Mental Health Act 2007
Multi-Agency Section136 Policy, Procedure and Guidance
FINAL VERSION

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Name of originator/author:	David Pugh, Independent Consultant MHA and MCA on behalf of the IAMG
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Scope	All staff engaged within the Section 136 process: 2GNHSFT doctors, nurses and Approved Mental Health Professionals (AMHPs); GHNHSFT Emergency Department doctors and nurses; Glos. Constabulary police officers custody sergeants, inspectors and commissioned services, British Transport Police, and SWASFT.

REVISIONS HISTORY

Issue Number	Date	Author(s)	Principal Changes
1	Pre-2012	GCC various including David Pugh, Steve Dawson from the 1990's	• Not known
2	July 2012	Caroline Driscoll and David Pugh	• Revisions to take account of MHA Commission Guidelines, the National Police Improvement Agency (NPIA) 'Guidance on responding to people with mental health or learning disabilities' (2010) and Royal College of Psychiatrists (RCP) 'Standards on the use of Section' 136 of the MHA 1983' (July 2011) • Tightening of criteria to use police stations as a POS • Amendment of legal process for transfer to Emergency Depts from the health POS • Inclusion of option of completing MHA assessment within Emergency Dept in limited circumstances • Tightening of circumstances in which assessment delayed because of influence of alcohol or drugs and use of an 'alcometer'.
3	June 2015	David Pugh	• Revisions take into account of CQC Thematic Review of MH Crisis Care (2014/15), revised MHA Code of Practice (Feb 2015), DH/Home Office 'Review of the operation of Section's 135/136 of the MHA in England and Wales', College of Emergency Medicine Investigation (Oct 2014), Mental Health Crisis Care Concordat (DH Feb 2014), Sainsbury Centre for Mental Health 'Review of Section's 135 and 136 of the MHA' (Dec 2014) and House of Commons Home Affairs Select Ctte on Police and Mental Health (2014) • Introduction of clear policy statements • Tightening of criteria for use of police stations as a POS • Policy of CYP in a police station as a 'never event' • Safeguarding/clinical alert where a person aged 17 years and under is detained in a police PoS and 16 years and under when in a health PoS • A maximum period of detention of 24 hours under Section 136

			• Conveying by ambulance in line with South West Region Mental Health Protocol • New sections on definitions, information sharing, monitoring and alternatives to Section 136 through the new Mental Health Acute Response Service (MHARS) • Option of discharge of a detainee in limited circumstances without being seen by an AMHP • Commitment to explore alternative Places of Safety including children and young people & Nursing Homes where residents go missing • A new appendix on combined police and health data collection set.
4	January 2017	David Pugh & Karl Gluck on behalf of IAMG	• A number of amendments to bring the policy into line with anticipated changes in the Policing and Crime Act 2017 and concerns expressed by both Gloucestershire police and British Transport Police. Changes made to Sections 3.4, 3.6, 7.7, 7.8, 7.11, 7.13, 7.14, 7.15, 7.19 & 9.1. The most significant change was made to Section 7.15 reducing the criteria where police stations can be used as a Place of Safety.
5	January 2018	David Pugh on behalf of IAMG	Amendments to bring policy in line with the Sections 80-83 of the Policing and Crime Act 2017 which amend S135/6 MHA in the following ways. The four highlighted changes have the most significant implications for the NHS: ☐Section 136 powers may be exercised anywhere other than in a private dwelling; ☐**it is unlawful to use a police station as a place of safety for anyone under the age of 18 in any circumstances;** ☐**a police station can only be used as a place of safety for adults in specific circumstances, which are set out in regulations;** ☐**the previous maximum detention period of up to 72 hours will be reduced to 24 hours (unless a doctor certifies that an extension of up to 12 hours is necessary);** ☐**before exercising a Section 136 power police officers must, where practicable, consult a health professional;** ☐ where a Section 135 warrant has been executed, a person may be kept at their home for the purposes of an assessment rather than being removed to another place of safety (in line with what is already possible under Section 136); ☐ a new search power will allow police officers to search persons subject to Section 135 or 136

			powers for protective purposes. These changes primarily relate to police powers to act in respect of people experiencing a mental health crisis for the purpose of ensuring their care and safety. They came into force on 11 December 2017.

Contents:

	Appendices: Appendix 1 - '*Admission of mentally disordered persons found in a public place'* Appendix 2 - 'HBPOS Police-2G Handover MHA S135/136' Appendix 3 - *'Combined Police & Health Service Section 136 Data Collection Set'* *Appendix 4 – 'Section 136 Assessment Suite Operational Guidance'* *Appendix 5 – 'Contingency Process in Absence of AMHP or S136 Place of Safety at the Maxwell Suite* *Appendix 6 – S135/136 Extension of time period (up to 12 hours)*

1. Introduction

1.1 The policy and procedures in this document relate to Section 136 of the Mental Health Act (MHA) 1983 (2007). They do not apply where a person has been arrested for an offence and is subsequently thought to be mentally disordered. Procedures are in place to ensure that such persons are dealt with appropriately in accordance with the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998.

1.2 People detained under Section 136 are subject to arrest. The power of arrest under Section136 is a preserved power under Section 26 of the Police and Criminal Evidence Act (PACE) 1984. A person detained under Section 136 may be searched by the constable to ascertain what they have on them which could be used to harm themselves or others, damage property or assist them to escape (see MHA CoP 16.66 – 16.71). Police Officers are required to consider the 'necessity test' prior to arrest. Essentially this means that the arrest must not just be lawful (EHCR), but necessary and proportionate to the circumstances.

1.3 This policy and procedure takes account of the provisions of the law and Home Office, Department of Health, and Mental Health Act Commission guidelines, National Police Improvement Agency (NPIA) '*Guidance on responding to people with mental health or learning disabilities'* (2010) and Royal College of Psychiatrist '*Standards on the use of Section136 of the MHA 1983'* (July 2011), CQC's Thematic Review of MH Crisis Care (2014/15), the revised MHA Code of Practice (Feb 2015), DH/Home Office '*Review of the operation Section's 135/136 of the MHA in England and Wales'*, College of Emergency Medicine Section 136 Investigation (Oct 2014), Mental Health Crisis Care Concordat (DH Feb 2014), Sainsbury Centre for Mental Health '*Review of Section's 135 and 136 of the MHA'* (Dec 2014) and House of Commons Home Affairs Select Committee on Police and Mental Health (2014). The current revision incorporates changes brought about by the Policing and Crime Act 2017.

1.4 This policy has been reviewed under the auspices of the Inter-Agency Monitoring Group (IAMG).

1.5 The aim of the policy and procedure is to ensure that:-

- A person detained under Section 136 receives the attention and the most **appropriate form of care** he/she needs while respecting his/her rights as an individual;
- This attention and care is provided in the **most appropriate place** and by the **people best qualified to provide** it and;
- The attention and care is provided **as soon as possible** with the **minimum of disruption and stress** to the person concerned.

2. Purpose

2.1 The policy reflects the commitment of all the agencies involved to work together to provide appropriate assistance to people with a mental disorder. It outlines the roles and obligations of each authority and is intended as guidance as to the procedural requirements to be followed in respect of persons detained under Section 136 of the Act.

2.2 The purpose of the legislation is to enable a person to be medically examined by a registered medical practitioner and interviewed by an Approved Mental Health Professional (AMHP), and for an assessment to be made of the person's total situation as quickly as possible, in his/her own interests and/or for the protection of others, so that any necessary arrangements can be made for ongoing treatment and care (see 2.4 below).

2.3 The registered medical practitioner should normally be a doctor who is approved in accordance with Section 12 of the MHA. In those circumstances where the doctor is not approved then the doctor examining the patient will need to discuss the case with the Section 12 doctor before any decision is made.

2.4 If the doctor who examines a person detained under Section 136 fails to detect any form of mental disorder, the person should be discharged from detention under Section 136 immediately, even if not seen by an AMHP, as there can be no reasonable legal grounds for the holding power to continue (CoP 16.50). The AMHP and doctor share a responsibility to agree the satisfactory return to the community of a person assessed under Section 136 which may involve the Mental Health Acute Response Service (MHARS) (CoP 16.73).

2.5 The registered medical practitioner and the AMHP have a separate function to carry out. The contribution of each should complement that of the other in the interests of formulating a plan of action that can be jointly agreed, wherever possible, and implemented.

3. Policy

The following are the key local policy statements driving implementation of Section136 in Gloucestershire:

3.1 Primary emphasis on the least restrictive option in order to reduce the need for detention under Section136 where this can be done safely and lawfully. However, in some circumstances Section 136 is seen as a positive intervention and safety net
3.2 Engagement in the process as much as possible – *'no decision about me, without me'*
3.3 Timely sharing of detainee personal information in a crisis situation between the person with perceived mental health needs health, social care and the police to create the least restrictive option (B6.2 Crisis Care Concordat)
3.4 Police stations will only be used as a Place of Safety (PoS) under Section 135 (1) and Section 136 in the circumstances defined in the Policing and Crime Act 2017
3.6 In line with the Policing and Crime Act 2017 Police cells must not be used for people of 17 years and under in any circumstances.
3.7 A safeguarding /clinical alert will also be made where a person of 16 years and under is taken to the Maxwell Suite
3.8 Individuals should be assessed within an average of four hours
3.9 Detainees will be given the opportunity to comment on their experience of Section136 detention shaping the development of the

service
3.10 Mental Health Act assessments will be carried out at Emergency Departments where the detainee has a need for physical treatment and transfer to the Maxwell Suite would delay the assessment or not be in the best interests of the detainee
3.11 The Emergency Dept (ED) will not be used as a default option as a PoS, but will sometimes have a role to play in times of exceptional demand when the locally agreed health based PoS has no capacity.

4. Definitions

The Act / MHA	Mental Health Act 1983 as amended by the Mental Health Act 2007
AMHP	Approved Mental Health Professional
ED	Emergency Department
EDT	Emergency Duty Team (scope includes Adults and Children and Young People)
HBPOS	Health Based Place of Safety
Liable to be detained	Within this context this includes people who are actually detained under the MHA (such as people who can be lawfully stopped from leaving hospital) and people who could be detained but for some reason are not (such as people on Section17 leave or for whom an application for detention has been completed but they have not yet been admitted to hospital)
LSSA	Local Social Services Authority
MCA	Mental Capacity Act
MHARS	Mental Health Acute Response Service (crisis service)
PaCA	Policing and Crime Act 2017
PoS	Place of Safety
PMS	Police Medical Services
RMP	Registered Medical Practitioner
Section12 Doctor	A doctor approved under Section 12 means a doctor who has been approved by the Secretary of State as having special expertise in the diagnosis or treatment of mental disorder. Doctors who are 'Approved Clinicians' are automatically treated as being approved under Section 12.

5. Duties

5.1 This policy is led by 2Gether NHS FT and jointly agreed with Gloucestershire Constabulary, Gloucestershire County Council, Gloucestershire Hospitals NHS Foundation Trust, British Transport Police and South Western Ambulance Service NHS FT.

5.2 Director of Quality and Performance (Nursing, Social Care and Allied Health Professionals) Directorate.

Responsibility for the development, maintenance, review and ratification of this document lies within the **Director of Quality and Performance (Nursing, Social Care and Allied Health Professionals) Directorate**. The Director of Quality and Performance (Nursing, Social Care and Allied Health Professionals) has board

level responsibility for the development of this document and may delegate this responsibility to a subordinate.

5.3 The 2gether NHSFT Governance Committee

The Governance Committee will be notified of the ratifying of these guidelines.

5.4 Locality Directors

Locality Directors are responsible for ensuring that their teams are aware of the guidelines and are implementing it fully and correctly, and will investigate failures to comply with the guidelines.

5.5 Matron Managers, Lead Professional for Social Care, Ward/Unit Managers and Team Leaders

These managers will ensure all staff are aware of the guidelines. They will ensure that failures to comply with the policy are reported and take corrective action to prevent a recurrence.

5.6 All Staff

All staff with a responsibility for patients subject to Section136 have a duty to comply with this policy.

Police officers are required to consider this policy in the decision process, in line with the *National Decision Model* (NDM) and should seek guidance from the Control Room Inspector, when necessary, to ensure a person orientated approach is taken.

6. Legal Context

6.1 The following is a summary of the key legal changes made by the Policing and Crime Act 2017 to the Mental Health Act 1983. It is taken from Policing and Crime Act 2017, Part 4, Chapter 4 “Powers under the Mental Health Act” http:// www.legislation.gov.uk/ukpga/2017/3/part/4/chapter/4/enacted

6.2 Extension of powers under Sections 135 and 136 of the Mental Health Act 1983

(1)If a person appears to a constable to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons—

(a) remove the person to a place of safety within the meaning of Section 135, or

(b) if the person is already at a place of safety within the meaning of that section, keep the person at that place or remove the person to another place of safety.

(1A)The power of a constable under subsection (1) may be exercised where the mentally disordered person is at any place, other than—

(a) any house, flat or room where that person, or any other person, is living, or

(b) any yard, garden, garage or outhouse that is 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.

(1B)For the purpose of exercising the power under subsection (1), a constable may enter any place where the power may be exercised, if need be by force.

(1C)Before deciding to remove a person to, or to keep a person at, a place of safety under subsection (1), the constable must, if it is practicable to do so, consult -

(a) a registered medical practitioner,

(b) a registered nurse,

(c) an approved mental health professional, or

(d) a person of a description specified in regulations made by the Secretary of State.

6.3 Restrictions on places that may be used as places of safety

For the purpose of subsection (6) -

(a) a house, flat or room where a person is living may not be regarded as a suitable place unless -

(i) 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;

(ii) 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;

(iii) 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;

(b) a place other than one mentioned in paragraph (a) 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."

6.4 Use of police stations as places of safety (136A)

(1)A child (a person aged under 18 years) may not, in the exercise of a power to which this section applies, be removed to, kept at or taken to a place of safety that is a police station.

(2)The Secretary of State may by regulations—

(a) provide that an adult may be removed to, kept at or taken to a place of safety that is a police station, in the exercise of a power to which this section applies, only in circumstances specified in the regulations **(see Section 7.19 of this policy)**

(b) make provision about how adults removed to, kept at or taken to a police station, in the exercise of a power to which this section applies, are to be treated while at the police station, including provision for review of their detention.

6.5 Periods of detention in places of safety etc

The permitted period of detention means -

(a) the period of 24 hours beginning with -

(i) in a case where the person is removed to a place of safety, the time when the person arrives at that place;

(ii) in a case where the person is kept at the premises specified in the warrant, the time when the constable first entered the premises to execute the warrant; or

(b) where an authorisation is given in relation to the person under Section 136B (extension of detention beyond 24 hours), that period of 24 hours and such further period as is specified in the authorisation.

6.6 Extension of detention (136B)

(1)The registered medical practitioner who is responsible for the examination of a person detained under section 135 or 136 may, at any time before the expiry of the period of 24 hours mentioned in section 135(3ZA) or (as the case may be) 136(2A), authorise the detention of the person for a further period not exceeding 12 hours (beginning immediately at the end of the period of 24 hours).

(2)An authorisation under subsection (1) may be given only if the registered medical practitioner considers that the extension is necessary because the condition of the person detained is such that it would not be practicable for the assessment of the person for the purpose of section 135 or (as the case may be) section 136 to be carried out before the end of the period of 24 hours (or, if the assessment began within that period, for it to be completed before the end).

(3)If the person is detained at a police station, and the assessment would be carried out or completed at the station, the registered medical practitioner may give an authorisation under subsection (1) only if an officer of the rank of superintendent or above approves it.

6.7 Protective searches: individuals removed etc under Section 135 or 136 of the Mental Health Act 1983 (136C)

(1)Where a warrant is issued under section 135(1) or (2), a constable may search the person to whom the warrant relates if the constable has reasonable grounds for believing that the person—

(a) may present a danger to himself or herself or to others, and

(b) is concealing on his or her person an item that could be used to cause physical injury to himself or herself or to others.

(2)The power to search conferred by subsection (1) may be exercised—

(a) in a case where a warrant is issued under Section 135(1), at any time during the period beginning with the time when a constable enters the premises specified in the warrant and ending when the person ceases to be detained under Section 135;

(b) in a case where a warrant is issued under Section 135(2), at any time while the person is being removed under the authority of the warrant.

6.8 The MHA Code of Practice makes it clear that '*Section136 is not intended to be used as a way to gain access to mental health services and the person should be encouraged to take a route via primary care services, or to contact local mental heath community services'.* A police officer may escort a person who is voluntarily seeking urgent mental healthcare to an appropriate service. (CoP 16.21).

7. General Procedural Guidelines

7.1 **Rights of people detained in POS** (CoP 16.66 – 16.69). The principles of the PACE Code of Practice will be applied to persons removed to a police station as a PoS under Section's 135 and 136 (with the exception of Section15 of Code C). A person should expect to receive a copy of the Notice of Rights and Entitlements, which states that an individual can tell the police if they want access to a solicitor, if they want someone to be told they are at the police station and if they want medical help. This should be both orally and in writing.

7.2 The new Section 136C allows a police officer to search a person subject to Section 135, 136(2) or 136(4) if the officer has reasonable grounds to believe that the person may be a danger to themselves or others and is concealing something on them which could be used to physically injure themselves or others. This addresses a previous lack of specific search powers in some circumstances, including where the police attend people's homes in support of a Section 135 warrant.

7.3 Where a hospital is used as a PoS, the managers must ensure that the provisions of Section132 (giving of information) are complied with – see Appendix 1 '*Admission of mentally disordered persons found in a public place'*. In addition, access to legal advice should be facilitated whenever it is requested.

7.4 Police Officers who attend, or come across an incident involving a person who appears to be suffering from mental disorder in any place other than broadly a 'private dwelling' or its associated buildings or grounds (where Section136 of the MHA may be relevant), will first consider:

- Whether there is a power of arrest for any substantive offence: if this is the case police may follow their usual procedures under PACE and arrest for the substantive offence. However, the decision to arrest or alternatively detain under Section136 will depend on the circumstances and seriousness of the substantive offence. An early opinion from police medical services regarding fitness to be interviewed and the Gloucestershire Liaison and Diversion Service regarding a mental health assessment should be sought. Section 136 (1) no longer requires that the police officer 'finds' the person concerned. Section 136 (1) can apply regardless of how the police officer comes into contact wit the person, including in circumstances where the officer had already been with the person for some time or where the officer has encountered the person following a call to respond to an incident.

7.5 Where there is no power of arrest for a substantive offence the officer should consider:

- Whether there is a need under the MHA for immediate "Care or Control": Section136 should be used only where there is an evident need for care or control with respect to risk to the individual or any other. When a Police officer decides to arrest a person within the provisions of Section136, the Police Officer will convey the person directly to a PoS (subject to 7.6 below).

7.6 A police officer is required by new Section 136(1C) to consult one of a list of specified healthcare professionals, where it is practicable to do so, before deciding whether or not to keep a person at, or remove a person to, a place of safety under Section 136(1).

7.7 Legislation sets out the healthcare professionals that the officer can consult, which, at the time the guidance was published are:

- an Approved Mental Health Professional;
- a registered nurse;
- a registered medical practitioner;
- an occupational therapist;
- a paramedic.

7.8 The purpose of the consultation is for the police officer – who is considering using their powers under Section 136 – to obtain timely and relevant mental health information and advice that will support them to decide a course of action that is in the best interests of the person concerned.

7.9 **Mental Health Acute Response Service (MHARS) – 0800 1690398.** MHARS is a single unified crisis system. This service will provide this consultation function. The consultation does not have to take a particular form. The duty AMPH will provide backup if MHARS is temporarily unavailable.

7.10 The following are the main possible outcomes:

i) **On-going care from the Rapid Assessment and Home Treatment Team** (RAHTT) if the assessing clinician decides the person requires further assessment/and/or home treatment and care

ii) **Detention under Section136**

iii) **Referral to a 2gether NHSFT service** if the person is 'known' and or an open case e.g. CYPS, GRIP, Recovery Team

iv) **Advice/signposting** which could involve another statutory service such as Turning Point, Social Services or a non-statutory service such as the Independence Trust

v) **No Further Action.**

7.11 **Consent and Information Sharing:** The sharing of relevant information is a central part of this policy. Keeping information secure and confidential should not be confused with keeping information secret. Consent to share information with other professionals should always be sought from the person being assessed and documented accordingly. Staff need to differentiate between refusal and valid consent and the inability to give valid consent because of a lack of mental capacity. If consent cannot be gained at the time of the crisis it will be revisited with the person ASAP. Information will only be shared without consent if the Police and MHARS staff consider that the decision to share falls within the Gloucestershire Information Sharing Partnership Agreement (GISPA) and crisis specific '*Information Sharing Within a Mental Health Crisis Protocol'* (January 2017). These documents aim to facilitate the appropriate and lawful sharing of information to meet the needs of people in mental health crisis while protecting their individual rights.

7.12 **Conveying**: Following detention by a police officer an ambulance should be requested, the preferred method of transport under the MHA Code of Practice (16.32 and 16.41). Police vehicles should only be used where there is extreme urgency, where there is an immediate risk of violence or where it is deemed that conveyance by Police would be the least restrictive option (e.g. delay in waiting for an ambulance would unnecessarily delay assessment). An ambulance should always be used where there is risk of collapse and death or prolonged restraint. Where police transport has to be used a member of the ambulance crew can be asked to be present in the police vehicle and the ambulance requested to follow behind to enable a response to any medical emergency. See also para 7.13 on the role of the Emergency Department and SWASFT 'South West Regional Mental Health Joint Protocol' (Aug 2014).

7.13 The SWASFT 'South West Regional Mental Health Joint Protocol' (Aug 2014) aims to ensure that services provided to patients in mental health crisis are managed in accordance with the Mental Health Crisis Care Concordat. Section's 135 and 136 will be responded to in line with the national Ambulance Response Programme (ARP) as a Category 2 call. This will be an 18 minute response within a 90th centile performance of 40 minutes.

7.14 **Emergency Department (ED):** Where the detainee has an **urgent medical need** they should be taken to the Emergency Department. This includes individuals who are 'drunk and incapable' and showing any aspect of incapability (e.g. walking unaided or standing unaided) which is perceived to result from that drunkenness. A person found to be drunk and incapable by the police should be treated as being in need of medical assistance at the ED or other alcohol services. The same should occur for those people who appear to be intoxicated by drugs to the point of being 'incapable', but have been detained under Section 136. The law must be adhered to in the usual way and the Section 136 pathway should be followed, but the individual should be taken to ED for medical clearance. This can only be done with the detained persons consent, or if they lack capacity and it is in their best interests via the provisions of the MCA 2005. In such circumstances the 24 hour

period for Section 136 will begin at the point when the person arrives at the ED because a hospital is a PoS. The ED will not generally be used as a PoS.

7.15 An **ambulance** should always be used where there is risk of collapse and death. The police may travel with the detainee to the ED. Equally if the detainee is taken by the police the ambulance may be requested to follow behind the police vehicle in case an urgent medical response is required. The police should remain at the hospital for the duration of the physical treatment. However, even in these circumstances a very high priority demand on the police would take precedence. The ED will attempt to 'fast track' the detainee. After physical health treatment is complete where it would be in the best interests of the detainee, the mental health assessment should be carried out at GHNHSFT. In these circumstances the police should remain at the hospital until the mental health assessment is complete, or it has commenced and agreement has been reached that the police can leave pending completion of the assessment. If the Section136 mental health assessment is not possible at GHNHSFT the detainee will be transferred by police or ambulance to the nearest clinically appropriate POS, usually the Maxwell Suite. If continued physical treatment is required then the AMHP, or registered medical practitioner will be consulted on the most appropriate way forward to meet the needs of the detainee and the requirements of Section 136.

7.16 136 Detainees who after arrival/acceptance at the **Maxwell Suite** are assessed as having **physical health care needs** beyond those which can be met in the Maxwell Suite will need to be taken to the ED. The Section 136 will continue on the basis that treatment for the physical condition is necessary in order to complete the MHA assessment. The reason for this must be clearly documented in the patient's record. After physical health treatment is complete the mental health assessment should be carried out at GHNHSFT where this is in the best interest of the patient. ED will not generally be used as a PoS under Section 136. However, in the above circumstances where it is patient's best interests to be assessed in the ED, the ED should act as a PoS for the purpose of MHA assessment.

7.17 Should the period of physical treatment start to approach 24 hours the situation should be urgently reviewed. Consideration should be given asking the Registered Medical Practitioner responsible for the MHA assessment to extend the detention period by 12 hours. See section 11.8 for more explanation. Should the Section 136 lapse then the existing mental health pathways for assessment and treatment apply.

7.18 The ED also has a role to play in circumstances where there are system **capacity concerns** – see Department of Health letter of 31.10.17 (gateway reference 07203). The use of the ED as a PoS will be triggered by the following:

i) the Maxwell Centre is full (2 adults) and a third detainee does not meet the criteria for a police station PoS

ii) a person under the age of 18 years has been detained under Section 136 and there is an adult/s in the Suite and a safeguarding assessment has concluded that the young person cannot be accommodated in the Suite at the same time as the adult/s (Sec 9.6 bullet 3 of this policy). In these rare circumstances either one or both adults could be transferred to ED or the young person could be taken to the Paediatric Ward via the ED.

7.19 **Police stations as a POS:**

By virtue of the new Section 136A (1) a police station or police premises may not be used as a PoS for a person under the age of 18 years under any circumstances. A police station may now only be used where all 3 criteria below are met and with approval of an officer of the rank of Inspector or above::

a) The behaviour of the person poses an imminent risk of serious injury or death to themselves or another person **AND**

b) Because of that risk, no other PoS in the relevant police area can reasonably be expected to detain them, **AND**

c) So far as reasonably practicable, a healthcare professional will be present at the police station and available to them.

Criterion a) above is further defined to likely exclude a verbal threat to use violence or being intoxicated and/or uncooperative. However criterion b) may be met where:

d) a PoS that could normally manage the person's behaviour is not available – for example because it is temporarily out of commission or already fully occupied (and cannot be cleared readily);

e) a PoS is available but is not reasonably able to manage the person – for example because of a lack of sufficiently trained and equipped staff.

7.20 Under the Mental Health Code of Practice detainees may be **transferred** between Places of Safety. Section 44 (3) of the Mental Health Act 2007 amended Section 136 of the MHA 1983, makes it possible for a constable, AMHP or person authorised by them to transfer a person detained in a POS to one or more other POS for the purposes of carrying out an assessment of the individual's mental health under the Act. The preferred method of transfer is by an ambulance. The clock continues to run during any transfer of a person between one PoS and another.

7.21 To ensure that Service Users are cared for in the least restrictive environment (Code of Practice Chapter 1) involved agencies need to work in co-operation. A situation may arise where the risks to the service user and staff in the healthcare POS becomes unmanageable compromising safety. Should this situation occur the healthcare POS suite coordinator can contact the police Control Room to seek assistance in the ongoing management of the person detained under Section 136.

7.22 In the event that the detainee has been taken to the Police POS if the risk factors reduce and the needs change, a custody sergeant or AMHP should consult with the suite coordinator of the Wotton Lawn Hospital POS to seek agreement for transfer.

7.23 Where there is no need for care or control, the attempt, or threat to commit suicide does not necessarily dictate detention under Section 136.

- Where there is evidence of an overdose, or an obvious injury, then an ambulance should be called.
- The person should not be detained under Section 136, but conveyed by ambulance to the Emergency Department (ED).
- The decision whether or not to escort the injured or ill person to the ED will be the subject of a joint risk assessment between the police officer and the ambulance personnel present.

- If the person refuses to be taken to the ED, the police and ambulance personnel present should carry out an assessment of mental capacity regarding this decision *and* reconsider the use of Section 136 according to agreed protocols (also see Mental Health Conveyance Policy and Multi-Agency MCA Policy, Procedure and Guidance. The final decision will sit with the ambulance clinician. Section 20 and 21 of the latter relate to the ambulance police and responsibilities respectively).
- Where there are no such medical concerns, consideration should be given to alternative care including transport for the individual to the home address or other safe place.

7.24 If a person is conveyed voluntarily to the ED in these circumstances (i.e. not under arrest or detention under Section 136) then it will be for the ED staff to consider the necessity for mental health assessment, alongside any medical treatment within the Department, that is deemed necessary normally in consultation with the Mental Health Liaison Service.

8. Procedural Guidelines - Police Station POS

8.1 The normal procedures for dealing with detained and arrested persons will be followed.

8.2 On arrival at the police station the Custody Officer must be satisfied that the custody suite is only being used in line with the criteria in Section 7.19 of this policy and

a) Open a custody record and fully comply with the conditions of PACE 1984 relating to detained persons i.e. to have another person of his/her choice informed of his/her arrest and whereabouts plus the right to legal advice (PACE Section 58). The detention period begins at the point the person physically enters the PoS.

b) Where the detainee has been exposed to PAVE(an incapacitating spray), decontamination arrangements will be put in place.

c) Inform the detained person of the reasons for his/her admission to the police station and his rights.

d) Read and provide the detained person with a copy of their rights under the Police and Criminal Evidence Act (PACE 1984).

e) Police Medical Services (PMS) may conclude that the detainee no longer meets the criteria for Section136 and continued assessment. This could be as a result of a) intoxication where the detainee no longer displays any evidence of mental disorder once the influence of drugs and or alcohol has worn off, or b) the identification of physical causes that mimic mental disorder e.g. fever based illness that requires medial treatment. The police medical service may discharge the Section 136 if s/he can categorically state that there is no evidence of mental disorder.

f) Contact an AMHP and arrange for their attendance at the police station as soon as possible (maximum four hours). This may sometimes need to be balanced with other demands on AMHPs, Section 12 registered medical practitioners and the Section 12 doctor. Where possible the AMHP will contact the individual's GP. Ideally, the interview by the AMHP and the examination by the registered medical practitioner should take place at the same time. The PMS should be involved if there are concerns about the individual's physical health or questions about the individuals 'fitness to be detained'. Currently PMS are not Section 12 Approved, but can act as the

second doctor if a civil section of the Act is required, particularly if the PMS doctor has already met or physically examined the detainee. The latter would only be in exceptional circumstances.

g) The Custody Officer is responsible for the completion of police computerised monitoring records.

h) Ensure the person's welfare is checked by a healthcare professional at least once every 30 minutes and appropriate action is taken for their treatment and care. The custody officer must review at least hourly whether the circumstances which warranted the use of a police station still exist. If they do not, the person must be taken to another PoS that is not a police station.

8.3 The AMHP should ensure, through discussion with the Custody Officer, that as far as possible, the examination / assessment interview is undertaken jointly with the registered medical practitioner.

8.4 **Time Extensions:** In the exceptional circumstances of the person being held in Custody under S136 the power to detain a person last for 24 hours. The period of 24 hours begins to run from the arrival at the first Place of Safety even if the person does not stay at that place. There is provision for a further period of detention, to commence at the end of the 24 hours, not exceeding a further 12 hours (S136B). The grounds are that "*the condition of the detained person is such that it would not be practicable for the assessment of the person.to be carried out before the end of the period of 24 hours"* or if it were to commence for it to be completed (See section 11.8 for more explanation).

8.4.1 A decision to extend the period of detention for a person detain in a police station (or Custody) can only be taken by the Registered Medical Practitioner (RMP) if the decision is approved by a police Superintendent or higher rank (s136B(3).

8.4.2 The RMP will be identified in the manner set out in 11.8.1 and they should discuss their view with the police Superintendent or higher rank. The healthcare professional should consult with the RMP and record the decision having been made, on RiO and the form "S136/135 extension of time period (up to 12 hours)" Appendix 6 . This form should be kept with the detained person's paper work and uploaded onto RiO.

8.4.3 The authorisation of an extension should be documented by the Custody Sergeant on the Custody record

9. Procedural Guidelines – Maxwell Suite POS

9.1 The Maxwell Suite at Wotton Lawn Hospital is the locally agreed primary NHS POS for the purpose of Section 136 and Section 135 (1) assessment in Gloucestershire. This is the only hospital that will act as a POS. In only exceptional circumstances will the ED (see Section 7.14 -7.18 of this policy) be used as a POS for assessment of patients detained under Section 136.

9.2 Where a police officer decides to detain a person within the provisions of Section 136 the police officer via the Control Room will discuss with the Suite Coordinator/MHARS to confirm whether the person concerned should be conveyed directly to Wotton Lawn Hospital POS by ambulance or in exceptional circumstances by the police in line with the MHA Code of Practice. The detainee will be informed of their right to legal advice, fully searched prior to placing in vehicle and any items that may cause injury or harm to self or others will be removed and handed over to Suite staff for safe keeping. Appendix 2, form *'HBPOS Police and 2G handover MHA S135/136'* will be completed by the police.

The detention period begins at the point when the person enters the PoS. Time spent travelling to the PoS or spent outside awaiting opening of the facility does not count.

9.3 136 Detainees who after arrival/acceptance at the **Maxwell Suite** are assessed as having **physical health care needs** beyond those which can be met in the Maxwell Suite will need to be taken to the ED. The Section 136 will continue on the basis that treatment for the physical condition is necessary in order to complete the MHA assessment. The reason for this must be clearly documented in the patient's record. After physical health treatment is complete the mental health assessment should be carried out at GHNHSFT where this is in the best interest of the patient. ED will not generally be used as a PoS under Section 136. However, in the above circumstances where it is patient's best interests to be assessed in the ED, the ED should act as a PoS for the purpose of MHA assessment. See also section 7.14-7.18 of this policy.

9.4 Should the period of physical treatment start to approach 24 hours the situation should be urgently reviewed. Consideration should be given asking the Responsible Medical Practitioner to extend the detention period by 12 hours. Should the Section 36 lapse then the existing Mental Health pathways for assessment and treatment apply. See section 11.8 of this policy.

9.5 Prior to arrival at the Maxwell Suite the officer will, via the Control Room, inform the Maxwell Suite Coordinator/MHARS that a person detained under this Section is being brought to the Suite (Appendix Form 2, *''HBPOS Police and 2G handover MHA S135/136'* to be completed). The officer will request a Police National Computer (PNC) person check and local intelligence search.

9.6 During the telephone contact details regarding the individual detained will be discussed including (wherever possible):

- Name, date of birth, presentation, reasons for detention, known risks, relevant results of local intelligence and PNC checks (above details to be recorded on Appendices 2 and 3). Following this initial verbal screening agreement to bring into the Maxwell Suite Section 136 Suite will be made with the Suite Co-ordinator.
- The Section 136 Suite Coordinator will make a referral to the duty AMHP, or place where arrested if an out of LSSA person. Sufficient detail should be provided to enable the AMHP to check the LSSA and Health databases and begin to prepare for the mental health assessment by liaising with health and social care professionals and relatives as appropriate, ensuring that there is no conflict of interest as defined under 'The Mental Health (Conflict of Interest) (England) Regulations 2008'.
- If the person is 17 years of age or under the Suite Coordinator will assess the current situation in the Maxwell Suite and make a decision as to whether it is appropriate for them to be brought into the unit. Consideration will be given to whether the Suite is already occupied by an adult and if there is any risk to either detainee by accepting a young person into the Suite. The same principle applies if the young person is already in the Suite and an adult is brought in. CYPS specialist staff should always be involved in the assessment of people under the age of 18 years unless it would create an unnecessary delay given the 24 hour time limit. A safeguarding/clinical alert must be made if a young person of 16 years, or under is admitted to the Maxwell Suite.

9.7 It is the police officers responsibility to:

a. Escort the detained patient to the POS, delivering an appropriate report of the circumstances leading to detention and complete Appendix Form 2, *'HBPOS Police and 2G handover MHA S135/136'*. Information is required from the police officer to ensure all relevant details are available to assessing clinicians including monitoring data.
b. Offer initial assistance to the assessment suite staff and the AMHP, to ensure the safety and security of the detainee, themselves, all other patients and staff.
c. To remain at the assessment suite until, the staff have settled the detainee, and *mutually agreed*, based on a joint risk assessment, that police presence is no longer required. Police officers will leave the suite as soon as is reasonably practical or if there is an overriding need in the community. They may be required to return to the Maxwell Suite in exceptional circumstances due to unmanageable violence.
d. Any deterioration in the person's physical condition will be addressed by the use of current emergency provisions. The On-Call Community doctor should be contacted for non-emergency situations.

9.8 Appendix 4 provides detailed '*Section 136 Assessment Suite Operational Guidance'.*

9.9 ***Place of Safety Unavailable for Adult and/or Child and Young Person (CYP)***

9.10. **Adult.** The following options are available depending on the circumstances and with the agreement of the relevant organisation to act as a PoS.

a) Another identified space within 2gether NHSFT
b) Emergency Department in limited circumstances in line with guidance provided by Department of Health (31/10/17[1]). Police will be expected to remain in situ in line with current Section 136 policy and procedure and based upon an assessment of risk, threat and harm.
c) The home of the detainee or place of residence where agreed by the detainee and others with a legitimate stake within the residence. The person and occupier should understand that there is no obligation to consent and pressure must not be applied. The decision maker in this situation would be the Police in consultation/supported by 2gNHSFT. The police would be asked to prioritise remaining in situ until the MHA assessment has been completed and based upon an assessment of risk, threat and harm. Consideration should be given as to transfer to the Maxwell Suite if it becomes available in the interim period.
d) Police custody in limited circumstance in line with guidance/regulations[2]. See paragraph 7.19 for summary.

e) Out of county HBPoS. In the event that this is required 2gNHSFT (On Call Manager) will take the lead in identifying an appropriate HBPoS and communicate with Police accordingly. Depending upon resource availability, and based on mutual agreement, 2gNHSFT may ask Police colleagues to undertake this and will provide appropriate support. Upon identification of a suitable out of county HBPoS and with the agreement of the owner to accept the detainee, Police will be expected to liaise with that HBPoS to arrange for them to be admitted. 2gNHSFT should inform the local AMHP service (daytime/EDT) so that they can make

[1] Gateway reference 07203
[2] The Mental Health Act 1983 (Places of Safety) Regulations 2017 and Guidance for the implementation of changes to police powers and places of safety provisions in the Mental Health Act 1983, Oct 2017.

appropriate arrangements (including requesting that AMHP from the area where the HBPoS is situated undertake the MHA assessment).

f) In the event that one or more adult cannot be admitted to the Maxwell Suite due to the presence of a person aged 17 (and risks cannot be mitigated as per 9.6 bullet 3 above) this should be escalated to 2gNHSFT On Call Clinical Manager and On Call Executive Director and consideration should be given to transferring the CYP to the Emergency Department. This should be based upon the needs of all detainees and the risk, threat and harm.

g) On these occasions it must be made clear to officers at the point of referral that they may be asked to stay longer at the PoS (as identified above) to assist in managing high demand in such exceptional circumstances

h) As soon as there is capacity within the Section 136 suite then detainee/s should be transferred to the HBPoS.

9.11 **Child and Young Person.** The following options are available if it appears the CYP cannot be admitted to the Maxwell Suite:

a) If the CYP cannot be admitted to the Maxwell Suite due to an existing adult detainee consideration should be given as to whether any risks can be mitigated to make this possible – see paragraph 9.6 bullet 3 above. The fact that a CYP is already within the Maxwell Suite does not automatically prevent an adult being admitted at the same time.
b) CYP Parental Home: In the event that there are no known/suspected safeguarding concerns then the CYP could be taken to their parental home that would need to agree to act as a POS. The person and occupier should understand that there is no obligation to consent and pressure must not be applied. The decision maker in this situation would be the Police in consultation/supported by 2gNHSFT. The police would be asked to prioritise remaining in situ until the MHA assessment has been completed. Consideration should be given as to transfer to the Maxwell Suite if it becomes available in the interim period. This should only be done if it is in the best interests of the CYP.
c) Emergency Department: Emergency Department in limited circumstances in line with guidance provided by Department of Health (31/10/17). It is expected that Police will remain in situ.
d) In the event that the CYP cannot be admitted to the Maxwell Suite due to the presence of two adult detainees and no other PoS is available then this should be escalated to senior On Call managers. Consideration should be given to:

i) Waiting until one or both adults have been discharged from the Maxwell Suite.

ii) Consider transferring either *one or both adults* are transferred to an alternative PoS as detailed below:

1. Wotton Lawn to enable the CYP to be detained in the Maxwell Suite.
2. Emergency Department in limited circumstances in line with guidance provided by Department of Health (31/10/17).
3. Police custody in limited circumstances in line with guidance/regulations[3]. See paragraph 7.19 for summary.

10 Procedural Guidelines for 136 Suite Co-ordinator

10.1 On receipt of initial contact from the police the Suite Co-ordinator must complete the *'HBPOS Police and 2G handover MHA S135/136'* (Appendix 2). This will include the following:

- Name
- Date of Birth
- Address
- General conditions/appearance
- Time of arrival.

10.2 The Suite Co-ordinator will immediately establish whether the detainee is known to the service and, where necessary, access the appropriate health records. All information i.e. case notes should be made available to the professionals involved in the assessment. *Particular care should be taken to establish if the patient is subject to Community Treatment Order (CTO). A patient under a CTO needs to be reviewed with respect to possible recall to hospital by their Responsible Clinician (RC) as they cannot be immediately detained in hospital*. The Suite Coordinator will then complete relevant documentation and enter details onto RIO.

10.3 Should the Suite co-coordinator be concerned about physical wellbeing due to the possibility of alcohol intake an alcometer is available for the purpose of assessment. This is in the context of establishing blood alcohol levels in relation to physical wellbeing and in conjunction with managing risks associated with excessively high blood alcohol levels. It is not being used to determine fitness or otherwise for mental health assessment. The detainee has the right to refuse this intervention.

10.4 The Suite Co-ordinator will arrange for the duty AMHP to be notified. The Suite Coordinator will make an immediate referral to the duty AMHP or place where arrested if an out of LSSA person. Sufficient detail should be provided to enable the AMHP to check the LSSA and Health databases and begin to prepare for the mental health assessment by liaising with health and social care professionals and relatives as appropriate, ensuring that there is no conflict of interest as defined under 'The Mental Health (Conflict of Interest) (England) Regulations 2008.

10.5 The Suite Coordinator will ensure that a suitable reception area is made ready. This includes the use of CCTV for everybody's safety.

[3] The Mental Health Act 1983 (Places of Safety) Regulations 2017 and Guidance for the implementation of changes to police powers and places of safety provisions in the Mental Health Act 1983, Oct 2017.

10.6 The Suite Coordinator will meet the police officer and the detainee and escort them to the reception area.

10.7 The Suite Coordinator with the police officer present will make an initial assessment of the detainee with regards to:

- Mental State
- Security Needs
- Safety Needs including risk assessment and observation levels required to maintain safety and ensure that supervision is provided.

The Suite Coordinator will consider any special needs arising for example from the person being a child or young person under 18 years, a person with learning disabilities, a person with a physical disability, with specific cultural needs or mental capacity concerns for which an advocate or interpreter might be required.

10.8 The Suite Coordinator may need to make preliminary arrangements to prepare for the possibility of admission following the assessment. However, it remains the responsibility of the AMHP and registered medical practitioner to make any necessary further arrangements for the person's treatment and care (CoP 16.73). The Suite Coordinator with the detainees consent will carry out a basic physiological screening using the National Early Warning Score (NEWS). This must be completed for all detainees unless they have attended the Emergency Department for treatment prior to attending the Maxwell Suite or the Maxwell Suite is the 2nd PoS and the physical health screening has been completed at the 1st Place of Safety.

10.9 Admission to hospital of the detained person will only follow assessment by the registered medical practitioner, second doctor if necessary and AMHP and a decision regarding admission has been made.

10.10 The Suite Coordinator is responsible for the completion of the appropriate part of the Section 136 PoS Receipt Form – Appendix 2.

10.11 Police and Criminal Evidence Act 1984(PACE) "fitness to detain" procedures do not apply at the Suite but all parties will assume responsibilities for monitoring the detainee's physical health and use current procedures where appropriate. Any medical emergencies will be responded to in line with these including use of 999 services where appropriate.

10.12 **Treatment and Restraint**

A person detained under Section 136 can only be treated in the absence of consent under the Mental Capacity Act. The same principal applies to physical restraint management. Refer to the relevant restraint for the particular care group, the Prevention & Management of Violence and Aggression (PMVA) Policy and Chapter 26 of the MHA CoP.

10.13 **Admission to hospital**

If it is decided that the most appropriate course of action is for the detainee to be admitted then the normal admission procedure should be followed. Any formal detention process used in Sections of the Mental Health Act will be coordinated by the AMHP as per customary practice. Please note that the Suite is a POS and not a hospital and requirement for the Mental Health Act Assessments and Duty of Care to the client retain the same priority and status of any other urgent community

assessment. The registered medical practitioner in liaison with the inpatient consultant/team is responsible for identifying a suitable admission bed.

10.14 The AMHP will be responsible for arranging patient transportation, which should usually be by ambulance.

10.15 **Best Practice**

The Suite Co-ordinator will ask the detainee if they wish to have a relative/friend informed or attending. An explanation of Section 136 will take place to ensure the detainee understands the process and this will also be provided in writing – Appendix 1 'Admission of mentally disordered persons found in a public place'.

10.16 **Terminating Section 136.**

See Section 13 of this Policy and Procedure.

10.17 **Re-taking a person who escapes Section 136**.

Given the reduction in the usual maximum time for which a person may now be detained under Section 135 or 136 to 24 hours, the timescales in Section 138 have been reduced accordingly. Amendments to Section 138(3) provide:

(i) Escape during removal to a PoS

Where a person escapes in the course of being removed to a PoS under Section 135(1) or 136 (1) (s)/he may not be retaken under this provision after a period of 24 hours has expired from the time of that escape.

(ii) Escape from a PoS

Where a person escapes after arrival at a PoS, (s)he may not be retaken under this provision after the maximum time that they could have been detained in that place. In most cases that will be a total period of 24 hours but account also needs to be taken of any extension to that period (up to a maximum of 12 hours), where this has already been authorised by the medical practitioner under Section 136B, at the point of any escape.

11. The Assessment - Procedural Guidelines – Maxwell Suite POS

11.1 The following constitutes guidance to Registered Medical Practitioners and AMHPs involved in assessing a person detained in a PoS within the provision of Section 136.

11.2 In order for the requirements of Section 136(2) to be met the person detained must be examined by a Registered Medical Practitioner and interviewed by an AMHP in order for any necessary arrangements for that person's treatment or care to be made. The Registered Medical Practitioner should normally be a doctor approved within the provisions of Section 12.

11.3 The Mental Health Act Code of Practice requires that target times are established for the commencement of the assessment process following the person's arrival in the PoS. All assessments must be carried out expeditiously, but in any case within the following target times:

11.3.1 The examination by a registered medical practitioner and interview by an AMHP should commence within **three hours** of notification by the Custody Officer or Wotton Lawn POS Suite Coordinator unless the

assessment has been deferred due to the effect of unknown substances. This may sometimes have to be balanced with other registered medical practitioner or AMHP demands.

11.3.2 If consultation between the registered medical practitioner and the AMHP suggests that a full Mental Health Act assessment is required, it would be best practice for all assessors to attend together. The examination will be undertaken by a Registered Medical Practitioner (wherever possible approved under Section 12 of the Act). Where the examination has to be conducted by a doctor who is not approved, the reasons for this should be recorded. These interviews should, as far as possible, take place jointly - registered medical practitioner and AMHP.

11.3.3 **Assessments** aim to be completed **within four hours** Reasonable allowance should be made for geographical constraints, the time of the request and the availability of the second doctor or other professionals such as interpreters or advocates.

11.4 If it appears that compulsory admission to hospital or another psychiatric facility is felt necessary, then the opinion of a Second Doctor is required. The Act prefers that this should be the detainee's GP or a Second Section 12 registered medical practitioner. The Act also prefers that the Second doctor should be someone having prior knowledge of the detainee particularly if the first doctor or the AMHP does not. The AMHP will ensure that there are no conflicts of interest between the assessors, or between any of the assessors and the patient. The AMHP will endeavour to arrange for the patients who appear to have a learning disability or who are under or close to the age of 18 years to be assessed by professionals who have knowledge and experience of working with the specific care groups but this should not unnecessarily delay the assessment. Current medical cover arrangements allow all Section 12 Drs to respond to individuals from all care groups.

11.5 The purpose of the examination and interview is to assess the needs of the person which may result in that person's admission to a psychiatric hospital. The Code of Practice (16.45) indicates:

> *"The same care should be taken in examining and interviewing people in places of safety as in any other assessment. No assumptions should be made about them simply because the police have been involved, nor should they be assumed to be in any less need of support and assistance during the assessment..."*

11.6 If the doctor who examines a person detained under Section 136 fails to detect any form of mental disorder, the person should be discharged from detention under Section 136 immediately, even if not seen by an AMHP, as there can be no reasonable legal grounds for the holding power to continue (CoP 16.50).

11.7 The assessing doctors will perform an assessment as outlined in Chapter 14 of the Code of Practice. One of the assessing doctors will make a record of the assessment on Rio. It is not usually necessary or appropriate for a MHA assessment to be a full core assessment. A brief note of the salient information, the

person's mental state, the decision and aftercare arrangements in the continuation section will suffice. If the person is not detained, one of the assessing doctors should write to the person's GP with the details of the assessment.

11.8 **Time Extensions:** There is provision for the Registered Medical Practitioner, responsible for the examination of the person detained under S136 to authorise a further period of detention, to commence at the end of the 24 hours, not exceeding a further 12 hours (S136B). The grounds are that "the condition of the detained person is such that it would not be practicable for the assessment of the person….to be carried out before the end of the period of 24 hours" or if it were to commence for it to be completed. It is expected to relate to individuals whose assessment is delayed due to their presentation (such as intoxication) or their need for medical treatment (such as for an overdose). Staff shortages, delays in attending, or the lack of other resources, such as hospital beds, are not considered to be aspects relating to 'the condition of the detained person' and therefore would not be grounds that would justify an extension.

11.8.1 The authorisation of an extension should be authorised by the Registered Medical Practitioner. This is most likely to be one of the doctors involved in the assessment under the MHA, who, around or at the time of the assessment, decides the criteria are met to authorise an extension of up to 12 hours. The extension must be authorised within the initial permitted period of detention (i.e. the first 24 hour period). The decision should be recorded on RiO and the form "S136/135 extension of time period (up to 12 hours)" (Appendix 6). This form should be kept with the detained person's paper work and uploaded onto RiO.

11.8.2 If an extension is needed to be granted before the MHA assessment has been set up, the RMP will be the consultant (or deputy) of the patient's care team or, if unknown, MHARS consultant (or deputy), or, out of hours the on call consultant psychiatrist, or the ED Consultant or Deputy. It may be possible for the authorisation to be granted following a telephone consultation with the nurse responsible for the detained person's care, without a face to face examination. The nurse (or doctor if present) should record the decision having been made on RiO and the form "S136/135 extension of time period (up to 12 hours)" (Appendix 6). This form should be kept with the detained person's paper work and uploaded onto RiO.

11.8.3 The authorisation should state:

- the time the authorisation is granted,
- the reason for the authorisation,
- the new end time for the s136,
- the doctor's name and status.

12 Administration of Medication

12.1 Where any medication is administered prior to or during transport to the hospital/psychiatric facility it is the responsibility of the administering doctor to make arrangements for an appropriately trained nurse or paramedic to accompany the detainee.

12.2 Normal written recording protocols for the administration of medication will apply and accurate information relating to type of medication, quantity and time must be passed in writing to the receiving medical practitioner on admission.

13. Terminating Section 136

13.1 One of three main outcomes is usual following the implementation of Section 136:

a) Compulsory admission to hospital under the appropriate Section of the Mental Health Act 2007. When this is necessary the following points need to be borne in mind:

i. Compulsory transfer between POS is subject to Code of Practice Chapter 17 and the multi-agency Policy on 'Conveying – Joint Protocol Concerning the Duties, Responsibilities and Authority to Compulsorily Convey People who are Subject to Orders under the MHA 1883/2007' (this policy is currently under review and an interim policy is in place).

ii. In exceptional circumstances, when there is an urgent need to transfer the patient compulsorily to hospital, Section 4 may be considered.

b) Voluntary admission (Section 131) to hospital as an informal patient.

c) The individual can be released from the PoS with or without the offer of follow-up care and support in the community. However, if the person is assessed as having a mental disorder and follow up care is deemed appropriate and accepted by the individual then:

i. The AMHP is responsible for arranging any follow-up care and support in the community, including alerting the existing care team as appropriate. In many circumstances this may involve MHARS or referral back to primary care teams.

ii. The AMHP and the registered medical practitioner are jointly responsible for arranging the safe return of the person to the community, including transport and any future treatment and care. In practice this is a joint decision and may also involve family and members of the CHTT (CoP 16.73). Medical needs would be followed up by the Doctor and social needs by the AMHP.

13.2 The AMHP and doctors involved are responsible for completing any relevant monitoring requirements including *'HBPOS Police and 2G handover MHA S135/136'* - Appendix 2. This form should be scanned and uploaded into RIO (Electronic Recording System).

14.0 Conflict resolution/arbitration

14.1 The overall management of Section 136 involves discussion and planning across different disciplines and agencies. This may occasionally give rise to differences of opinion which will need to be resolved.

a) The Force Control Room Inspector and relevant senior clinicians including Locality Services Manager or On Call Manager Out of Hours and EDT On Call Manager will be responsible for the resolution of immediate problems and difficulties on a 24 hour basis.

b) If agreement cannot be reached between the parties indicated above the matter should, in due course, be brought to the attention of the relevant personnel listed below for the purposes of "hot debrief" and rapid problem solving.

- Identified Force Mental Health single point of contact (SPOC)
- Locality Director Countywide Locality
- GCC Head of Service – Front Door Services (for EDT issues)

- GHNHSFT.

c) Broader policy issues will be brought to the Inter-Agency Monitoring Group (IAMG). The role of the group is to monitor the operation of the policy and to provide a forum where all issues concerning Section 136 can be discussed and resolved. There will be periodic reviews to consider any learning from those cases where police stations and GHNHSFT is used as a PoS. This group is accountable to the Mental Health and Well-Being Partnership Board.

15.0 Complaints

15.1 In the event that the detainee should wish to make a complaint, the existing complaints' procedures from the appropriate agencies should be followed.

16.0 Implementation

16.1 This policy will be subject to partner agencies governance arrangements around implementation of new and revised policies.

16.2 The policy will be made available on all partner agency websites.

16.3 Each partner agency should have a process for ensuring the policy is disseminated to all relevant staff. Consideration should be given to briefings plus the creation of flow/chart/s and an abridged version of key parts of the policy.

17.0 Monitoring and Review

17.1 2gether NHSFT and Gloucestershire Constabulary will work together to provide an overall data set on the use of Section 136 in Gloucestershire both within health and police POS. This will provide comparable data between the use of the Maxwell Suite and police POS and data on any other PoS that are used. Reports will be provide to the IAMG on a 3 monthly basis. Appendix 3 'Combined Police and Health Service Section 136 Data Collection Set' describes what data will be collected.

17.2 The policy will be reviewed by 2gether NHSFT within the context of the Inter-Agency Monitoring Group (IAMG) and involving all key partners within 1 years of publication and/or in response to any legislative/case law changes which directly impact on Section 136. The IAMG is accountable to the Mental Health and Well-Being Partnership Board which in turn embodies the local Crisis Care Concordat Partnership.

17.2 Practical and policy issues relating to Section136 implementation will be discussed at the Inter-Agency Monitoring Group.

18. References

- Mental Health Act 1983 amended 2007
- Mental Health Act 1983 (2007) Code of Practice 2015
- Mental Health Act Manual - Richard Jones 17th Edition
- Policy on Physical Intervention (PMVA)
- 'Guidance on responding to people with mental ill-health and learning disabilities' (DoH/NPIA 2010
- Gloucestershire multi-agency Mental Capacity Act Policy, Procedure and Guidance, May 2011. http://www.gloucestershire.gov.uk/mcapolicy

- Standards on the use of Section 136 of the Mental Health Act 1983 (England and Wales). Report of the Royal College of Psychiatrist. College Report CR159 July 2011. Royal College of Psychiatrists, London http://www.rcpsych.ac.uk/files/pdfversion/CR159x.pdf
- Gloucestershire Information Sharing Partnership Agreement (GISPA) and crisis specific '*Information Sharing Within a Mental Health Crisis Protocol'* January 2017)
- SWASFT 'South West Regional Mental Health Joint Protocol' (Aug 2014)
- CQC's Thematic Review of MH Crisis Care (2014/15)
- MHA Code of Practice (Feb 2015)
- DH/Home Office 'Review of the operation of Section's 135/136 of the MHA in England and Wales'
- College of Emergency Medicine Section 136 Investigation (Oct 2014)
- Mental Health Crisis Care Concordat (DH Feb 2014)
- Sainsbury Centre for Mental Health 'Review of Section's 135 and 136 of the MHA' (Dec 2014)
- House of Commons Home Affairs Select Committee on Police and Mental Health (2014)
- Section 135 of the MHA 1983/2007: Warrant to Search for and Remove Patients.
- Policing and Crime Act 2017
- Guidance for the implementation of changes to police powers and places of safety provisions in the mental health act 1983' (October 2017) **Implementing changes to police powers and places of safety provisions**
- The MHA 1983 (Paces of Safety) Regulations 2017.

19.0 Associated Documentation

- Mental Health Crisis Care Due Regard Statement (July 2014).
- Contingency Process in Absence of AMPH or Section 136 Place of Safety (PoS) at the Maxwell Suite.``

20. Key Contact Information

20.1 Policy Queries:

For policy queries the relevant agency representative who sits on the Inter-Agency Monitoring Group (IAMG) should be contacted. The current membership is held by the Director of Countywide Services in 2gether NHSFT.

Operational Contacts:

Approved Mental Health Professionals (AMHPs): (via GCC Customer Service Contact Centre) **Out of hours AMHPs** via Emergency Duty Team	 01242-426868 01453-614758 (professional line)
British Transport Police (**BTP**) (Gloucester Office) BTP First Contact Centre (open to public)	01173054040 0800405040
Duty Psychiatrist Office Hours Out of Hours	 01452-894500 01452-894500
Emergency Duty Team (EDT) EDT Manager EDT Head of Service – Front Door Services Senior Manager On Call via EDT number	01453-614758 (staff) 07788153724 (day time) 01452-427655 (day-time) 01453-614758 (EDT staff)
GHNHSFT	0300-422-2222
Gloucestershire Police Force Control Room Inspector	 101
MHARS	0800 - 1690398
SWASFT (Health Care Professional Contact line)	08451 - 206342
Wotton Lawn Hospital	01452-894500

D A Pugh
13.06.2018