



Devon & Cornwall Police

Building safer communities together

CONFIDENTIAL

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Dear Colleague

USE OF SECTION 136 MENTAL HEALTH ACT IN DEVON AND CORNWALL

I write to express my thanks for all your endeavours in respect of mental health provision within Devon and Cornwall, but also to highlight the intended policy decision of this Force in respect of Section 136. This letter has a focus upon individuals, particularly children, who enter custody centres presenting with mental health disorders but clearly there is also strong peninsula joint working in other aspects of mental health and vulnerability. Both the Health Service and the Police Service have an interest in managing the needs of individuals within a reducing budgetary framework.

I believe that we all have much to celebrate with regard to the good work which has already been undertaken this past year, and which is still progressing, with regard to the draft Multi Agency Response to detention under the MHA 1983 and the South West Regional Ambulance Trust Protocols. This work also includes an on call rota for Section 12 Doctors being recently introduced in Devon, the roll out of mental health nurses as part of the liaison and diversion schemes in Custody Centres and the introduction of the Devon Street Triage to help front line officers prior to making decisions to detain for Section 136. I am also pleased to see that both Glenbourne in Plymouth and Longreach in Cornwall are now open and that Longreach has facilities to accept young people for assessment following Section 136 detention.

What is clear, however, is that this has made to date, a minimal impact on the numbers of 136 detentions within this Force and the length of time of those detentions either awaiting assessment or detained following assessment.

I know that many of you are concerned as to the efficacy of our own Police procedures and during this period we have actively self assessed 136 detentions, we have also begun a frontline training regime for all responders in respect of this and the wider issue of vulnerability. I am committed to continuing to improve the service we give to people with mental health issues requiring Police support. We have invested heavily in a comprehensive strategy and plan, including the development of another training package for our staff due to roll out in the spring. I know that some of you remain concerned as to the conversion from S136 detentions whereby no further clinical intervention is required following assessment. If you feel there is more that could be done in this area then I am most willing to listen and where possible introduce your further guidance into our procedures including joint performance monitoring in this area.

Our over-riding ambition is to ensure that the commitments made by ourselves and our partners in the Protocols are adhered to. In the last 12 months Force Custody Centres have received 749 Section 136 arrivals.

To support our collective intentions, I seek your views on when you feel we would all be in a position for 136 detentions in Police custody to see a transformational reduction from the many hundreds that we currently see. In an ideal world, with effect from 1 April 2015, if a Section 136 detention takes place, then the Police Officer will call an ambulance and the person will be escorted to a place of safety other than a Custody Centre. The only exception will be as outlined in the new Protocol and this will be strictly adhered to. On arrival at the place of safety my officers will expect the detainee to be admitted for assessment and/or treatment before then returning to duty on the streets where they are needed.

I have spoken with Chief Constable Simon Cole who is the national Policing Lead in respect of Mental Health and the Chief Constable of Leicestershire Police. Following my discussions with him, it is clear that in respect of children and young people there are real issues in respect of lawfulness of detaining a young person or child in Police cells.

Subject to a clear message from you as to why this is not possible, to begin with from 25 February 2015 any child or young person, unless exceptionally violent, will be taken to an Accident or Emergency Department if there is not a suitable place of assessment/detention. They will remain there with my officers until they are seen by Accident and Emergency colleagues at which point officers will leave the hospital.

Currently Devon and Cornwall Police Officers and staff are facing issues on a daily basis in that, in many cases, Custody Centres are being used as the first port of call in respect of a place of safety. The issues include a lack of bed space or lack of staffing to accept detainees at a health based place of safety, delays in securing Section 12

doctors and approved mental health professionals for assessments and delays in securing bed space after a patient has been sectioned within the custody environment. The detentions in our Custody Centres are not only an extremely distressing experience for the individuals concerned but they also place an unacceptable burden on my officers and staff, given that the lead role and responsibility is the health services'.

Paragraphs 10.21 and 10.22 of the Mental Health Act Code of Practice provide that a Police station should be used as a place of safety only on an exceptional basis. Whilst in the last 12 months Force Custody Centres have received 749 Section 136 arrivals, for the same period in 2013 there were 805 arrivals. This places my Force in the unenviable position of being the second highest Force in the country with regard to Section 136 detentions in custody. This is a situation which, I am sure you will understand, I can no longer allow to continue.

Whilst we have been working closely with our partners, from local to Peninsular level, to implement various action plans, it does not appear to be having the required operational impact at this time.

Commissioners of Clinical Commissioning Groups are under an enforceable duty pursuant to Section 3 of the National Health Service Act 2006 to provide care facilities for those who are ill or have suffered illness. It is my view, and that of our Legal Department, that the provision of suitable places of safety within hospital accommodation falls within this section of the Act. The Place of Safety Protocol states that Commissioners will ensure sufficient places of safety, including contingency considerations, are commissioned in healthcare or non-police station settings. This is not only a commitment for the future but should already be in place.

The statistics I have provided here support my concerns that there has historically been an endemic failure across the peninsula to comply with duties under the Mental Health Act; an issue raised by my predecessor Chief Constable Steven Otter, even prior to my joining my force in 2010. I repeat that in the last year much has been done to remedy this but I am concerned that by April 2015 there may well still be insufficient provision and that is unacceptable. For the Multi Agency Protocol to be effective this has to be rectified as a matter of urgency.

I have already mentioned Paragraphs 10.21 and 10.22 of the Code of Practice above. I now draw your attention to Paragraph 10.25. This provides that, where a Police Station is used as a place of safety the examination should be conducted as quickly as possible, thus ensuring that the person spends no longer than is necessary in police custody before being taken to hospital. This is not happening consistently; there are unacceptable delays and nearly every week my Force is experiencing detentions where mentally ill individuals are in our Custody Centres for a number of unacceptable hours

and even days. This cannot continue and needs to be rectified by 1 April 2015 unless you can advise me why this is not possible and assure me of a definitive date when this will be achieved.

In addition, Section 140 Mental Health Act 1983 imposes a duty on Clinical Commissioning Groups and Local Health Boards to give notice to every local Social Services Authority of the hospital or hospitals in which arrangements are from time to time in Force for the reception of patients in cases of special urgency. If these arrangements are in place within Devon and Cornwall, it would be of great assistance if you could notify my Force of these arrangements and continue to update us as and when necessary. If not, then I am sure you will appreciate that this increases my concern that Police cells are seen by Health Professionals as the acceptable option. I believe that this would be a difficult narrative to be placed before the public.

As recently as last November the Care Quality Commission (CQC) have called for urgent action to continue to improve access to and the operation of health-based places of safety for people experiencing a mental health crisis. One of their key findings is that too many health-based places of safety are turning people away or are requiring people to wait for a long time with the police because they are already full or because there are staffing problems. A quarter of providers told the CQC that they did not believe that the provision of health based places in their locality was sufficient.

This finding supports my ongoing concerns which are shared by the Home Secretary Theresa May in that she has said the situation where too many people in the middle of a mental health crisis end up locked in police cells after being turned away by hospitals "was unacceptable". She also said that the situation "wastes police time" and leaves people with mental health problems without the care and support they need. She added that "we must never accept a situation where a person in crisis is denied care because a health-based place of safety is full or un-staffed, or just because the person is intoxicated."

The CQC made ten recommendations based on its findings. A number of these support my view including:-

- Providers should identify areas in which national standards are not being met, working with local partners to address these shortfalls. This includes making sure appropriate arrangements are in place for young people, people who are intoxicated or people exhibiting disturbed behaviour;
- Providers should ensure that appropriate levels of adequately trained staff are available to receive an individual brought to a place of safety at all times;

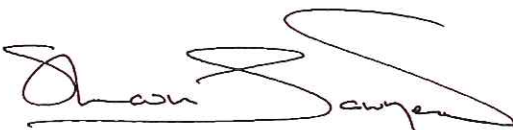
- Commissioners should establish whether local capacity is sufficient, and take action to drive improvements by the commissioning of services or specifying interventions that may prevent or reduce the use of Section 136
- Commissioners should ensure that ambulance arrangements for transporting people experiencing a crisis are appropriate and timely.

If this was not enough evidence to support the position I set out, I would refer you to the Independent Commission on Mental Health and Policing Report, commissioned by the Commissioner for the Metropolitan Police, chaired by Lord Victor Adebawale CBE and published in May 2013. Within that report there is a strong indication that, if the report recommendations are implemented, "they would expect that a person in a critical mental state who is found by the police in public and who needs medical care is escorted safely to hospital in an ambulance".

I would also ask you to consider that upon arrival at hospital or other place of safety, only in the most extreme of circumstances should officers be retained. The Police Service is there to protect Health Professionals, as any other member of the public, but equally we are not there as the security guards for the Health Service which has a requirement to provide its own reasonable security arrangements to protect their staff.

I appreciate and understand that, as with my Force, your organisation is facing severe financial restrictions which mean that very difficult and hard decisions have to be made as to how service is provided. Coupled with the CQC's findings and recommendations I fully appreciate it does make the situation regarding the care of the mentally ill challenging; hence I wish to support both health service colleagues with their primary responsibilities and transition to new arrangements ensuring that this Force undertakes its responsibilities more effectively. Given the unacceptable and arguably unlawful situation my officers and staff are facing; and recognising that the mentally ill must be given the best care possible, I believe that our combined approaches should achieve radical changes during the first 4 months of this year.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shaun Sawyer', with a long, sweeping underline.

Shaun Sawyer
Chief Constable