

Local Members' Interest
N/A

Safe and Strong Communities Select Committee – 10 July 2018

Provision of Places of Safety under Section 136 of the Mental Health Act

Recommendation/s

1. Provision of Place of Safety under Section 136 of the Mental Health Act

Report of Alan White, Deputy Leader and Cabinet Member for Health, Care and Wellbeing

Summary

What is the Select Committee being asked to do and why?

2. Consider allaying the concerns raised by Police and Crime Commissioner Mr Matthew Ellis. These concerns were raised by Mr Ellis as he was stating there have been significant numbers of Staffordshire citizens being picked up on a Section 136 of the Mental Health Act (police powers of arrest) and taken to police stations – rather than a health-based Place of Safety as per the Police and Crime Act expectations.

Report

Background

3. Concerns were raised about an increased potential use of Police Based Places of Safety for citizens detained under the police powers enacted under Section 136 of the Mental Health Act. These also encompassed children awaiting assessment.

Legal Position

4. Section 136 of the Mental Health Act is defined as:

'Removal etc of mentally disordered persons without a warrant'

- (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 (AMHP), or
 - (d) a person of a description specified in regulations made by the Secretary of State.
- (2) A person removed to, or kept at, a place of safety under this section may be detained there for a period not exceeding the permitted period of detention for the purpose of enabling him to be examined by a registered medical practitioner and to be interviewed by an Approved Mental Health Professional (AMHP) and of making any necessary arrangements for his treatment or care.
- (2A) In subsection (2), “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 a place of safety, the time when the constable decides to keep the person at that place; or
 - (b) where an authorisation is given in relation to the person under section 136B, that period of 24 hours and such further period as is specified in the authorisation.
- (3) A constable, an approved mental health professional or a person authorised by either of them for the purposes of this subsection may, before the end of the permitted period of detention mentioned in subsection (2) above, take a person detained in a place of safety under that subsection to one or more other places of safety.
- (4) A person taken to a place of a safety under subsection (3) above may be detained there for a purpose mentioned in subsection (2) above for a period ending no later than the end of the permitted period of detention mentioned in that subsection.

5. The Police and Crime Act 2017, informed by the Crisis Care Concordat 2014 made the use of Police Stations as a 'Place of Safety' a 'never event'. Before hand, there had been a reliance of police stations as 'holding' citizens awaiting a Mental Health Act (MHA) assessment. In particular, due to a dearth of childrens 'PoS', children could be held at Police Stations. The new legislation however, enshrined an expectation that children (under 18 years old) in particular would never be held in police stations whilst a MHA assessment was coordinated.
6. Within Staffordshire, there are a number of routes for citizens detained under S136. The main course of action would be for a police constable/Street Triage staff to bring a citizen to a Health Based Place of safety (PoS). There are 2 Health Based PoS within Staffordshire – 1 is at Harplands Hospital in Newcastle, and 1 is at St Georges Hospital in Stafford. (Previously there was also a Health Based PoS at the George Bryan Hospital in Tamworth, this has since been decommissioned).
7. Andy Gordon – AMHP Lead for Staffordshire County Council attends the Section 136 Operational Meetings. The last meeting he attended was the 4th April 2018 and has now been co-joined with North Staffordshire – the next meeting is due on 27/6/2018.
8. At the last meeting it was reported that since the implementation of PACA on 11th December, 2017 there had been no detentions under Section 136 in Police Custody Suites. Figures for the South at the Quality Governance Meeting (which also covers Shropshire) showed that there had been a significant decrease in the use of Section 136. Quarter 1 there were 96 episodes, Quarter 2 72 episodes, Quarter 3 71 episodes and only 47 in Quarter 4. It was acknowledged that it was still too soon to attribute this to anything concrete. There had been an increase in use of Section 136 for under 18s. (in Quarter 4 there were 9 as opposed to 6 in Quarter 3. Of the under 18s detained at St Georges (4) all were discharged to remain in the community. North Staffs confirmed on 21st March that there had been no S136s in Northern Area Custody Suite since the implementation of PACA and at a PACA meeting on the 14th May it was confirmed there had been no use of Police Custody for S136s across Staffordshire.
9. Currently there is no specific reporting mechanisms on outcomes following S136 and would require a manual trawl to facilitate this. There is a new pathway is in place and are aiming to be able to run off specific reports from Care Director but I would not be confident that we would achieve anything like a true picture currently. For example, 176 episodes of S136 were trawled to look specifically at intoxication and 14 episodes could not be found on Care Director, it was also time consuming. The Mental Health Law and Policy Team do not have the monthly figures for numbers of outcomes following detention under S136s as only the "raw" data (actual numbers) is available.
10. Just to add there was one identified incident of a potential "never event" in that on the 5th June EDS (Emergency Duty Service) were involved with a young male (under 18) detained in Police Custody. It remains unclear whether this was a S136 or PACE but the over-riding consideration is that it was PACE.
11. In addition, there was a PACA review on the 14th May 2018, at which point there had been no adults or children detained under S136 at a Police Station since the commencement of PACA back in December. The specifics are identified below in terms of numbers.

- a. January 17 – 17 assessments
- b. February 17 – 31 assessments
- c. March 17 – 28 assessments
- d. April 17 – 27 assessments
- e. May 17 – 35 assessments.

For 2018 the following data is evidenced:

- f. January 18 – 13 assessments
- g. February 18 – 13 assessments
- h. March 18 – 19 assessments
- i. The figures for April and May are not yet available.

Link to Strategic Plan –

12. 'Main Priority' 'Giving additional support to the most vulnerable in our communities, including children with special educational needs.'

And;

13. Continue to integrate health and care services and support and lead NHS reform for the benefit of Staffordshire people.
14. This report is an evidence to show how Staffordshire County Council is working in partnership with Staffordshire Police and our Section 75 Health Partners and the Emergency Duty Service (EDS) to ensure this additional support to the most vulnerable in our communities – as evidenced by the numbers of Mental Health Act assessments for Staffordshire citizens detained under S136 of the Mental Health Act 1983/2007.

Link to Other Overview and Scrutiny Activity

15. Statutory Duties of Approved Mental Health Professionals and Staffordshire County Council over-sight in terms of partnership policies encompassing Section 136 of the Mental Health Act 1983 including Staffordshire Police, our S75 partners (who employ AMHP's) and the Emergency Duty Service (commissioned via Families First).

Community Impact – None at this time as this evidenced a reduction in actual use of S136 Powers by Police Constables.

Contact Officer

Name and Job Title: Jo Sutherland Statutory Services Lead and Principal Social Worker
Telephone No.: 01785 277432
Address/e-mail: jo.sutherland1@staffordshire.gov.uk

Appendices/Background papers

None