East Sussex Healthcare
NHS Trust

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FOI REF: 25/924

12th February 2026

FREEDOM OF INFORMATION ACT

I am responding to your request for information under the Freedom of Information Act. The answers to your specific questions are as follows:

Can I request the following information:

Clarification was sought asking you to confirm the time period for your request, e.g. for the last 6 months /12 months and confirmation was received that you require the following:

Can I request for the past 12 months please.

1. Emergency Department Policy in relation to Police escorted patients to A&E.

Please see the attached policy document: 'Management of patients under section 136 in the Emergency Department' (Document ID Number 1381). Please note that the Trust does not have a policy specifically for patients escorted to the Emergency Department by the police.

Please note that it is the Trust's FOI policy to only provide the names of staff that are grade 8a or above, therefore staff that are below that grade have been redacted from the attached policy.

Please also note that we have redacted the names of staff that no longer work for the Trust and the names of the Trust's IT Systems and are applying Sections 40(2) and 31(1)(a) respectively, please see below:

I can confirm that we hold this information, but it is exempt under section 40(2) of the Freedom of Information Act 2000 – Personal Information of third parties. This is because this information may allow the identification of individuals and disclosure would breach the principles of the Data Protection Act.

This is an absolute exemption and there is, therefore, no requirement to consider the public interest.

Section 31(1)(a) has also been applied to the names of the Trust IT systems within this document; therefore, these have also been redacted.

Under Section 31(1)(a) of the Freedom of Information Act (FOIA), the Trust can confirm that it holds information relevant to your request, however, we are unable to disclose it for the reasons explained below.

Historically, we would disclose information relevant to the Trust's IT systems, infrastructure and software as part of our transparency agenda under the terms of the Freedom of Information Act (FOIA). However, in light of the recent cyber-attacks on NHS hospitals and the serious impact these have had on patient services and the loss of patient data, we are having to reconsider this approach. Please see several links to news articles about these recent cyber incidents provided below for your information.

- NHS England — London » Synnovis Ransomware Cyber-Attack
- NHS England confirm patient data stolen in cyber attack - BBC News
- Merseyside: Three more hospitals hit by cyber attack - BBC News

As a result of these attacks, thousands of hospital and GP appointments were disrupted, operations were cancelled, and confidential patient data was stolen which included patient names, dates of birth, NHS numbers and descriptions of blood tests.

When we respond to a Freedom of Information request, we are unable to establish the intent behind the request. Disclosure under the FOIA involves the release of information to the world at large, free from any duty of confidence. Providing information about our systems or security measures to one person is the same as publishing it for everyone. While most people are honest and have no intention of misusing information to cause damage, there are criminals who look for opportunities to exploit system weaknesses for financial gain or to cause disruption.

In the context of the FOIA, the term ''public interest'' does not refer to the private or commercial interests of a requestor; its meaning is for the "public good". The Trust receives a significant number of requests each year regarding our IT systems, infrastructure and cyber security measures. Most of these requests are commercially driven and serve no direct public interest. Information relevant to our IT portfolio is often requested by consultancy companies who then pass on this information to their client base. Many of these requests are submitted through the FOI portal whatdotheyknow.com who publish our responses, making this information available to an even wider audience.

As a large NHS Trust we hold extensive personal data relevant to our patients and staff, much of which is considered very sensitive. A lot of this information is held electronically on various administration and clinical systems. We have a duty under the Data Protection Act 2018 and the UK GDPR to protect this personal information and take all necessary steps to ensure this data is kept safe. This means not

disclosing information that could allow criminals to gain unlawful access to our systems and infrastructure. The Trust can be heavily fined should it be found to have acted in a negligent way which results in a personal data breach. We need to demonstrate that we comply with our legal obligations under data protection and freedom of information legislation, but we must be careful that too much transparency does not result in harm to our patients or staff, or cause disruption to our services.

Moreover, under the Network and Information Systems (NIS) Regulations Act 2018, operators of essential services such as NHS organisations like ours have a legal obligation to protect the security of our networks and information systems in order to safeguard our essential services. By releasing information that could increase the likelihood or severity of a cyber-attack, the Trust would fail to meet its security duties as stated in section 10 of the Network and Information Systems Regulations 2018. Should we not comply with these requirements regulatory action can be taken against the Trust. Further information about the Network and Information Systems (NIS) Regulations Act 2018 can be found here – The Network and Information Systems Regulations 2018: guide for the health sector in England - GOV.UK

Your request asks for a policy document which unfortunately mentions specific details regarding our IT Systems which, for the reasons explained above, would be inappropriate to release into the public domain. If disclosed, it is possible that patient data as well as other confidential information would be put at risk. Such disclosure could also impact on the security of our systems and result in serious disruption to the health services we deliver to the local community. Section 31(1)(a) of FOIA provides that information is exempt if its disclosure would, or would be likely to, prejudice (a) the prevention or detection of crime. In this case, disclosure would be likely to prejudice the prevention of crime by enabling or encouraging malicious acts which could compromise the Trust's IT systems and infrastructure. The Trust's capacity to defend itself from such acts relates to the purposes of crime prevention and therefore section 31(a) exemption is applicable in these circumstances. For these reasons, the Trust considers disclosure of the information you are seeking to be exempt under section 31(1)(a) [*law enforcement*] of the FOIA and the names of the IT systems within the policy is being withheld. The full wording of section 31 can be found here: Freedom of Information Act 2000

Section 31 is a *qualified* exemption and therefore we must consider the prejudice or harm that may be caused by disclosure of the information you have requested, as well as apply a public interest test that weighs up the factors in maintaining the exemption against those in favour of disclosure.

In considering the prejudice or harm that disclosure may cause, as explained should the Trust release information into the public domain which draws attention to any weaknesses relevant to the security of our systems or those of a supplier, this information could be exploited by individuals with criminal intent. Increasing the likelihood of criminal activity in this way would be irresponsible and could encourage malicious acts which could compromise our IT systems or infrastructure, result in the loss of personal data and/or impact on the delivery of our patient services. We consider these concerns particularly relevant and valid considering the increasing number of cyber incidents affecting NHS systems in recent years and the view by government, the ICO and NHS leaders that the threat of cyber incidents to the public sector is real and increasing.

- Organisations must do more to combat the growing threat of cyber attacks | ICO

In the Government's Cyber Security Strategy 2022-2030, the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office states on page 7:

"Government organisations - and the functions and services they deliver - are the cornerstone of our society. It is their significance, however, that makes them an attractive target for an ever-expanding army of adversaries, often with the kind of powerful cyber capabilities which, not so long ago, would have been the sole preserve of nation states. Whether in the pursuit of government data for strategic advantage or in seeking the disruption of public services for financial or political gain, the threat faced by government is very real and present.

Government organisations are routinely and relentlessly targeted: of the 777 incidents managed by the National Cyber Security Centre between September 2020 and August 2021, around 40% were aimed at the public sector. This upward trend shows no signs of abating."

With this in mind, we then considered the public interest test for and against disclosure. It should be noted that the public interest in this context refers to the public good, not what is 'of interest' to the public or the private or commercial interests of the requester. In this case we consider the public interest factors in favour of disclosure are:

- Evidences the Trust's transparency and accountability
- Provides information relevant to the IT systems and applications the Trust uses
- Reassures the public and partners that the Trust procures these systems in line with Procurement legislation
- Reassures the public and partners that the Trust's IT infrastructure and systems are secure

Factors in favour of withholding this information are:

- Public interest in crime prevention
- Public interest in avoiding disruption to our health services
- Public interest in maintaining the integrity and security of the Trust's systems
- Public interest in the Trust avoiding the costs associated with any malicious acts (e.g. recovery, revenue, regulatory fines)
- Public interest in complying with our legal obligations to safeguard the sensitive confidential information we hold

In considering all of these factors, we have concluded that the balance of public interest lies in upholding the exemption and not releasing the information requested. Although disclosure would provide transparency about our software systems and IT infrastructure, this is outweighed by the harm that could be caused by people who wish to use this information to assess any vulnerabilities in our security measures and consequently use this information for unlawful purposes. Cybercrime can not only lead to major service disruption but can also result in significant financial losses. As a publicly funded organisation, we have a duty for ensuring our public funding is protected and spent responsibly. Moreover, as a public body the Trust must demonstrate that it keeps its confidential data and IT infrastructure safe and complies with relevant legislation, but at the same time we must be vigilant that transparency does not provide an opportunity for individuals to act against the Trust. In considering the impact that recent cyber-attacks have had on NHS services, including the cancellation of thousands of patient appointments and procedures as well as the loss of confidential patient data, we consider the overriding public interest lies in withholding this information. The private or commercial interests of a requester should not outweigh the public interest in protecting the integrity of our systems and continuity of our essential patient services. Although we appreciate there may be legitimate intentions behind requesting this information, we must take a cautious approach to requests of this nature and appreciate your understanding in this matter.

2. **Average book in to discharge time for patients who do not require secondary referral (resolved at A&E).**

   178 minutes.

3. **Average book in to discharge time for patients escorted by police who do not require secondary referral (resolved at A&E).**

   294 minutes.

   Regarding the responses to Q2 & Q3, please note that it is not always possible to confirm that patients have been escorted by police during their arrival and departure times in the Emergency Department. For example, it may be recorded on the system that the police attended the scene where a patient was assaulted, but it is not clear whether or not the police then accompanied / escorted the patient to the Emergency Department.

If I can be of any further assistance, please do not hesitate to contact me.

Should you be dissatisfied with the Trust's response to your request, you have the right to request an internal review. Please write to the Freedom of Information Department (esh-tr.foi@nhs.net), quoting the above reference, within 40 working days. The Trust is not obliged to accept an internal review after this date.

Should you still be dissatisfied with your FOI request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Telephone: 0303 123 1113

Yours sincerely

Freedom of Information Department
esh-tr.foi@nhs.net

East Sussex Healthcare NHS Trust

Management of patients under section 136 in Emergency Department

Document ID Number	1381
Version:	V1
Ratified by:	Clinical Documentation and Policy Ratification Group. (Chairs action)
Date ratified:	28 August 2024
Name of author and title:	[redacted], Deputy Chief Nurse Quality and Policy [redacted], Project and Business Support Manager
Date originally written:	July 2024
Date current version was completed	September 2024
Name of responsible committee/individual:	Deputy Chief Nurse (Quality and Policy)
Division/Speciality:	Corporate Nursing
Date issued:	25 September 2024
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Target audience:	All staff
Compliance with CQC Fundamental Standard	Safe Care and Treatment, Safeguarding service users from abuse and improper treatment, Good governance, dignity and respect
Compliance with any other external requirements (e.g. Information Governance)	N/A
Associated Documents:	Missing Patients Policy Policy for the use of the Mental Capacity Act Use of the Mental Health Act 1983 (MHA) Policy Concern for Patient and Staff Welfare (Welfare Checks) Physical Intervention / Restraint Policy

Did you print this yourself?
Please be advised the Trust discourages retention of hard copies of the procedural document and can only guarantee that the procedural document on the Trust website is the most up to date version

Version Control Table

Version number and issue number	Date	Author	Reason for Change	Description of Changes Made
V1.0	July 2024	[redacted]	New Document	New Document

Consultation Table

This document has been developed in consultation with the groups and/or individuals in this table:

Name of Individual or group	Title	Date
ESHT RCRP Group		24 July 2024
Site Management Team	Samuel Roberts, Head of Site	24 July 2024
ESHT Missing Persons Group		24 July 2024
Jose Almaraz	Consultant ED	24 July 2024
[redacted]	Trust Security Advisor	26 July 2024
Dr Anna Stubbs	Consultant in ED	24 July 2024
[redacted]	Head of Nursing- Emergency Care	24 July 2024
Ross Williams	Head of Nursing – Emergency Care	September 2024
Amy Collis	Assistant Director of Nursing Urgent Care	September 2024
Danielle Viddler	Consultant in ED	September 2024
Uthamalingam Shanker	Consultant in ED	September 2024

This information may be made available in alternative languages and formats, such as large print, upon request. Please contact the document author to discuss.

Table of Contents

1. Introduction

1.1
In light of the Right Care Right Person national initiative, police are not able to remain indefinitely with patients under section 136[1]. It is therefore vital that there is a clear protocol for handover of care from Police to healthcare staff for individuals under section 136 within Trust sites.

1.2
A person may be brought to a Place of Safety in the custody of the police:

a) under section 135(1) if a justice of the peace has issued a warrant to the police to remove the person to a place of safety, with a view to the making of an application in under Part II of the Act, or of other arrangements for treatment or care.

b) under section 136 if it appears to the police that the person is suffering from a mental disorder and is in immediate need of care or control and it is in the interests of that person or for the protection of other persons.

1.3
'Place of Safety' is defined in section 135(6) of the Mental Health Act 1983 as:

a) residential accommodation provided by a local social services authority under Part III of the National Assistance Act 1948; or
b) **any health service hospital within the meaning of the National Health Service Act 2006;** or
c) a police station (not for people under the age of eighteen and otherwise only in exceptional circumstances); or
d) an independent hospital or care home for mentally disordered persons; or
e) any other suitable place.

2. Purpose

This policy aims to set out the legal requirements, statutory guidance and policy of the Trust in respect of required standards for local procedures in managing people who are brought to a Place of Safety by the Police, under section 136 of the Mental Health Act 1983.

In addition, this policy outlines the roles, responsibilities and powers of Trust staff caring for such a person.

2.1 Rationale

To ensure that all Trust staff understand their roles and responsibilities in managing patients who are brought to Emergency Department under section 136 powers by Police.

To ensure that there is appropriate and timely handover completed by all services involved in managing a patient brought to Emergency Department under section 136 powers by Police.

To ensure that all patients who are brought to Emergency Department under section 136 powers by Police receive the most appropriate care in the right place, at the right time.

[1] National Partnership Agreement: Right Care, Right Person (RCRP) - GOV.UK (www.gov.uk)

To ensure that persons detained under section 136 MHA receive a competent and effective assessment of their mental health needs by a doctor and/or an AMHP.

2.2 Principles

This policy is designed to ensure that a robust procedure is undertaken by all staff to respond to patients who are brought to Emergency Department under section 136 powers by Police. These procedures apply regardless of time of day and should be used in conjunction with advice from clinicians, mental health specialists, and other agencies such as the Police.

This policy is underpinned by the principles of the assessment, management, treatment and rights of patients with a mental health disorder as outlined by the Mental Health Act 1983.

This policy has been developed with consideration of the National Partnership Agreement: Right Care Right Person (RCRP) and aligns with the aim to ensure that people of all ages, who have health and/or social care needs, are responded to by the right person, with the right skills, training, and experience to best meet their needs.

The Right Care Right Person framework should be applied in a way that is responsive and dynamic to changeable situations and individual patient risk assessment.

2.3 Scope

All Trust staff are responsible for making themselves familiar with the contents of this policy and the procedures outlined.

This policy applies to all patients, including children and young people. Those under section 136 should receive age-appropriate care.

3. Definitions[2]

Approved mental health professional (AMHP) – AMHPS are mental health professionals who have been approved by a local social services authority to carry out duties under the Mental Health Act. They are responsible for coordinating the assessment and admission to hospital if an individual is sectioned.

Blue Light Line (Sussex) – Provides a dedicated line for police to support police in decision making prior to placing an individual under section 136 as part of the police's statutory obligation to consult with a Mental Health Professional. In addition, it provides the coordination point for ambulance and police around availability of HBPoS and or ADPoS/Havens and the availability of the section 136 support service

Commissioned by Sussex Partnership Foundation Trust (SPFT).

Mental Health Act 1983 – This is a law that applies to England and Wales which allows people to be detained in hospital (sectioned) if they have a mental health disorder and need treatment.

Mental Health Act Code of Practice - This tells health professionals how they should follow the Mental Health Act. It is not law, so it cannot be enforced by going to court, but health professionals should follow it unless there is a good reason not to. The Code

[2] Legal glossary for mental health - Mind

covers some areas not specifically mentioned in the Mental Health Act, such as visiting rights and the use of seclusion.

Place of Safety (PoS) - This is a locally agreed place where the police may take an individual to be assessed. It's usually a hospital but can be a home. A police station should only be used in an emergency.

Health Based Place of Safey (HBPoS) / Section 136 Suite – This is a space where people detained and transported under section 135/136 of the Mental Health Act 1983 can be managed safely while an appropriate assessment is undertaken (by a psychiatrist and an approved mental health professional).

In East Sussex the agreed designated HBPoS are:

- Department of Psychiatry, EDGH
- Woodlands Centre for Acute Care, Hastings

CAMHS – Chalkhill, Princess Royal Hospital, West Sussex for those aged 17 and under

In the event of all the above being full, consideration will be given to alternative Place of Safety such as ED (where an individual does not require physical health intervention).

Section 12 approved doctor – This is a doctor trained and qualified in the use of the Mental Health Act, usually a psychiatrist. They may also be a responsible clinician, if the responsible clinician is a doctor.

Section 136 – Under this section of the Mental Health Act, a police officer can take an individual to a place of safety if they're in a public area and it seems that they are suffering from a mental disorder and in need of immediate care or control. Before using section 136 the police must consult a registered medical practitioner, a registered nurse, or an AMHP, occupational therapist or paramedic.

Section 135 – This section of the Mental Health Act 1983 allows the police to enter a person's home and take them to a Place of Safety so that a mental health act assessment can be completed.

'24-hour clock' – Often used to refer to the detention period for a person detained under section 136. The '24-hour clock' detention period for a person detained under section 136 begins at the point when the person physically enters a Place of Safety. Time spent travelling to a Place of Safety or spent outside awaiting opening of a facility does not count.

4. Accountabilities and Responsibilities

4.1 Chief Executive and Directors

The Trust Chief Executive has the overall responsibility for ensuring the Trust treats its patients, carers and staff in a manner which ensures their safety, privacy and dignity and which treats them at all times with courtesy and respect. Chief Executive and Directors have ultimate responsibility for ensuring that the processes and procedures set out in this document are applied consistently.

4.2 Line Managers' responsibilities

Managers should ensure they are fully conversant with this procedure and linked policies. Managers should ensure all staff are aware of the required procedure outlined in this document.

4.3 Employee's responsibilities

Employees should ensure they understand the contents of this procedure and are able to apply to their working practices as required.

4.4 Safeguarding

ESHT Safeguarding team will provide advice and guidance on potential safeguarding concerns.

5. Process

Process for Police determining section 136 use and Place of Safety

5.1 Initial detention under section 136 and access to Place of Safety

Police should consult advice from professionals via the local Blue Light Line service before making the decision to detain a person under section 136 powers.

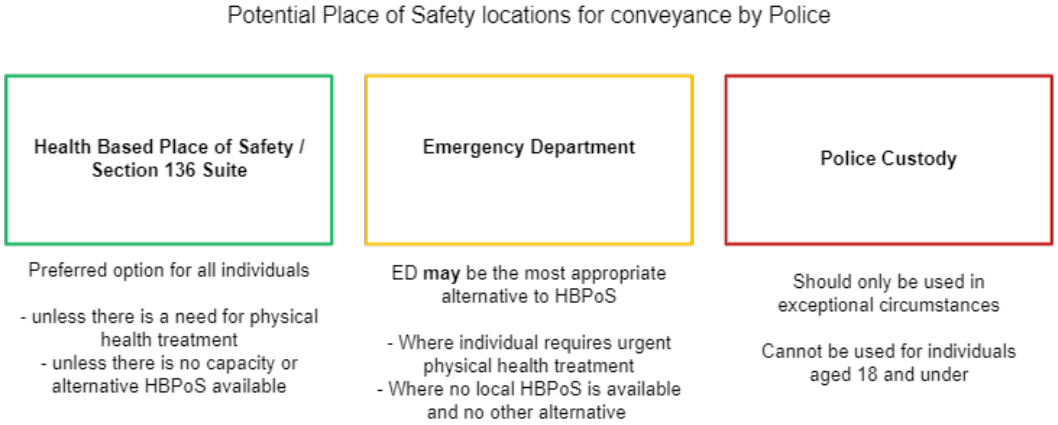
Where practicable, suitable alternatives to section 136 detention should be identified.

5.2 Identification of the Place of Safety by Police

When section 136 powers are used, Blue Light Line will assist the Police to determine the appropriate Place of safety location.

The preferred location to convey an individual should always be a local Health Based Place of Safety (HBPoS)/section 136 suite, situated in a local, specialist mental health facility.

If the detained individual requires emergency medical treatment, or where it is not possible to convey an individual to a Health Based Place of Safety (HBPoS), Police will be advised to convey the patient to the nearest Emergency Department as the most appropriate alternative Place of Safety.



5.3 Use of Emergency Department as a Place of Safety (PoS)

An Emergency Department (ED) can itself be a Place of Safety within the meaning of the Mental Health Act 1983.

If the preferred local Health Based Place of Safety is not to be used, clear reasons for this should be recorded by decision-makers (Police/Blue Light Line).[3]

Sussex Police and SECAmb are responsible for arranging conveyance of individuals detained under section 136 to the identified Place of Safety (i.e. HBPos or ED).

Where practicable, the Blue Light Line/MHLT will notify the ED that a patient will be conveyed under section 136 to ED as a Place of Safety.

See **Appendix A: Process for Police determining section 136 use and Place of Safety** for summary of above process 5.1 to 5.3.

Process for staff after Police arrive in ED with person under section 136

5.4 Responsibility of Clinician in Charge of ED when a person under section 136 is brought in by Police:

There should be a clearly identified person, Emergency Physician in Charge (EPiC), available at the ED Place of Safety to receive the person subject to section 136 from the Police and to take charge over arranging the Mental Health Act assessment. They should:

- Immediately record the time of arrival and the start of the section 136 '24-hour clock'
- Confirm the person has been detained under section 136 and is aware of that fact
- Document patient information on [redacted]
- Conduct an immediate triage mental health assessment of the patient to evaluate current risks (of harm, aggression, absconding) using the ED SMART tool located on [redacted].
- Provide urgent physical health treatment if identified
- Notify the MHLT of the patient requiring a Mental Health Act Assessment

5.4.1 Police handover to Emergency Department

When an individual detained under section 136 is conveyed to an ED department, the individual remains in police custody until one of the following takes place:

- A section 12 doctor, or another doctor with appropriate mental health experience, concludes that there is no underlying mental disorder, and the individual is taken off section 136 and is free to leave if they have mental capacity to safely make the decision.
- **ED staff accept responsibility for the individual's care for the purpose of the Mental Health Act Assessment.**
- The individual is conveyed to another local Health Based Place of Safety site.
- The detention period under section 136 has elapsed, however it is not good practice to let this happen.[4]

[3] Standards on the use of Section 136 of the Mental Health Act 1983 (England and Wales)
[4] Londons-Section-136-Pathway-and-Health-Based-Place-of-Safety-Specification_May_2024.pdf (england.nhs.uk)

An agreement should be reached between the ED consultant or Emergency Physician in Charge (EPiC) of the ED and the Police as to when the Police can handover and leave the patient in the care of ED.

A case-by-case risk-based approach should be adopted in favour of a time-based approach in these circumstances to reduce risk to the individual, other patients, and staff members.

See section **5.4.2** for how to jointly determine arrangements for patient care and handover from Police.

5.4.2 Risk assessment of patient under section 136 in ED to support handover from Police

There should be a 2-step triage and risk assessment process to determine patient care and section 136 handover arrangements.

Step 1:
When the patient under section 136 arrives with Police, the ED mental health assessment SMART Tool located on [redacted] should be completed to provide an initial mental health triage assessment of the patient.
This will offer a RAG rating for the patient's perceived risk and suggested actions for ensuring safe patient care.

Step 2:
After completing the initial ED triage assessment for the patient under section 136, an additional joint risk assessment discussion should be completed between the ED Clinician in Charge/EPiC and Police, and with ESHT Security, where possible.

This discussion should identify one of the below RAG rating outcomes for the patient, as well as determine the required actions to ensure safe patient care and handover from Police.

Staff should involve senior colleagues where necessary to help to locate sufficient staff for the Police to be able to leave and return to their other duties as swiftly as possible.

Joint risk assessment RAG outcomes:

RED – HIGH RISK TO SELF AND OTHERS VOLATILE/ AGGRESSIVE CONTINUOUS RESTRAINT REQUIRED

Proposed actions:

- 2 police officers to remain with patient
- Consider support from HoN MH/RMN
- **Reassess regularly and review RAG if behaviour changes**

AMBER – MEDIUM RISK – MODERATE OR INTERMITTENT RESTRAINT REQUIRED

Proposed actions:

- 1 police officer to remain with patient supported by 1 security officer
- Consider support from HoN MH/RMN
- **Reassess regularly and review RAG if behaviour changes**

GREEN – LOW RISK – BEHAVIOUR MODIFIED, NO LONGER REQUIRING ONGOING RESTRAINT

Proposed actions:

- Support from HoN MH/RMN
- Support from security team
- Police not required to stay
- **Reassess regularly and review RAG if behaviour changes and more support required**

5.4.3 Agreement to handover patient under section 136 to ED

After completing the joint risk assessment process, Clinician in Charge of ED should confirm ED has accepted responsibility for the patient under section 136 when appropriate to do so.

Staff should clearly document the outcome of the joint risk assessment and the agreed handover from Police, on the patient's care record.

Communication and information sharing during handover

Information about the patient's needs, and any associated risks should be clearly explained by Police to ED staff receiving the patient. This information should also be documented in the section 136 paperwork provided by Police and any other handover documentation.

This principle also applies to patients who are brought to the ED by Police but are not under section 136.

Any security staff at the ED department should be appropriately briefed about the person under section 136.

5.5 Arranging Mental Health Act Assessment in the Emergency Department

Maximum period of detention under s136 is 24 hours with the possibility of a 12-hour extension, authorised by a Responsible Medical Practitioner (Doctor) on clinical grounds only.

The '24-hour clock' starts when the individual under section 136 arrives in ED.
It is vital that ED staff and Mental Health Specialist services respond in a timely way to support appropriate assessment and consideration of alternative legal pathways for individuals under section 136.

The responsible clinician in ED should refer the individual detained under section 136 to the Mental Health Liaison Team (MHLT) as quickly as possible and notify the duty AMHP and section 12 doctor on arrival in the department where appropriate.

The Mental Health Act Assessment should not be delayed for treatment of physical health needs, unless the physical health needs are suspected to be causing or leading to a significantly worsening mental state.

Assessment by the doctor and AMHP should begin as soon as possible after the arrival of the individual at the place of safety. In cases where there are no clinical grounds to delay assessment, it is good practice for the doctor and AMHP to attend within three hours.

See Figure 1 **Section 136 Process for Emergency Department** for flowchart summary of the complete process outlined in this policy.

5.6 Outcome of Mental Health Act Assessment

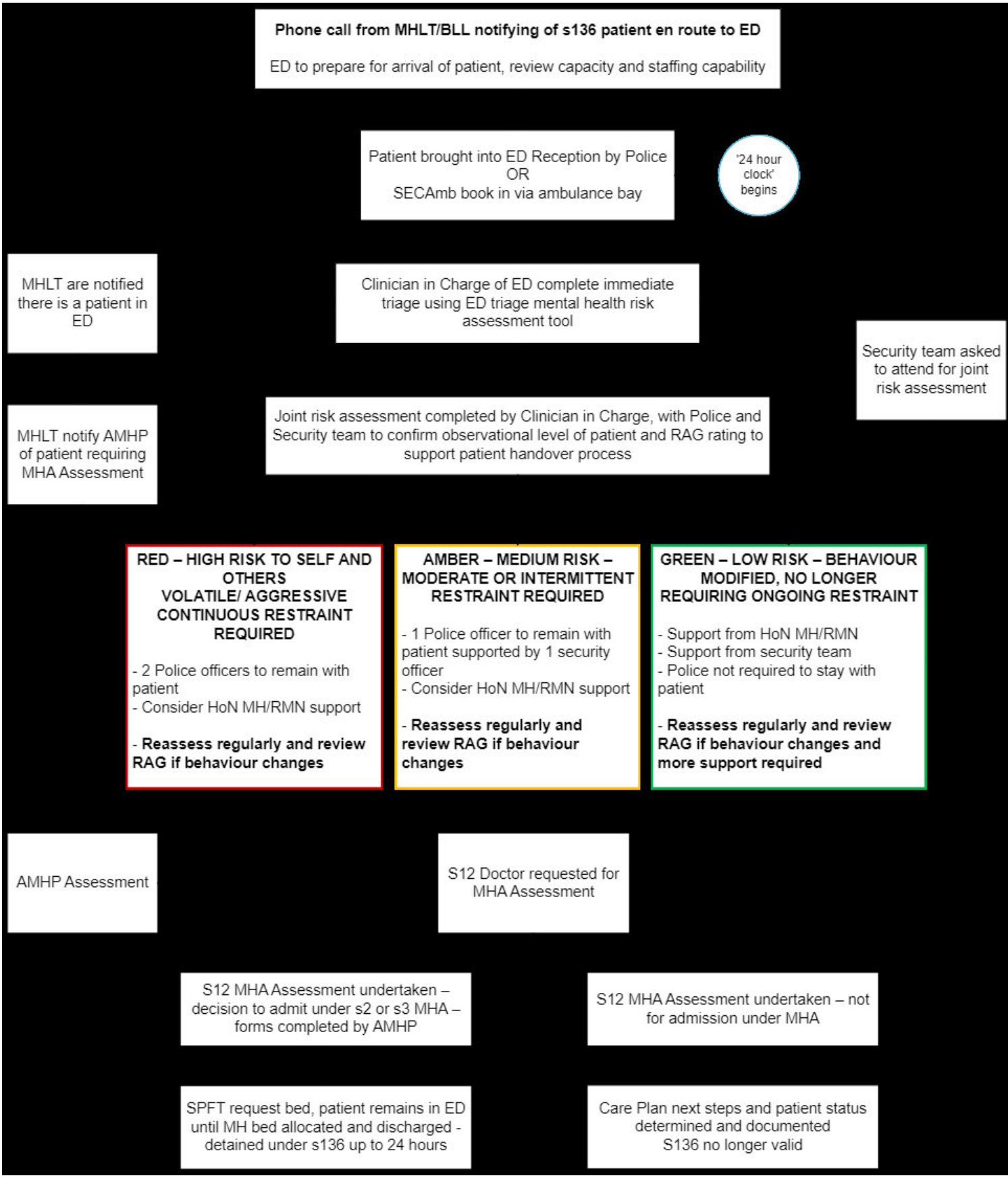
Patient is detained under Mental Health Act

If the outcome of the assessment determines that the patient will be detained under section 2 or 3 of the Mental Health Act, the AMHP will complete the necessary forms and SPFT will request a specialist mental health bed for the patient. The patient will remain in ED until a bed has been arranged and they are able to be conveyed.

Patient is not detained under Mental Health Act

If the outcome of the assessment determines that the patient will not be admitted under section of the Mental Health Act, Clinicians in ED alongside MHLT, and any other applicable agencies and practitioners, will identify the appropriate care planning and next steps for the patient and document the decision-making. The section 136 detention will be discharged.

Figure 1: *Section 136 Process for Emergency Department*



Adapted with thanks from University Hospitals Sussex NHS Foundation Trust, *RCRP Section 136 - Attendance to Emergency Departments - Staff guidance Flowchart 2024*

5.7 Important contacts

Service	Opening Hours	Contact details
East Sussex Adult Social Care Mental Health Act Referral Line (MHARL) **/ AMHP Service**	Monday to Thursday 8.30 am to 5pm Fridays 8.30am to 4.30pm Please note this is not a public number and is for professionals. If the general wards are using this number, it should mainly be for section 136 and Section 5(2).	[redacted]
East Sussex Adult Social Care Emergency Duty Service	Out of Hours: Weekdays 4.30pm to 9am 24 hours service over Weekends and Bank Holidays	[redacted]
CAMHS (Liaison covering Conquest and EDGH)		[redacted]
Mental Health Liaison Team (MHLT) **Conquest**	24 hours a day, 7 days a week	[redacted]
Mental Health Liaison Team (MHLT) **EDGH**	24 hours a day, 7 days a week	[redacted]
Blue Light Line (For use by the Police in first instance to determine PoS)	24 hours a day, 7 days a week	[redacted]

6. Special Considerations

Under section 136 of the Mental Health Act 1983, anyone who appears to be mentally disturbed in a public place can be detained to a Place of Safety.
Therefore, this policy applies to all patients, including children and young people.
Those under section 136 should receive age-appropriate care.

Staff should consider the involvement of other agencies who may be involved in patient care and liaise with all relevant agencies as required i.e. SPFT, Police, Local Authority.

7. Evidence Base/References

College of Policing (2020) *Mental health – detention*. Available at: Mental health – detention | College of Policing [Accessed 5 August 2024]

Department of Health and Social Care, (2023). National Partnership Agreement: Right Care, Right Person (RCRP) [Accessed 19 July 2024]

Department of Health (2015). *Mental Health Act: 1983: Code of Practice. Available at:* https://assets.publishing.service.gov.uk/media/5a80a774e5274a2e87dbb0f0/MHA_Code_of_Practice.PDF *[Accessed 24 July 2024]*

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8. Competencies and Training Requirements

All staff should receive adequate training and be aware of the following:

- The legal powers and limitations of section 136 of the Mental Health Act.
- The responsibilities expected of them in safely managing patients who are under a section 136 of the Mental Health Act.
- The decision-making process they are expected to follow when considering risk and deciding whether to escalate a situation.

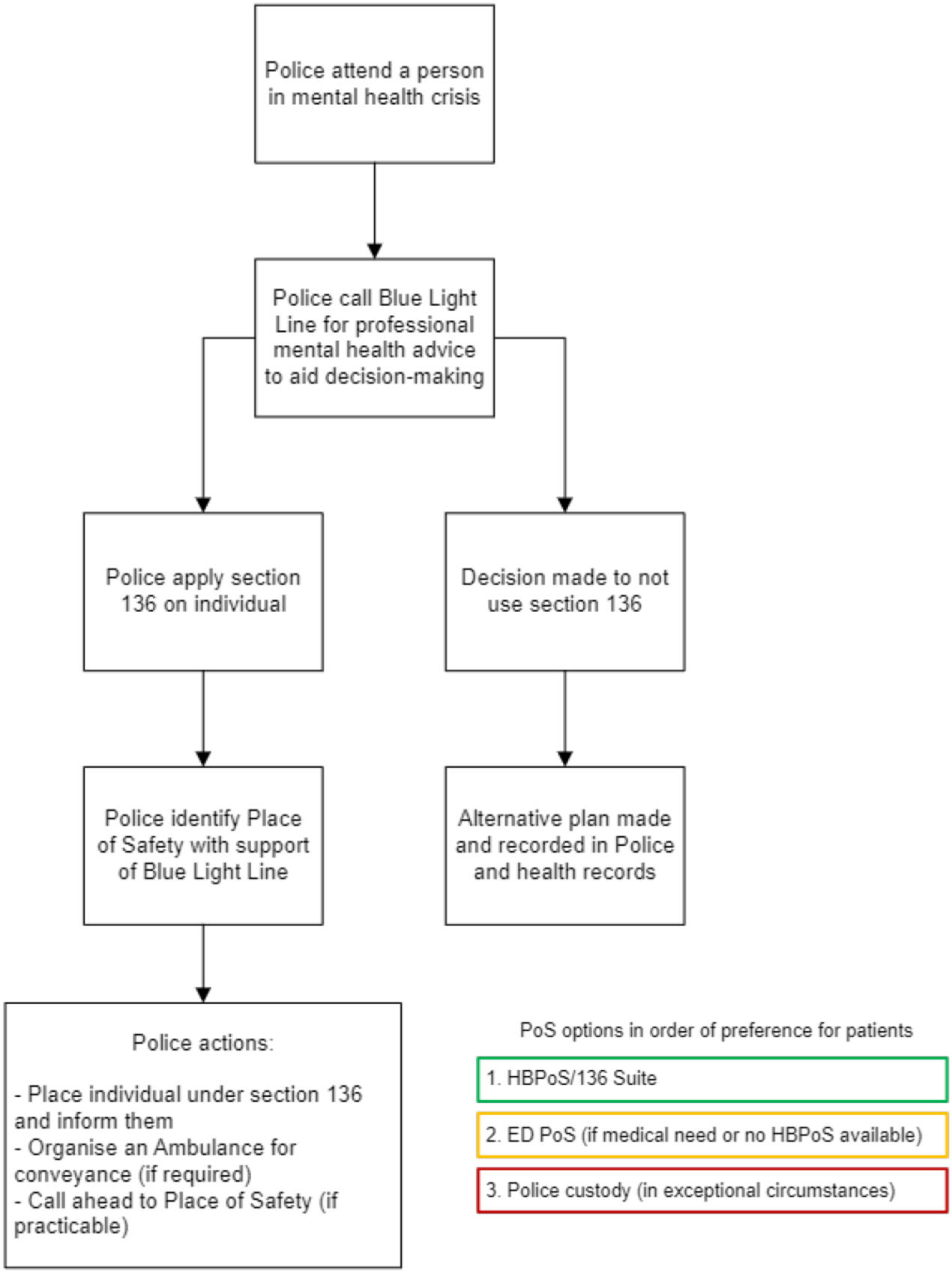
9. Monitoring Arrangements

See next page.

Document Monitoring Table

Element to be Monitored	Lead	Tool for Monitoring	Frequency	Responsible Individual/Group/ Committee for review of results/report	Responsible individual/ group/ committee for acting on recommendations/action plan	Responsible individual/group/ committee for ensuring action plan/lessons learnt are Implemented
Number of s136 patients brought to ED	Deputy Chief Nurse Quality and Policy	[redacted]	Quarterly	Patient Safety and Quality Group	Divisional Governance Meetings	Quality and Safety Committee
Average length of stay for Police handover	Deputy Chief Nurse Quality and Policy	[redacted] Business Intelligence	Quarterly	Patient Safety and Quality Group	Divisional Governance Meetings	Quality and Safety Committee

Appendix A: Process for Police determining section 136 use and Place of Safety



Appendix B: EHIA Form

Equality and Health Inequalities Impact Assessment (EHIA) template

Undertaking EHIA helps us to make sure that our services and polices do not inadvertently benefit some groups more than others, ensuring that we meet everyone's needs, and our legal and professional duties.

This is important because:

- Assessing the potential for services and policies to impact differently on some groups compared with others is a legal requirement.
- People who find it harder to access healthcare services are more likely to present later when their disease may be more progressed, have poorer outcomes from treatment, and need more services than other groups who have better access.

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It is against the law to discriminate against anyone because of:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation.

These are called 'protected characteristics'. The Act requires that public sector organisations meet specific equality duties in respect of these protected characteristics. This is known as the public sector equality duty.

Public Sector Equality Duty

Public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.

Public bodies must have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity
- foster good relations.

Armed Forces Covenant Duty

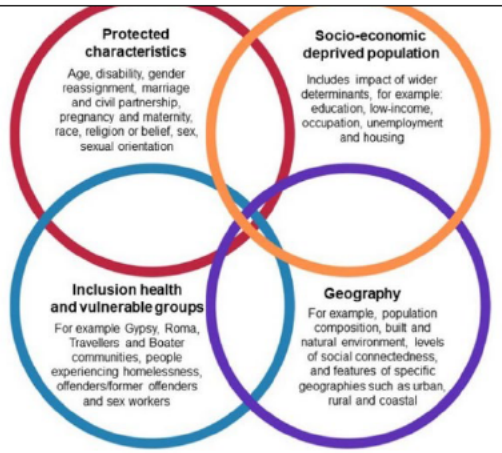
The new Covenant Duty raises awareness of how Service life can impact on the Armed Forces community, and how disadvantages can arise due to Service when members of that community seek to access key local services. The Duty requires organisations to pay due regard to the Covenant principles when exercising functions in healthcare. "Due regard" means that we need to consciously consider the unique obligations and sacrifices made by the Armed Forces; that it is desirable to remove disadvantages faced by the Armed Forces community; and that special provision may be justified in some circumstances.

Health Inequalities Duties- Equity for all
In addition to our legal duties in relation to Protected Characteristics, the Health and Social Care Act and other legislation, NHS Planning Guidance and sector specific recommendations require the NHS to have regard to the need to address health inequalities (or differences in access to or outcomes from healthcare) and take specific action to address them.

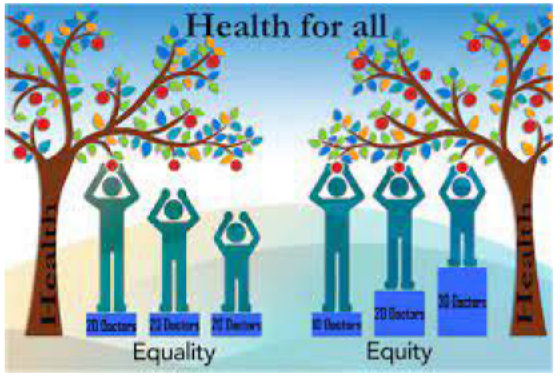
Figure 1 shows the different population groups, factors associated with where we live, or our individual circumstances, which separately, or when combined, influence access to and outcomes from health care.

Getting equal outcomes may require different inputs (or services). In completing an EHIA its important to think about whether a one size fits all approach will generate the same good outcomes for everyone, or whether we might need to make some tweaks or adjustments to enable everyone to benefit equally. The health tree diagram shows that unless we think about the needs of different people, equal services might generate unequal outcomes.

Factors associated with poorer health outcomes (PHE 2021)[1]



The Health Tree[5]



The following principles, drawn from case law, explain what we must do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for the Trust must be aware of our equality duties and apply them appropriately in their work.
- **Timeliness:** the duty applies at the time of considering policy options and/or before a final decision is taken – not afterwards.
- **Real Consideration:** the duty must be an integral and rigorous part of your decision-making and influence the process.
- **Sufficient Information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation:** the Trust is responsible for ensuring that any contracted services which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review:** the equality duty is a continuing duty. It applies when a policy/process is developed/agreed, and when it is implemented/reviewed.
- **Proper Record Keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified.

NB: Filling out this EHIA in itself does not meet the requirements of the equality and health inequalities duties. All the requirements above must be fulfilled or the EHIA (and any decision based on it) may be open to challenge. Properly used, an EHIA can be a tool to help us comply with

[5] https://www.researchgate.net/figure/Equality-and-equity-of-medical-resources-distribution_fig2_323266914

our equality and health inequalities duty and as a record that to demonstrate that we have done so. It is advised that you complete the short EHIA training session on MyLearn before completing this EHIA.

SECTION A ADMINISTRATIVE INFORMATION

This form is a central part of how the Trust makes sure and can demonstrate to others that we are meeting our legal duties; and how we can assure ourselves that all patients will get the best outcome for them from our services.

A completed copy of this form must be provided to the decision-makers in relation to your proposal. The decision-makers must consider the results of this assessment when they make their decision about your proposal. **Function/policy/service name and number:**	Management of patients under section 136 in Emergency Department		
Main aims and intended outcomes of the function/policy/service and summary of the changes you are making (if existing policy/service):	This is a new ESHT specific policy to replace the previous Pan-Sussex 'Assessment of Persons under Sections 135 and 136 of the Mental Health Act 1983' that expired in February 2022. It has required a new policy in alignment with the Right Care Right Person initiative. It aims to give clear guidance for staff on what to do when a person is brought to the Emergency Department under section 136 by police.		
How will the function/policy/service change be put into practice?	Discussion with senior leads and clinicians and with an announcement on Comms.		
Who will be affected/benefit from the policy?	Staff and patients		
State type of policy/service	Policy ☐	Service ☐	
	Business Case ☐	Function ☐	Existing
Is an EHIA required? NB :Most policies/functions will require an EA with few exceptions such as routine procedures	Yes ☐		
	No ☐ (If no state reasons)		
Accountable Director: (Job Title)	Equality Diversity and Inclusion Lead		
Assessment Carried out by:	Name: [redacted] Deputy Chief Nurse		
Contact Details:	[redacted]		
Date Completed:	19.07.2024		

SECTION B ANALYSIS AND EVIDENCE

Analysis of the potential impact – Equality and Health Inequalities Duties
For this section you will need to think about all the different groups of people who are more likely to experience poorer access or have poorer outcomes from health and care services. For each group please describe in the first column the potential impact you have identified, in the second column explain how you have arrived at this conclusion and what information you used to identify the potential impact, and in the third column say what you are going to do to prevent it from happening, or which elements of a service or policy specifically address the potential impact. Key things to remember.

- Everyone has protected characteristics but some groups who share one or more protected characteristics may be more likely to have poorer outcomes or access compared with others – and it is this potential that the EHIA process seeks to identify and address.
- The information included here should be proportionate to the type and size of the policy/service/change.
- An update to a policy should demonstrate that you have considered the potential for the policy to impact differently on different groups and taken steps to address that.
- A minor policy update is likely to need to be much less comprehensive than an EHIA for a major service change.
- You will need to know information about who uses or could use your service/policy will apply to (the population). You can use information about current patients or staff, and about the general population the Trust serves.

3. PROTECTED CHARACTERISTICS - Main potential positive or negative impact of the proposal for protected characteristic groups summarised

Please write in the box below a brief summary of the main potential impact (positive or negative) Please state **N/A if your proposal will not impact adversely or positively on the protected characteristic groups listed below, but make sure you include information on how you know there will be no impact.**

This policy will impact positively on those in mental health crisis and with cognitive impairment as there will be a confirmed process for staff as to what to do when a person is brought to Emergency Department under section 136 by Police. This policy will impact positively on staff as they will have an established process for how to safely manage patients who are brought in under section 136 and in accordance with the best practice for section 136 under the Mental Health Act.

Protected characteristic groups	Summary explanation of the *potential* positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Age: older people; middle years; early years; children and young people.	This policy protects staff from all age groups no matter what age they are as outlined in the Equality Act 2010	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	NA
Disability: physical, sensory and learning impairment; mental health condition; long-term conditions.	This policy has a positive impact on all staff that have a disability or long term health condition. It links into the (Dis)Ability & Health Passport to enable adequate adjustment to take place and the Carers Passport to achieve a work life balance	The Workforce Disability Equality Standard, set out by NHS England details the positive association between increased disability equality and workplace experience for disabled individuals	NA
Gender Reassignment and/or people who identify as Transgender	This policy has a positive impact on those that are transitioning from their gender assigned at birth to another gender. This policy links into the Gender Recognition Act 2004	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	NA
Marriage & Civil Partnership: people married or in a civil partnership.	This policy does not have a negative impact on a member of staffs marital or civil partnership status	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	NA
Pregnancy and Maternity: before and after childbirth and who are breastfeeding.	This policy has a positive impact on pregnancy, maternity and also including paternity rights with, The Employment Rights Act 1996 which sets out rights to health and safety, time off for antenatal care, maternity leave and unfair dismissal	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	NA
Race:	This policy has a positive impact for all staff regardless of their race or ethnicity	The Workforce Race Equality Standard, set out by NHS England details how the positive association between increased race equality and workplace experience for disabled individuals	NA

Protected characteristic groups	Summary explanation of the *potential* positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Religion and belief: people with different religions/faiths or beliefs, or none.	This policy has a positive impact on all staff the wish to observe religious practices and those that don't	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	NA
Sex:	This policy has a positive impact on gender and looks at statutory duties under the Gender pay Gap	The Gender Pay Gap Report details the positive association with gender equality and workplace experience	NA
Sexual orientation	This policy has a positive impact on staff no matter what their sexual orientation is	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	NA
Veterans/Armed Forces Communities	This policy ensures 'due regard' is considered for veterans and the armed forces community	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	NA

4. HEALTH INEQUALITIES -Potential positive or adverse impact for people who experience health inequalities summarised

Please briefly summarise the main potential impact (positive or negative) on people at particular risk of health inequalities (as listed below). **If the policy/procedure is unrelated to patients, this sections does not require completion.**

Please state none if you have assessed that there is not an impact, but please make sure you complete the 'how do you know this' column to demonstrate that you have considered the potential for impact**. If you identify the potential for impact for one or more of these groups please complete the full assessment in Appendix A**

Groups who face health inequalities[6]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
This includes all groups of people who may have poorer access to or outcomes from healthcare services. It includes: People who have experienced the care system; carers; homeless people; people involved in the criminal justice system; people who experience substance misuse or addiction; people who experience income or other deprivation; people with poor health literacy; people living in rural areas with limited access to services; refugees or asylum seekers; people in or who have been in the armed force; other groups who you identify as potentially having poorer access and outcomes.	There is strong evidence that where an NHS workforce is representative of the community that it serves, patient care and the overall patient experience is more personalised and improves	NA	NA

SECTION C ENGAGEMENT

5. Engagement and consultation

a. Talking to patients, families and local communities can be a rich source of information to inform health care services. If you are making substantial changes it's likely that you'll have to undertake specific engagement with patients. For smaller changes and policies your may have undertaken some engagement with patient groups, gained insight from routine sources e.g. patient surveys, PALS or Complaints information or information from Healthwatch, you may also have looked at relevant engagement that others have undertaken in the Trust, or locally
Have any engagement or consultative activities been undertaken that considered how to address equalities issues or reduce health inequalities? Please place an x in the appropriate box below.

Yes	No
x	

b. If yes, please ensure all stakeholders are listed in the consultation table at the beginning of the policy.

SECTION D SUMMARY OF FINDINGS

Reflecting on all of the information included in your review-

6. EQUALITY DUTIES: Is your assessment that your proposal will support compliance with the Public Sector Equality Duty? Please **add an x** to the relevant box below.

	Tackling discrimination	Advancing equality of opportunity	Fostering good relations
The proposal will support?	x	x	x
The proposal may support?			
Uncertain whether the proposal will support?			

7. HEALTH INEQUALITIES: Is your assessment that your proposal will support reducing health inequalities faced by patients? Please add an x to the relevant box below.

	Reducing inequalities in access to health care	Reducing inequalities in health outcomes
The proposal will support?	X	X
The proposal may support?		
Uncertain if the proposal will support?		

8. Outstanding key issues/questions that may require further consultation, research or additional evidence. Please list your top 3 in order of priority or state N/A

Key issue or question to be answered		Type of consultation, research or other evidence that would address the issue and/or answer the question
1	N/A	NA
2	N/A	NA
3	N/A	NA

9. EHIA sign-off: (this section must be signed)

Person completing the EHIA:	[redacted], Project and Business Support Manager	**Date:** 19/07/2024
Line Manager of person completing:	[redacted], Deputy Chief Nurse	**Date:** 19/07/2024

Appendix A

Breakdown of Groups who are more likely to experience health inequalities:

Groups who face health inequalities[7]	**Summary explanation of the potential positive or adverse impact of your proposal**	**How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback**	**Action that will be taken to address the potential for negative impact.**
Looked after children and young people	This policy will have a positive impact on children and young people because it emphasizes the correct process for accessing timely, and appropriate care for individuals	The police should ensure that children and young people are taken to the most appropriate Place of Safety and consult clinical advice from the Blue Light Line to aid decision-making.	Staff will ensure that CAMHs are notified and decisions regarding legal status under MHA are made timely, by the right people, in the right place at the right time.

Groups who face health inequalities[7]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
	under section 136.		
Carers of patients	NA	NA	NA
Homeless people. People on the street; staying temporarily with friends /family; in hostels or B&Bs.	NA	NA	NA
People involved in the criminal justice system: offenders in prison/on probation, ex-offenders.	There is a potential adverse impact of the Right Care Right Person initiative on patients on a s136.	The police are suggesting that they will leave after one hour, leaving these patients more likely to leave ESHT settings before being assessed by a mental health care provider due to stretched resources within ED.	Right Care Right Person Implementation Plan Regular data monitoring and feedback to Police
People with addictions and/or substance misuse issues	This policy will have a positive impact on people with addictions as there will be more emphasis on their safety.	There is a lower threshold for police to attend to support staff, therefore as ESHT are responsible this policy will give staff guidance	This policy publication
People or families on a low income	NA	NA	NA
People with poor literacy or health Literacy: (e.g. poor understanding of health services poor language skills).	NA	NA	NA
People living in deprived areas	NA	NA	NA
People living in remote, rural and island locations	NA	NA	NA

Groups who face health inequalities[7]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Refugees, asylum seekers or those experiencing modern slavery	NA	NA	NA
People who have served in the Armed Forces	NA	NA	NA
Other groups experiencing health inequalities (please describe)	NA	NA	NA

Appendix B – EHIA Resources
Sources of Information on the East Sussex population and sources of community or patient insight.

Population Data
State of the County 2021 Focus on East Sussex

East Sussex JSNA

Community Insight

Further Reading on Equality and Health Inequalities

Training