



Policing and Crime Act - Mental Health

Main issues

The Policing and Crime Act 2017 (PACA), once in force, will make a number of changes to powers in the Mental Health Act 1983. In particular:

- Where practicable, before the s. 136 powers are used the police must seek the view of a doctor, nurse, AMHP or other prescribed person.
- Police stations can no longer be used as Places of Safety for children.
- Police stations will only be available to be used as a Place of Safety for adults in prescribed circumstances (which will require further regulations, and there will not be published until later in the year or, possibly, 2018).
- The period for which a mentally disordered person may be taken to or kept at a Place of Safety (under s. 135 and s. 136) of the Mental Health Act 1983 will be reduced from 72 hours to 24 hours.
- The 24 hour period may be extended for a further 12 hours (to a total of 36 hours) by authorisation of the doctor responsible for the assessment, but only if the doctor 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 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).
- A private dwelling may be used as the Place of Safety for the purposes of section 135 in certain circumstances.
- The scope of the police power to remove an individual using the s. 136 power is extended to everywhere apart from private homes and the outdoor spaces associated with such homes. This is an even wider definition than the existing “place to which the public have access”, enabling access to places of work, in-patient hospital wards, railway yards and so forth.
- Additional police powers to search mentally disordered persons are created.

What to take away

The amendments created by PACA build on the guidance set out in the latest version of the Mental Health Act Code of Practice which states, for instance, that police stations should only be used as Places of Safety in exceptional circumstances, converting this guidance into a statutory obligation.

Police, health and social care professionals, including those working in physical healthcare settings, will need to be aware of the reduced circumstances in which police stations can be used and should think twice about whether the patient’s best interests are seeking detain a mentally disordered patient in a police setting.

Local policies for the uses of places of safety and for the consultation of an appropriate mental health professional by the police must be developed and agreed by NHS commissioners and services providers (including ambulance and A&E / Emergency department services), local authorities, and the police.

Such policies will need to take account of the reduced timescales for assessment and the potential need to change the location and structure of service provision to accommodate the best interests of patients and the requirements of the statutory changes.

We recommend that those discussions start as soon as possible, before PACA comes into effect, taking account of the pilot schemes that have been used nationally as well as the knowledge of what works well at a local level.

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