



## RESPONSE BY THE PCC TO HMIC INSPECTIONS OF CLEVELAND POLICE

### INSPECTION DETAILS

Title of Inspection

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

Date Inspection Published

**June 2013**

Type of Inspection:

- Cleveland Specific  
 Follow Up  
 Partner Inspection

- National  
 Thematic

Is Cleveland Police quoted in the Report?

Yes

No

### EXECUTIVE SUMMARY OF REPORT

#### Executive Summary

The HMIC report is presented following a joint review by Her Majesty's Inspectorate of Constabulary, Her Majesty's Inspectorate of Prisons, the Care Quality Commission and Healthcare Inspectorate Wales to examine the extent to which police custody is used as a place of safety under section 136 of the Mental Health Act 1983.

This report follows the Department of Health 'Code of Practice Mental health Act 1983' published in 2008 and asks the question 'Why, despite guidance, codes of practice, and recommendations made in earlier studies, police custody continues to be used so frequently.' The report studied 8 police forces (not Cleveland) and focussed on six areas.

#### Cleveland Police Position

In the Cleveland area we have Roseberry Park Hospital and Sandwell Park Hospital who will take people detained under S.136 MHA 1983.

We also have Mental Health Street Triage Team who can be called by police to any incident where we consider a person may be in need of urgent mental health care. This team will also manage the admission into a place of safety. The James Cook University Hospital have 24/7 mental health nurse provision so are also equipped to be a place of safety. We have some mental health nurse provision in custody. We have a seconded Police Constable into the Mental Health Trust and an 'Inter-agency policy for the operational of Sections 135 & 136 Mental Health Act 1983' adopted in 2011

I have instructed our Custody Sergeants to de-brief arresting officers who detain people under Section 136 and bring them into police custody and for the custody sergeant to record the rationale on the custody record. The Custody Management Team requests specific information from all arresting officers who use Section 136. We have incorporated training into core law training and conducted team briefings. We have reduced the number of people detained in police custody under Section 136 Mental Health Act 1983 from 40 per month to around 20 per month.

### Our Challenges

Capacity within mental health hospitals provides regular challenges when seeking to admit a person detained under Section 136 as a place of safety. Our strategic partnership approach accepts that the mental health hospital should be the primary place of safety with the secondary being A&E where a person has other medical needs that out weigh their mental health needs. We also agree that police cells should only be used in exceptional circumstances (when a person is so violent they present a risk to themselves and others).

Operationally, however this is much harder to deliver, therefore I am working hard with our partners in the mental health interpretation of someone who is violent. Operationally we do not consider a drunken person as automatically violent nor do we consider an uncooperative person as violent however on occasions staff at the hospitals do make this assessment, therefore refuse access to the place of safety directing police officers to police custody. We are seeking a resolution based upon a person's ability to communicate which is an approach supported by doctors of mental health hospitals.

### Recommendations

There are eleven recommendations of which only four are directed to individual police forces with one other (number 11) that contains principles that we should adopt. The four specific police recommendations (numbers 1, 3, 8, 10) are already implemented into Cleveland Police.

Recommendation 11 contains principles that we should adopt. The delivery in this area is the one of concern. This relates to the interpretation of someone who is violent therefore not suitable for a mental health hospital. These principles form the foundation of our current work with health partners to try and reduce further those people detained under Section 136 MHA 1983 and brought into police cells.

## RECOMMENDATIONS & FORCE REPONSE

Report Recommendation	Force Response	Suggested Action
<p>1. The Codes of Practice should be amended to bring detention times for those detained in police custody under section 136 in line with those in the Police and Criminal Evidence Act 1984, which allows up to 24 hours in police custody (out of the maximum of 72 hours for which they can be detained overall). The period of detention should be subject to regular, independent reviews by both police and health officials, to ensure that:</p> <ul style="list-style-type: none"> <li>• action is taken to transfer the detained person to a health-based place of safety as soon as is practicable; or</li> <li>• an assessment is carried out as soon as possible at the police station, where any transfer to a health-based place of safety may cause unnecessary delay.</li> </ul>	<p>The bullet points in this recommendation are already implemented in Cleveland. The challenge is that the mental health hospitals are very reluctant to agree moving a patient once in police custody. This is more a capacity issue and one that in partnership we are seeking to resolve.</p> <p>Our review is internal not independent</p>	<p><b>This recommendation has already been adopted in Cleveland Police</b></p>
<p>2. A data field should be added to the Mental Health Minimum Data Set held by the Health and Social Care Information Centre to collect data on each occasion when:</p> <ul style="list-style-type: none"> <li>• an individual brought by police to a health-based place of safety is not accepted into that health-based place of safety, stating the reason why he or she remained in police custody; and</li> <li>• a person under the age of 18 years is brought to and/or received into a health-based place of safety under section 136.</li> </ul>	<p>This recommendation is for Health and Social Care.</p> <p>We (police) capture the data in relation to people brought into custody who have been detained under S.136 MHA 1983 and subsequently record the reasons and rationale so this is available.</p> <p>To understand the operational issues in identifying the correct use of S.136 every officer who brings a person to custody as a place of safety are asked to explain their rationale.</p>	<p><i>This recommendation is for Health and Social Care.</i></p> <p><i>We should encourage our partners adopt this recommendation</i></p>

Report Recommendation	Force Response	Suggested Action
<p>3. The College of Policing, the Royal College of Psychiatrists, the College of Social Work, police forces and mental health service providers should work together to develop and deliver joint training to staff. This should incorporate information on legal powers and local protocols, and include regular refresher training. Service providers and local social services authorities with responsibility for the provision of AHMPs should ensure that those bank and rotational staff who are likely to deal with the police and those detained under the Mental Health Act 1983 understand and comply with local procedures.</p>	<p>Over the last year training has been incorporated into core law training. Briefings have been given to individual teams.</p>	<p><b>Continue our implementation of this recommendation as an ongoing process</b></p>
<p>4. Clinical Commissioning Groups and local social services should make sure that they have commissioned sufficient capacity to meet the demand for assessment under section 136, and that multi-agency working is effective. This includes commissioners in local social services authorities with responsibility for ensuring that the number of AMHPs is sufficient to meet the need for assessments under the Mental Health Act 1983. Commissioners should follow the <i>Guidance for Commissioners: Service Provision for Section 136 of the Mental Health Act 1983</i>, published by the Royal College of Psychiatrists.</p>	<p>This action is for Clinical Commissioning Groups.</p> <p>Through the PCC we are trying to influence commissions especially in relation to mental health street triage and mental health provision in custody offices.</p>	<p><i>This action is for Clinical Commissioning Groups</i></p>
<p>5. NHS England and Local Health Boards in Wales should ensure that local commissioning of mental health services is appropriate, and that they provide sufficient capacity and resilience to meet demand. This should be in line with those areas where police custody is currently only used on an exceptional basis.</p>	<p>This action is for NHS boards</p> <p>Through the PCC we are trying to influence commissions especially in relation to mental; health street triage and mental health provision in custody offices.</p>	<p><i>This action is for NHS boards</i></p>
<p>6. Commissioners and providers of social services and health services should ensure that they identify periods of demand for the reception and assessment of persons detained under section 136, and that they effectively manage resources to meet this demand.</p>	<p>This action is for commissioners and social services</p>	<p><i>This action is for Clinical Commissioning Groups and social services</i></p>

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<p>7. Health and Wellbeing Boards in England should include section 136 provision as part of their Joint Strategic Needs Assessment. Health and Wellbeing Boards and Local Health Boards in Wales should establish a process to oversee and quality assure the use of section 136 at a local level. This should include working with the police and other interested parties.</p>	<p>This action is for Health and Wellbeing Boards</p>	<p><i>This action is for Health and Wellbeing Boards</i></p>
<p>8. The Office for Standards in Education, Children's Services and Skills (Ofsted), HMIC, CQC, HIW, HMI Probation, HMIP and Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) should examine and highlight as part of their multi-agency inspections of child protection arrangements the inappropriate use of police custody as a place of safety for children under 18 years who are detained under section 136.</p>	<p>We monitor all S.136 detainees. If a person under 18 were to be detained this would be raised as an individual case to examine why they were detained in police cells.</p>	<p><b>This recommendation has already been adopted in Cleveland Police</b></p>
<p>9. The Care Quality Commission (CQC) and Healthcare Inspectorate Wales (HIW) should use their combined powers under the Mental Health Act 1983 and the Health and Social Care Act 2012 to develop a robust approach to the regulation of mental health providers. The objective must be to hold services to account for their responsibilities under the Codes of Practice – in this instance, to ensure that places of safety in healthcare settings for the reception and assessment of individuals detained by the police under section 136 are appropriately staffed and secure.</p>	<p>This is an action for the Care Quality Commission and Healthcare Inspectorate Wales.</p> <p>We (police) are closely monitoring this through our partnership With the Mental Health Trust to help drive this action forward.</p>	<p><i>This is an action for the Care Quality Commission and Healthcare Inspectorate Wales.</i></p>
<p>10. Police custody officers should ensure that a full explanation is recorded in the custody record as to why a person detained under section 136 has not been accepted into a health-based place of safety.</p>	<p>We have this in place already. This is reviewed by the custody management team who report to me.</p>	<p><b>This recommendation has already been adopted in Cleveland Police</b></p>

Report Recommendation	Force Response	Suggested Action
<p>11. The Mental Health Act 1983 should be amended to remove a police station as a place of safety for those detained under section 136, except on an exceptional basis.</p> <p>The “exceptional basis” should be clearly defined in law and should reflect the wording currently used in the Codes of Practice, namely, where a person’s behaviour would pose an unmanageably high risk to other patients, staff or users of a healthcare setting.</p>	<p>This is an action for government</p> <p>In Cleveland we adopt the principles that only when a person is violent should they be brought into police custody. However our partners interpret the definition of ‘violent’ different to us in that drunkenness appears to imply, in their minds violence, and uncooperative is also often interpreted as violent. At a strategic level we have agreement however operationally this causes regular problems.</p>	<p>We should continue our work with partners to ensure operational compliance with strategic direction.</p>

Force Response Provided By: Chief Inspector Mick Williams

## PCC RESPONSE TO INSPECTION

Comment by the PCC:

I am encouraged to see three of the four applicable recommendations are already embedded in Cleveland Police procedure and that further work is required in training.

Policing often requires difficult decisions to be made, crucially when people’s welfare is concerned. Where mental health issues are involved, clear guidance by health authorities assists officers in making the right decision, especially relating to the safety of a vulnerable individual.

Cleveland Street Triage services, which began in June 2012, have been heralded nationally by the Home Secretary as the “best on the ground”. The service provides police officers with an option of calling for medical assistance at the scene of an arrest, ascertaining whether an individual can correctly be detained under the Mental Health Act and taken to the best place of safety.

Going forward I am confident that the Cleveland Street Triage service will be a model approach which will continue to be adopted nationally by all Forces. In recognition of the project’s positive impact, there is intent for the skills set in Triage to form part of the multi disciplinary team, which will be the hub of Cleveland’s reviewed arrest referral process.

The PCC will monitor the implementation of recommendations via quarterly updates of the Risk, Audit & Inspection Monitoring Board.