


# Assessment of persons under s135 and s136 of Mental Health Act 1983 as amended by the MHA 2007

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## 1. Equality and Human Rights Impact Analysis (EHRIA)

1.1 Board Lead:	Acosia Nyanin Chief Nurse	1.2 Analysis Start Date:	January 2019
		1.3 Analysis Submission Date:	March 2019
1.4 Analysis Team Members:	1) Author / Editor: Marian Trendell Deputy Director – Principal Social Worker and Sarah Gates MH Liaison Officer Sussex Police		
1.5 If this is a cross agency policy/service or strategy please indicate partner agencies and their formal title	2) Frontline Staff: LA AMHP Managers for East and West Sussex and Brighton and Hove ; Natalie Cadman Lead Nurse for Places of Safety ; Gary Davies Ebsworth MH Consultant for SECamb		
1.6 Completion Statement	3) Patient / End-user: No representation		
	4) We, being the author(s), acknowledge in good faith that this analysis uses accurate evidence to support accountable decision-makers with due regard to the National Equality Duties, and that the analysis has been carried out throughout the design or implementation stage of the service or policy.		
1.7 Policy Aim	A joint policy between SPFT, Sussex Police, the 3 LA's AMHP service , and SECamb to ensure that persons detained under s135 and s136 MHA 1983 / 2007 receive a competent and effective assessment of their mental health needs by Drs and Approved Mental Health Professionals		
 Send draft analysis along with the policy, strategy or service to <a href="mailto:equality.diversity@sussexpartnership.nhs.uk">equality.diversity@sussexpartnership.nhs.uk</a> for internal quality control prior to ratification.			
1.8 Quality Assessor sign off	<b>Cassandra Blowers</b>		
1.9 Reference Number	<b>CB241b</b>		

## 2. Evidence Pre-Analysis – The type and quality of evidence informing the assessment

<b>X</b>	<b>2.1</b> Types of evidence identified as relevant have <b>X</b> marked against them			<p>Please provide detailed evidence for the areas highlighted , and also any other Evidence that may be relevant (please state):</p> <p>This is the 6<sup>th</sup> version of this policy and is prepared through consultation with partner agencies , data gathered at monthly and quarterly monitoring meetings.</p> <p>Multi agency Monitoring Group input to the policy review.</p> <p>Amendments to MHA Codes of Practice and MH Crisis Care Concordats both April 2015 and amendments to Mental Health Act 1983 under Policing and Crime Act 2017.</p> <p>Dept of Health and Royal College of Psychiatrists Guidance on Places of Safety .</p> <p>D of H guidance to Emergency Depts as Places of Safety 2017.</p> <p>CQC and HMIC inspections of Places of Safety.</p>
<b>X</b>	Patient / Employee Monitoring Data		Risk Assessments	
<b>X</b>	Recent Local Consultations		Research Findings	
	Complaints / PALS / Incidents	<b>X</b>	DH / NICE / National Reports	
<b>X</b>	Focus Groups / Interviews	<b>X</b>	Good Practice / Model Policies	
	Service User / Staff Surveys		Previous Impact Analysis	
	Contract / Supplier Monitoring Data		Clinical Audits	
	Sussex Demographics / Census		Serious Untoward Incidents	
<b>X</b>	Data from other agencies, e.g. Services, Police, third sector		Equality Diversity and Human Rights Annual Report	

## 3. Impact and outcome Evaluation – Any impacts or potential outcomes are described below.

Ref	Mark one X		Describe how this policy, strategy or service will lead to positive <span style="color: green;">+</span> outcomes for the <u>protected characteristics</u> . Describe how this policy, strategy or service will lead to negative <span style="color: red;">-</span> outcomes for the <u>protected characteristics</u> .  (Please describe in full for each)	People's Characteristics (Mark with 'X'):									
	<span style="background-color: green; color: white;">+</span>	<span style="background-color: red; color: white;">-</span>		Age	Disability & Carers	Gender Reassignment	Pregnancy & Maternity	Race	Religion & Belief	Sex	Sexual Orientation	Human Rights	

Ref	Mark one X		Describe how this policy, strategy or service will lead to positive <span style="color: green;">+</span> outcomes for the <a href="#">protected characteristics</a> . Describe how this policy, strategy or service will lead to negative <span style="color: red;">-</span> outcomes for the <a href="#">protected characteristics</a> . (Please describe in full for each)	People's Characteristics (Mark with 'X'):								
	<span style="color: green;">+</span>	<span style="color: red;">-</span>		Age	Disability & Carers	Gender Reassignment	Pregnancy & Maternity	Race	Religion & Belief	Sex	Sexual Orientation	Human Rights
3.1		X	This policy outlines when a person's liberty may be removed. This is clearly a restriction of liberty, but permissible if the powers under Section 135/136 are used as defined by the Mental Health Act 1983.									X
3.2		X	The need to execute a warrant under s135(1) or s135(2) by force if necessary to take a person into custody	X	X	X	X	X	X	X	X	X
3.3		X	S135/136 applies to detained persons of all protective characteristics but it is identified that some characteristics are statistically over represented and staff should consciously ensure that these individuals are not disproportionately affected by the obligations under the law.	X	X	X	X	X	X	X	X	X
3.4	X		Policy identifies the need to monitor use of section annually across the protected characteristics for under or over representation	X	X	X	X	X	X	X	X	X
3.5	X		Since April 2015 no young person (<17) will be taken to police custody under s136, unless there are exceptional circumstances, ensuring they receive effective and competent assessment of their mental health.	X								
3.6	X		Policy identifies the need for a consultant psychiatrist in learning disability when working with a patient with these characteristics		X							
3.7	X		Policy identifies the need for effective communication, including the use of interpreter, BSL etc.		X			X				

Add more rows if necessary with new reference numbers in the left column

#### 4. Monitoring Arrangements

- 4.1 The arrangements to monitor the effectiveness of the policy, strategy or service considering relevant characteristics? E.g.
- ↳ survey results split by age-band reviewed annually by EMB and Trust Board
  - ↳ Service user Disability reviewed quarterly by Equality and Diversity Steering Group or annually in the EDHR Annual Report

Monthly multi agency monitoring meetings of s135/136 detentions in each area where there are hospital Places of Safety.  
Police custody has not been used since December 2017 in Sussex , but is still monitored.  
Quarterly pan Trust multi agency MHA Monitoring Group meetings which reports to the MHA Committee with a report prepared for SPFT Directors quarterly and annually.  
Meetings between the CEO of SPFT and Chief Constable and the authors of this Policy.

#### 5. Human Rights Pre-Assessment

The Impacts identified in sections ( ) have their reference numbers (e.g. 4.1) inserted in the appropriate column for each relevant right or freedom		
	+	-
A2. <b>Right to life</b> (e.g. Pain relief, DNAR, competency, suicide prevention)		
A3. <b>Prohibition of torture, inhuman or degrading treatment</b> (e.g. Service Users unable to consent)		

A4. Prohibition of slavery and forced labour (e.g. Safeguarding vulnerable patients policies)		
A5. Right to liberty and security (e.g. Deprivation of liberty protocols, security policy)		X
A6&7. Rights to a fair trial; and no punishment without law (e.g. MHA Tribunals)		
A8. Right to respect for private and family life, home and correspondence (e.g. Confidentiality, access to family etc)		X
A9. Freedom of thought, conscience and religion (e.g. Animal-derived medicines/sacred space)		
A10. Freedom of expression (e.g. Patient information or whistle-blowing policies)		
A11. Freedom of assembly and association (e.g. Trade union recognition)		
A12. Right to marry and found a family (e.g. fertility, pregnancy)		
P1.A1. Protection of property (e.g. Service User property and belongings)	X	
P1.A2. Right to education (e.g. accessible information)	X	
P1.A3. Right to free elections (e.g. Foundation Trust governors)		

## 6. Risk Grading


6.1 <b>Consequence</b> of negative impacts scored (1-5)	2	6.2 <b>Likelihood</b> of negative impacts scored (1-5):	2	6.3 <b>Equality &amp; Human Rights Risk Score</b> = Consequence x Likelihood scores:	4
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**7. Analysis Outcome**– The outcome (A-D) of the analysis is marked below ('X') with a summary of the decision

X	7.1 The outcome selected (A-D):	7.2 Summary for the outcome decision ( <b>mandatory</b> )
	A. Policy, strategy or service addresses quality of outcome and is positive in its language and terminology. It promote equality and fosters good community relations	<b>Available in other formats , large print , audio or other language.</b>  Detention and deprivation of liberty for up to 24 hrs is lawfully justified under s135 and s136 MHA 1983/2007
X	B. Improvements made or planned for in section 9 (potential or actual adverse impacts removed and missed opportunities addressed at point of design)	
	C. Policy, service or strategy continues with adverse impacts fully and lawfully justified (justification of adverse impacts should be set out in section 3 above	
	D. Policy, service or strategy recommended to be stopped. Unlawful discrimination or abuse identified.	

**8. Equality & Human Rights Improvement Plan**

**Actions should when relevant and proportionate meet the different needs of people.**

Impact Reference(s) (from assessment)	What directorate (team) action plan will this be built into 	<u>Action</u>	Lead Person	Timescale	Resource Implications
3.1-3.3	Nursing and Social Care	Continued Monitoring via monthly and quarterly meetings to ensure no Protective Characteristic is being disproportionately disadvantaged	Marian Trendell Sarah Gates E Sx CC W SX CC B and H CC	Ongoing	

Impact Reference(s) (from assessment)	What directorate (team) action plan will this be built into 	<u>Action</u>	Lead Person	Timescale	Resource Implications

Add more rows if necessary