed and the decision made not to detain, the person is free to leave and should be informed of the arrangements made for follow up, where applicable. The arrangements made must be recorded in Paris.

The person should be assisted to return home, particularly where they have been brought to an out of area MHBPOS. This could include provision of a taxi, contacting relatives to assist (with agreement of person) or police assistance where available and agreed.