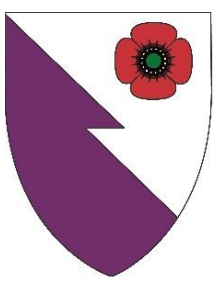
The Royal College of Emergency Medicine

A brief guide to Section 136 for Emergency Departments



December 2017

Summary of recommendations

1. When a patient is brought to the ED under section 136 of the Mental Health Act; the nurse in charge and a senior clinician should review the patient with the police and ambulance crew to assess their medical needs and review their risks to self and others.

2. The 24 hour duration of the section 136 commences on arrival at the Emergency Department, even if the patient is transferred subsequently to a 136 suite. The time of arrival should be noted and recorded.

3. Patients should be informed of their rights in the Emergency Department and kept updated of the plan for their care and assessment.

4. Referral for Mental Health Act assessment should occur on arrival in the ED or as soon as a patient is medically fit for assessment. Where possible medical treatment should occur alongside psychiatric assessment.

5. Police are responsible for the safety of a patient on a section 136. If an Emergency Department allows the police to leave, they take on this responsibility and should be confident they have staff and resources to deal with the risk of the patient absconding.

Please click on the link below for the summary flowchart for a patient coming to the ED:

- Section 136 flowchart- At the Emergency Department

Scope

This guide outlines the process to be followed when police bring a person to the Emergency Department under a section136 of the Mental Health Act and the responsibilities of the different agencies caring for the person.

Reason for development

This brief guide has been produced to help with the changes to the Mental Health Act regarding section 136 that commence in December 2017.

Changes to the MHA Dec 2017[i,ii]

1. Police must consult mental health professionals, if practicable, before using s136.

2. Section 136 cannot be used if the mentally disordered person is in a private dwelling or the private garden or buildings associated with that place. Other than this exception, s136 can be used in any other setting (including an Emergency Department).

3. The constable may use force under the powers of s136 to enter any place where the power may be exercised.

4. Police stations can NEVER be used as a place of safety for under 18's.

5. Police stations can only be used as a place of safety in specific "exceptional" circumstances for adults. A police station can only be used for an adult if the detaining officer is satisfied that:

> (a) the behaviour of the adult presents an imminent risk of serious injury or death to that adult or to others;
>
> (b) as a result, no other place of safety in the police area in which the adult is located can reasonably be expected to detain them; and
>
> (c) the use of a police station is authorised by an officer not below the rank of inspector.
>
> In addition, once at the police station:
>
> (d) the adult will, so far as is reasonably practicable, have access to a healthcare professional throughout the period in which they are detained at the police station.
>
> (e) will receive a healthcare check from a healthcare professional every half hour.

NB: it should be noted, not all police stations have the capacity to ensure a half-hour healthcare check by a healthcare professional.

6. There is a reduction in period of detention from 72hrs to 24hrs with the possibility of a 12hr extension under clearly defined circumstances.

7. A police constable may search a detained person if they have reasonable grounds to suspect a risk of self-harm or risk of harm to others.

General Principles[iii]

Those attending ED on s136 should be treated with respect and kindness as for any other patient. They should not be made to feel unwelcome and any discussion of the appropriateness of their attendance should occur between professionals in an appropriate manner. They must be kept up to date with progress and be provided with information, verbally and in written form, about the s136. See appendix 1 for example leaflet for patients.

Transfers should take place only when it is in the person's best interests. This may be the case when a s136 suite would provide a calmer environment than the Emergency Department. However if this will delay assessment it may not be appropriate.

Whenever possible parallel assessment of physical and mental health needs should be considered to reduce time spent under s136 and speed up definitive care for the person concerned. Ongoing discussion with those responsible for arranging assessment is needed.

There will always be a group of people detained on s136 who need to attend ED for physical health needs therefore thought must be given to providing appropriate staff training (including security) and assessment areas.

Police responsibility to stay in ED

ED can only take over the legal responsibility for a s136 detention if they have the staff and space to ensure the wellbeing of the patient and ensure they do not abscond.

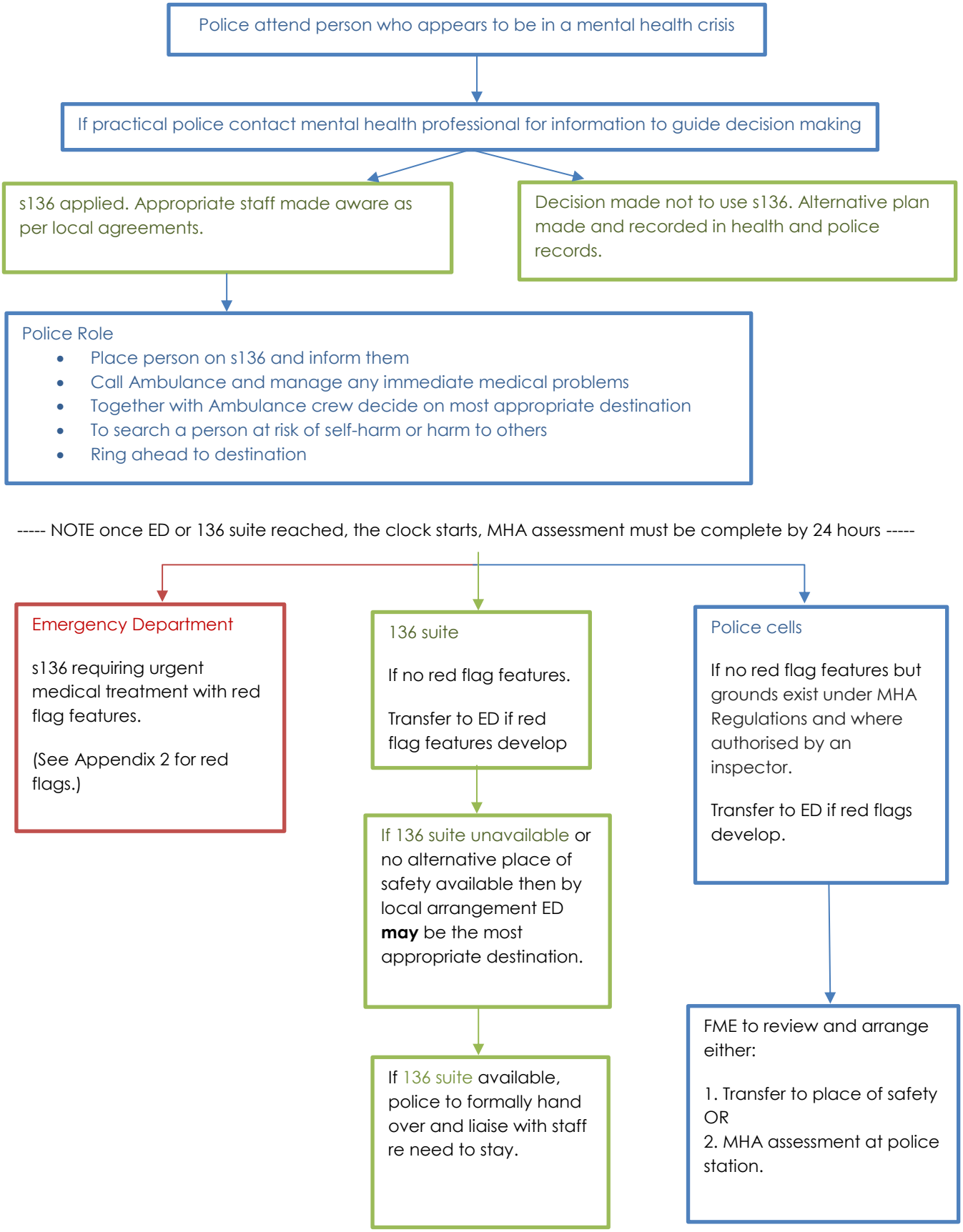
Case law, the 'Webley' case (2015)[iv], highlighted that ED could be liable in negligence law IF they agree to take on legal responsibilities and the person then absconds.

If ED decline to take over responsibility and the police choose to leave they could be liable for abandoning someone in their custody and exposing them to the risk of harm if this amounted to negligence.

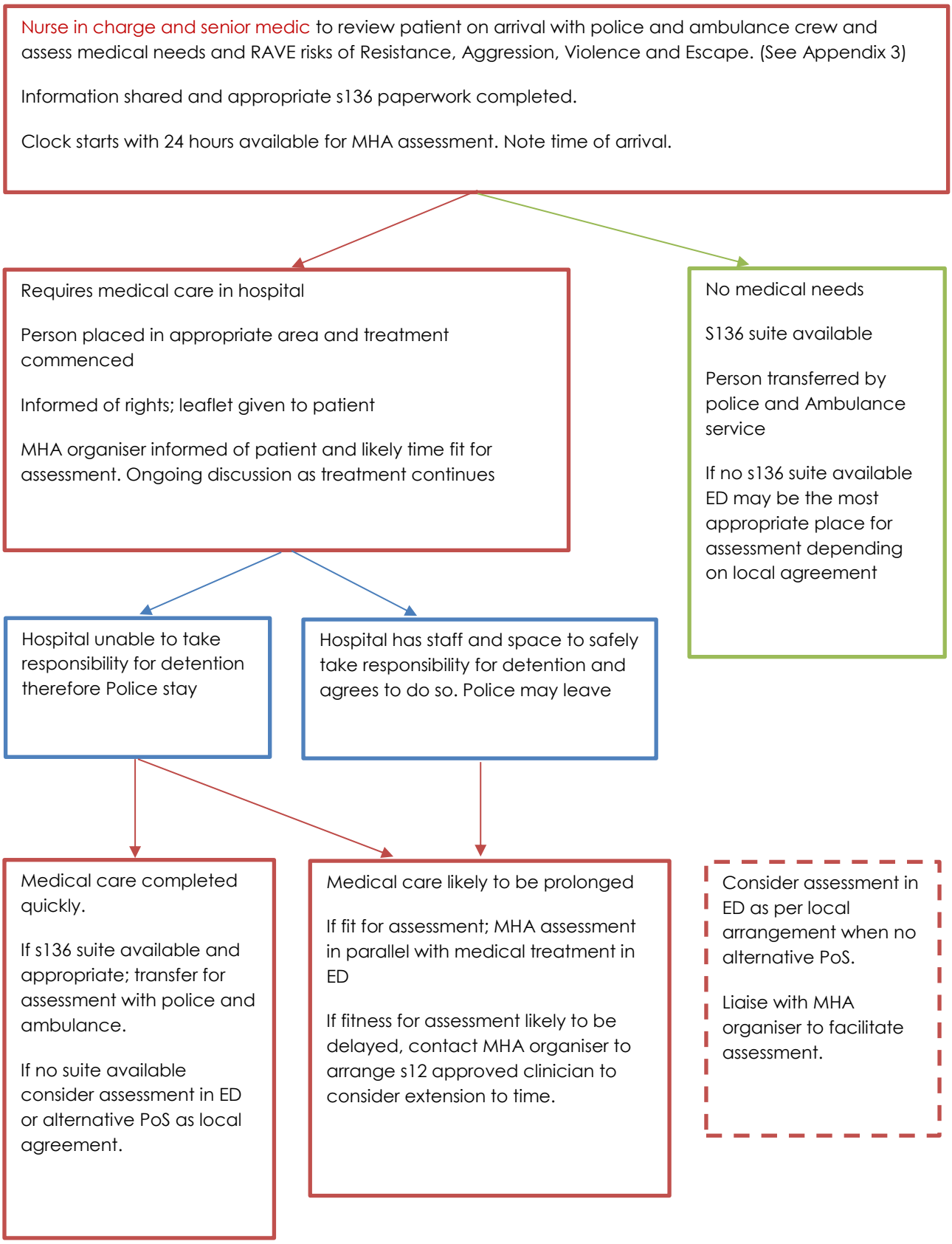
There will be cases when the detained person is not in a position to abscond, such as if they are in a coma, when it may be appropriate for the ED to take responsibility for that person.

Ensuring ongoing communication and good shared risk assessment is key; differences of view can often be resolved this way.

Section 136 flowchart - pre-hospital



Section 136 flowchart- At the Emergency Department



Authors

Fiona Beech, Catherine Hayhurst.

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Royal College of Psychiatrists

Review

Usually within three years or sooner if important information becomes available.

Conflicts of Interest

None

Disclaimers

RCEM recognises that patients, their situations, Emergency Departments and staff all vary. This guideline cannot cover all possible scenarios. The ultimate responsibility for the interpretation and application of this guideline, the use of current information and a patient's overall care and wellbeing resides with the treating clinician.

Research Recommendations

None

Audit standards

Time of arrival of a patient under section 136 to the ED should be documented

A patient should be reviewed by the nurse in charge and a senior clinician soon after arrival with the police and ambulance crew to assess their medical needs and review their risks to self and others.

Key words for search

Mental Health Act. Section 136. Police powers of detention. Places of Safety.

Methodology

Where possible, appropriate evidence has been sought and appraised using standard appraisal methods. High quality evidence is not always available to inform recommendations. Best Practice Guidelines rely heavily on the consensus of senior emergency physicians and invited experts.

Appendix 1: ADMISSION OF MENTALLY DISORDERED PERSONS FOUND IN A PUBLIC PLACE (Section 136 of the Mental Health Act 1983)

1. Patient's name	
2. Name of hospital and ward	

Why am I in hospital?

You have been brought to this hospital by a police officer because they are concerned that you may have a mental disorder and should be seen by a mental health professional.

You are being kept here under section 136 of the Mental Health Act 1983 so that you can be assessed to see if you need treatment.

How long will I be here?

You can be kept here (or in another place where you will be safe) for up to 24 hours so that you can be seen by a doctor and an approved mental health professional. This can be extended to 36 hours if it is felt that it is not possible to assess you properly because of physical health concerns.

An approved mental health professional is someone who has been specially trained to help decide whether people need to be kept in hospital.

If the doctor and the approved mental health professional agree that you need to remain in hospital, a second doctor may be asked to see you to confirm their decision.

During this time, you must not leave unless you are told that you may. If you try to go, the staff can stop you, and if you leave you can be brought back.

If the doctors and the approved mental health professional have not seen you by the end of the 24 hours, you will be free to leave. You may decide to stay on as a voluntary patient. But if you do want to leave, please talk to a member of staff first.

In your case the 24 hours end at:

Date	Time

What happens next?

When the doctors and an approved mental health professional have seen you, they may say that you need to stay in hospital for longer. They will tell you why and for how long this is likely to be. You will be given another leaflet that explains what will happen.

If they decide that you do not have to stay, someone will talk to you about what other help you should have.

Can I appeal?

No. Even if you do not agree that you need to be in hospital, you cannot appeal against the decision to keep you here under section 136.

Will I be given treatment?

The hospital staff will tell you about any treatment they think you need. You have the right to refuse any treatment you do not want. Only in special circumstances, which would be explained to you, can you be given treatment you do not agree to.

Letting your nearest relative know

A copy of this leaflet will be given to the person the Mental Health Act says is your nearest relative.

There is a list of people in the Mental Health Act who are treated as your relatives. Normally, the person who comes highest in that list is your nearest relative. The hospital staff can give you a leaflet which explains this and what rights your nearest relative has regarding your care and treatment.

In your case, we have been told that your nearest relative is:

If you do not want this person to receive a copy of the leaflet, please tell your nurse or another member of staff.

Changing your nearest relative

If you do not think this person is suitable to be your nearest relative, you can apply to the County Court for someone else to be treated as your nearest relative instead. The hospital staff can give you a leaflet that explains this.

Code of Practice

There is a Code of Practice that gives advice to the staff in the hospital about the Mental Health Act and treating people for mental disorder. The staff must consider what the Code says when they take decisions about your care. You can ask to see a copy of the Code, if you want.

How do I complain?

If you want to complain about anything to do with your care and treatment in hospital, please speak to a member of staff. They may be able to sort the matter out. They can also give you information about the hospital's complaints procedure, which you can use to try to sort out your complaint locally. They can also tell you about any other people who can help you make a complaint, for example an independent mental health advocate (see above).

If you do not feel that the hospital complaints procedure can help you, you can complain to an independent Commission. This is called the Care Quality Commission and it monitors how the Mental Health Act is used, to make sure it is used correctly and that patients are

cared for properly while they are in hospital. The hospital staff can give you a leaflet explaining how to contact the Commission.

Further help and information

If there is anything you do not understand about your care and treatment, a member of staff will try to help you. Please ask a member of staff to explain if there is anything in this leaflet you do not understand or if you have other questions that this leaflet has not answered.

Please ask if you would like another copy of this leaflet for someone else.

Appendix 2: Red Flag criteria used by Police and Ambulance Services

<table>
<tr><th colspan="2">S136 RED FLAG CRITERIA (this is not an exhaustive list) Police Officer / Paramedic triggers for conditions requiring Treatment or Assessment in an Emergency Department</th></tr>
<tr><td>Dangerous Mechanisms:

Patient has been hit by Taser
Blows to the body (significant potential)
Falls > 4 Feet Injury from edged weapon or projectile Throttling / strangulation
Hit by vehicle Occupant of vehicle in a collision
Ejected from a moving vehicle
Evidence of drug ingestion or overdose</td><td>Serious Physical Injuries:

Noisy Breathing
Not rousable to verbal command
Head Injuries:
• Loss of consciousness at any time
• Facial swelling
• Bleeding from nose or ears
• Deep cuts
• Suspected broken bones</td></tr>
<tr><td>Actual (current) Attempt of self-harm:

Actively head banging
Actual use of edged weapon (to self-harm)
Ligature use Evidence of overdose or poisoning Psychiatric Crisis (with self-harm)
Delusions / Hallucinations / Mania</td><td>Possible Excited Delirium (agitated patient):

Two or more from:
• Serious physical resistance / abnormal strength
• High body temperature
• Removal of clothing •
Profuse sweating or hot skin
• Behavioural confusion / coherence
• Bizarre behaviour</td></tr>
<tr><td>Senior Clinical Staff where available.
ONLY AT THE REQUEST OF PARAMEDICS / TECHNICIANS – ACCESSED VIA EOC

Where immediate management of RED FLAG conditions necessitates the intervention or skills of a Senior Clinician or where without medical oversight the journey would involve too much risk, ether to the patient, the paramedics or the police officers.

This should include situations where rapid tranquilisation is considered necessary, in accordance with NICE GUIDELINES 2005.</td><td>Conveyance to the nearest ED:

Should NOT be undertaken in a police vehicle UNDER ANY CIRCUMSTANCES where a RED FLAG trigger is involved.

This includes remaining in ED until the person is medically fit for discharge to PoS, to Police Station or from s136 detention. It is the responsibility of the Police to outline to ED the LEGAL ASPECTS of detention; it is the responsibility of the Ambulance Service to outline the MEDICAL ASPECTS.</td></tr>
</table>

Appendix 3: RAVE Risk Assessment Matrix used by police.

RISK ASSESSMENT MATRIX		
LOW RISK	**MEDIUM RISK**	**HIGH RISK**
Current / recent indicators of risk	**Current / recent indicators of risk**	**Current / recent indicators of risk**
No currently present behavioural indicators (other than very mild substance use) **AND** no recent criminal / medical indicators that the individual is violent OR poses and escape risk OR is a threat to their own or anyone else's safety **OR**	Some currently presented behavioural indicators (including substance use) **AND / OR** some recent criminal / medical indicators that the individual may be violent OR poses an escape risk OR is a threat to their own or anyone else's safety **BUT**	Currently presented behavioural indicators (including significant substance intoxication) **OR** significant recent criminal or medical indicators that an individual is violent AND poses an escape risk OR is an imminent threat to their own or anyone else's safety OR
Previous indicators	**Previous indicators**	**Previous indicators**
Which are few in number AND historic OR irrelevant; **BUT** Excluding violence graver than ABH and not involving weapons, sexual violence or violence towards NHS staff or vulnerable people	Limited in number OR historic OR irrelevant; including violence graver than ABH or involving weapons, sexual violence, violence towards NHS staff or vulnerable people **OR** LOW RISK patients who have disengaged from treatment and where there are MEDIUM RISKS threats when disengaged.	Neither limited NOR historic NOR irrelevant; including violence graver than ABH or involving weapons, sexual violence, violence towards NHS staff or vulnerable people **OR** LOW or MEDIUM RISK patients who have disengaged from treatment and where there are MEDIUM RISKS threats when disengaged.
Police support is NOT required	**Police support MAY be required**	**Police support is VITAL**

- Where there is dispute within this framework, NHS professionals will have the **right to insist** upon police support where they believe they require it – police supervisors will have the **right to insist** on what that support should be. **Each agency will accommodate the other, through this compromise.**
- Where the police feel that the NHS have insisted upon support inappropriately or where the NHS feel the police have provided too much or too little support, this should be referred to the MHA Liaison Group for resolution and feedback should be provided by managers to ALL professionals involved.

References

[1] https://mentalhealthcop.wordpress.com/2017/03/03/the-new-section-136/

[2] http://www.rcpsych.ac.uk/policyandparliamentary/changestos135and136mha.aspx

[3]https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF

[4] https://mentalhealthcop.wordpress.com/2014/03/31/webley-v-st-georges/

The Royal College of Emergency Medicine

The Royal College of Emergency Medicine
7-9 Breams Buildings
London
EC4A 1DT
Tel: +44 (0)20 7400 1999
Fax: +44 (0)20 7067 1267
www.rcem.ac.uk

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