



On successful completion of this module, learners will be able to:

1. **Define** vulnerability within the context of operational policing including the personal aspect of vulnerability.
2. **Identify** how the police service can provide a professional and ethical service to vulnerable or at risk individuals or those who may be at risk.
3. **Outline** factors and influences that can result in harm, or risk of harm to a vulnerable person.
4. **Describe** key considerations when responding to, initially dealing with and supporting a person who may be vulnerable, including how a vulnerable person may respond to police presence.
5. **Describe** key legislation and guidance used when dealing with a vulnerable person, including juveniles, places of safety and transport.
6. **Identify** different legislation to be used when dealing with a vulnerable person in their own home.
7. **Summarise** key considerations for use of restraint when dealing with a person suffering from mental ill health

## Golden Gate Story



Golden Gate Story



### **HEALTH WARNING**

You Tube RELATES TO A PERSON WHO JUMPED OFF THE GOLDEN GATE BRIDGE [7 mins] – click on red play button  
[https://youtu.be/aI\\_7CTy8V3w](https://youtu.be/aI_7CTy8V3w)

Sadly people who attempt to commit suicide, do not really feel they want to end their lives but feel it maybe the best option at that particular time.

If we can intervene and save somebody's life, then it maybe a turning point in their lives – through this session we will look at the powers that we have as Police Officers to help those suffering MH crisis.

## What is Mental Health?

Defined in the Mental Health Act [sec 1] 1983 as:

*'any disorder or disability of the mind includes a brain injury.'*



## QTS

### What is mental health?

Trainer - Board blast.....5 minutes

MHA defines a **Mental disorder** as *'any disorder or disability of the mind includes a brain injury.'* We will use the term Mental Disorder throughout this session

Learning disabilities is arrested or incomplete of the mind. It is not a mental disorder unless accompanied by aggravating features such as violence.

Examples of Learning difficulties is Down Syndrome, Autism and Asperger's

- 17% adults experience diagnosable mental health problems
- 2-3% estimated to have a learning disability
- 4% Have severe dyslexia



### **Group work – Activity 1**

20 minutes Exercise [Trainer Discretion] – Flipchart for each and each group to feedback to the class

Trainer to split class into 3 groups and allocate one of the following questions to each group

- 1. What type of situations or incidents might the police have to attend where mental health is a consideration?** (PPT slide 5)
- 2. What are the signs and behaviours of someone suffering a mental health episode?** (PPT slide 6)
- 3. What initial support can we offer a person suffering from mental health?** (PPT slide 7 – 8)

### **Feedback should include:**

Those receiving Care in the community , including CTO & SCT

Mentally disordered offenders

S.136

Absconded/missing/AWOL from hospital

Victim or witness

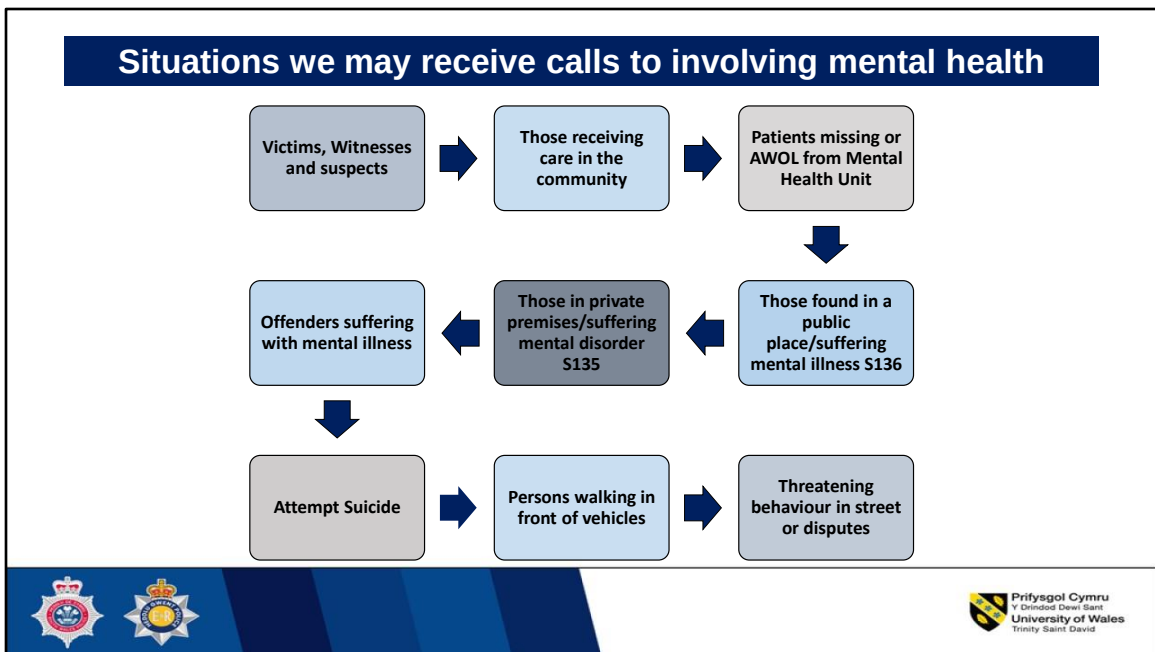
Explore Roles of key professionals

Discuss referral methods/mechanisms

Whose job is it to refer?

What is available locally?

We will explore, each of these in turn later.



## Q. What type of situations or incidents might the police have to attend where mental health is a consideration?

Police officers need to focus on the behaviour and state of mind of a person experiencing a mental health crisis.

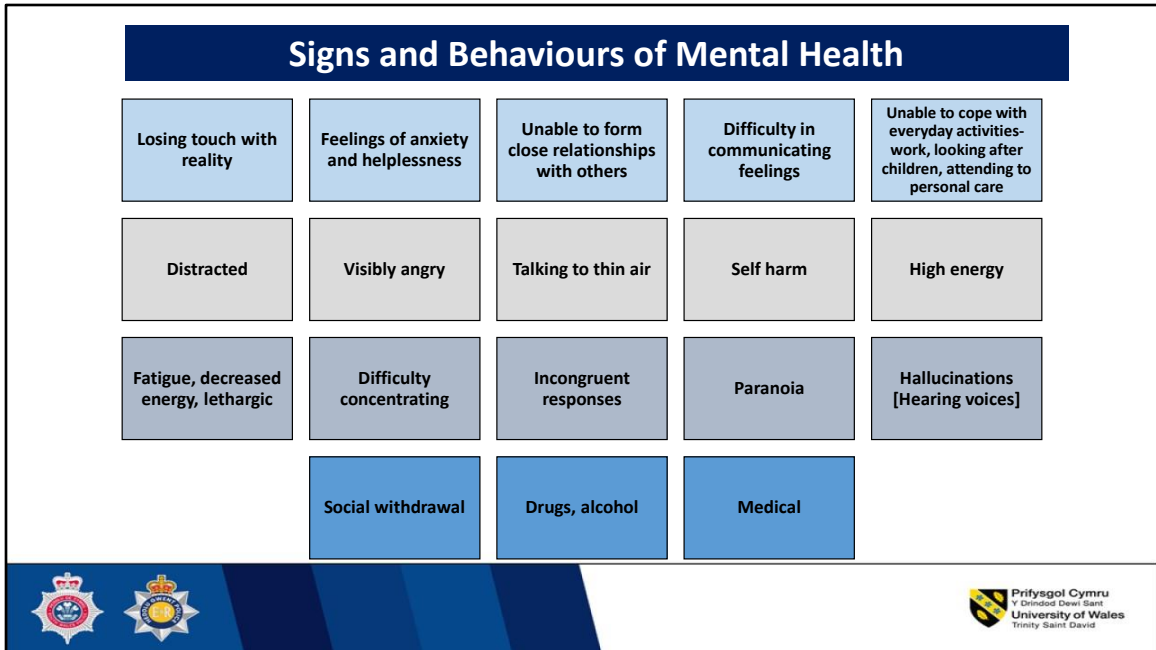
Empathise it is not the label of the condition which is important, it is how we deal with the person.

Police officers are not medically trained- we can't diagnose- but we can get help and should get it from MH professionals.

Officers also need to be aware that some behaviour associated with medical illness can also be due to a range of medical conditions. These can include diabetes and epilepsy.

Urinary tract infections, strokes as well as alcohol and drugs may also account for behaviour often associated with mental health problems.

List is not exhaustible



**Q. What are the signs and behaviours of someone suffering a mental health episode?**

5 minutes for feedback

## Initial Support to a Person Experiencing Mental Ill Health

Introduce yourself  
explain why you are  
there

Explain to them you  
are concerned with  
their safety

Ask if anything has  
happened to them,  
consider repeating  
your request

Explain procedure

Respectful

Give them space  
[Think Safety]

Avoid direct radio  
contact within  
hearing of person  
[Be tactful]

Awareness of  
surroundings

Remember types of  
incident

Recognise agitation

Consider police  
powers and Personal  
Safety

Calm voice -  
Consider repeating  
message

Reduce height

Don't whisper



**Q. What initial support can we offer to a person suffering from mental health?**



These are just a partnership agencies within South Wales... There are many more, does anyone know of any?

**Advocacy Support Cymru (ASC)** is a registered charity that specialises in the provision of professional, confidential and independent advocacy for those eligible in secondary care and community mental health settings.

**Cavamh** - Supporting voluntary sector, service user and carer involvement in the development of mental health services across Cardiff and the Vale of Glamorgan through:

Mental Health Forum - The voice of the voluntary sector

Sefyll - Involvement in adult mental health services

Nexus - Involvement in older people's mental health services

**Primary Mental Health Care and Services – Wales** Their aim is to promote primary mental health care and improve mental health services across Wales.

**NHS Wales – Mental Health.** The Welsh Government document *Together for Mental Health: A Strategy for Mental Health and Wellbeing in Wales* is a 10-year strategy for improving the lives of people using mental health services, their carers and their

families.

**Mind** - We provide advice and support to empower anyone experiencing a mental health problem. We campaign to improve services, raise awareness and promote understanding.

Consider:

AMHP – approved mental health professional

GP – general practitioner

CPN – community psychiatric nurse

CMHT – community mental health team

C.A.L.L – community advice & listening line

RMP Registered Medical Practitioners Crisis teams

SWP Force Advisors

## Mental Illness Awareness

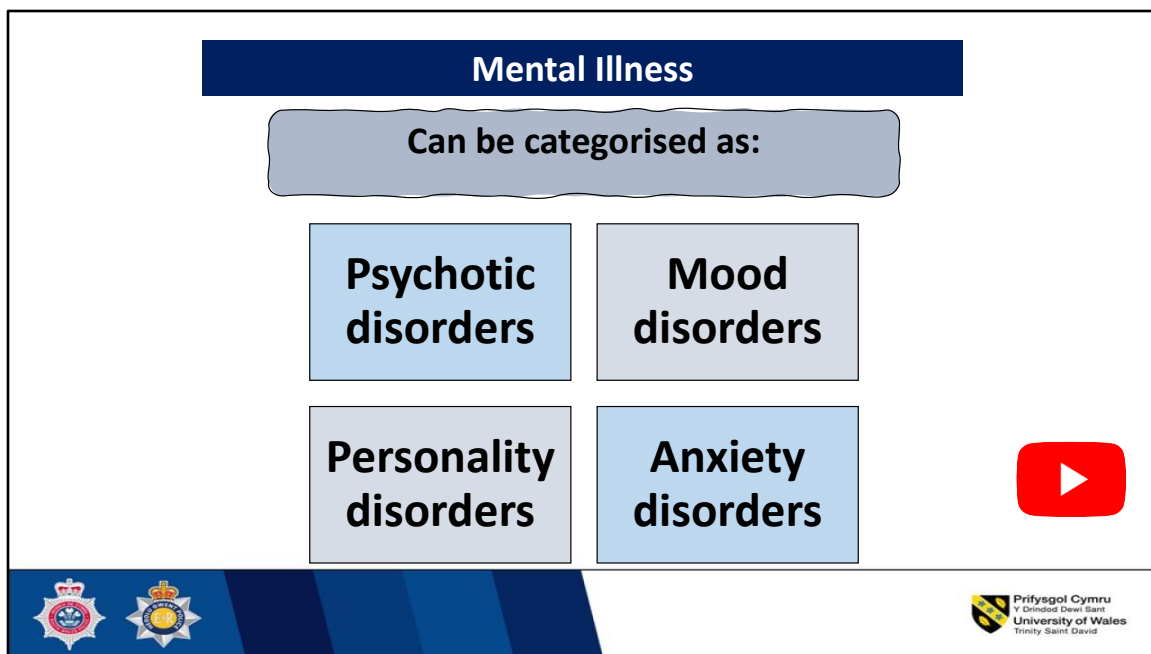
Mental ill health can be seen as a lack of things.  
The lack of resilience in the face of life's highs and lows, the lack of a 'positive sense of wellbeing' and the lack of a belief in oneself and in the dignity and worth of others.



### QTS – what factors and/or influences may make a person vulnerable?

Trainer to de-brief as a 'round robin' activity

Trainer –A sense of worthlessness, low esteem. Walking into a room and feeling anonymous, low mood, poor coping skills.  
Low self worth



**PSYCHOTIC DISORDERS-** Persons ability to think clearly ,make judgements.ie schizophrenia Hallucinations [Hearing voices].Illness can increase with substance abuse

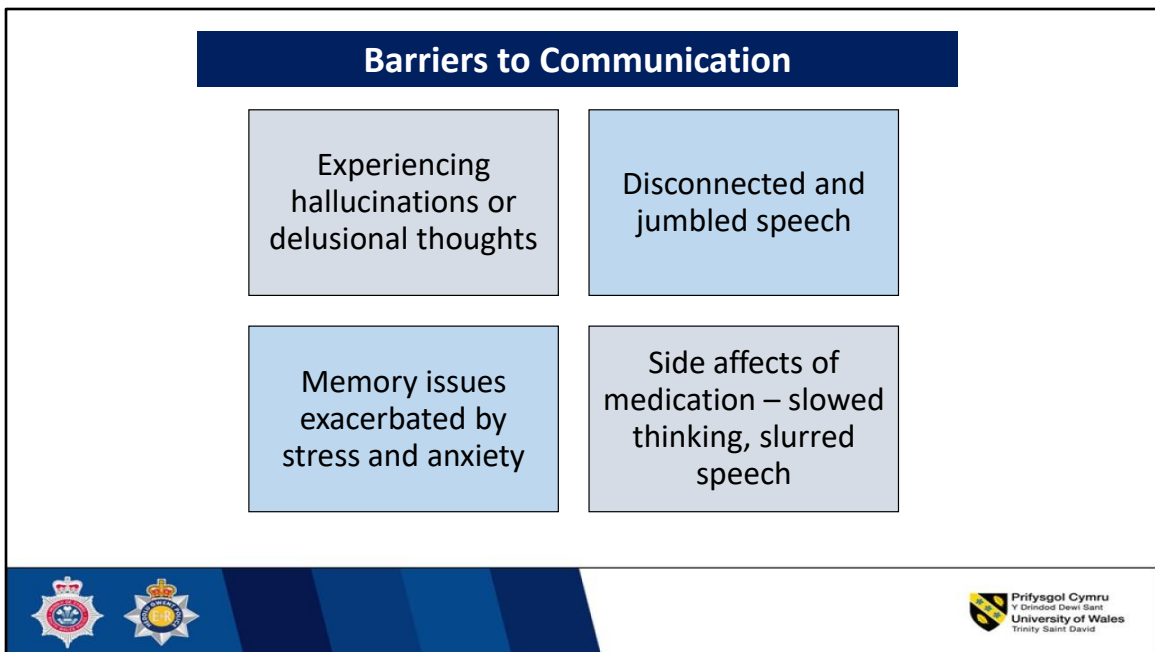
**MOOD DISORDERS-** Concerns a persons emotional state. Depression and bi polar disorder. Depression is negative thoughts. Bi polar reoccurring mood swings. Not going out

**PERSONALITY DISORDERS-** Medically described as 'deeply ingrained mal-adaptive patterns of behavior that are formed in childhood or adolescence'. Inflexible and display pattern of behavior that cause problems in coping with work life and interaction with others.

**ANXIETY DISORDERS –** Excessive uncontrollable. Worrying about every day things.

Panic disorders such as palpitations, sweating and trembling  
Obsessive Compulsive disorder [OCD] E.g. cleanliness ,taking showers

**YOUTUBE LINK-HOW TO SPOT MENTAL ILLNESS [5MIN 17 SECONDS]** – click on red play button



## Group work – Activity 2

Trainer to split class into 4 groups and provide them with the 'True or False' handout

Trainer to use PPT slides 11 & 12 to de-brief

### Barriers to communication

If they are experiencing hallucinations (which can involve any of the senses), be aware that the hallucinations or the delusions they experience are their reality. You will not be able to talk them out of their reality. They may experience the hallucinations or delusional thoughts as real and be motivated by them.

People with disordered thinking find it hard to keep a logical order to their ideas and their thoughts and speech may be jumbled and disconnected, giving the impression that they are talking nonsense.

Memory issues exacerbated by stress and anxiety

Side affects of medication – loss of mental sharpness, dizziness, memory problems, poor concentration;

- ☐ rapid heartbeat;
- ☐ shaking or muscle spasms;
- ☐ sleep disturbance;

- ☐ slowed thinking;
- ☐ slurred speech;

Many of these presentations you may find in people who are under the influence of drugs or alcohol.

## Communication Skills

How might you communicate with somebody experiencing Mental Health?



### QTS

## How might you communicate with a person experiencing mental illness?

How might you communicate with somebody experiencing..... Sensitivity to lights/noise

- Keep Calm
- Personal Space
- Non threatening approach
- Speak to them by name
- Allow time to process information
- Avoid Sarcasm
- Give direction in a clear manner

### Communication Top Tips

Initial police contact can exacerbate a difficult situation.

- The use of handcuffs and restraint may be extremely frightening for someone who does not understand what is happening and may not be able to communicate their

fears in an appropriate way. This, coupled with the use of loud sirens, may result in sensory overload, causing the person to try to run away or hit out at people, including the police. The very presence of the police may cause great anxiety to a law-abiding autistic person who has no comprehension of the crime they may have committed.

- Switch off sirens and flashing lights.
  - Keep calm. People on the autism spectrum can often sense anxiety in other people, which in turn can make them more anxious.
  - Autistic people may not understand personal space. They may invade your personal space, or they may need more personal space than other people.
  - Approach the person in a non-threatening way and keep facial expressions and gestures to a minimum.
  - If you know the person's name, use it at the start of each sentence so that they know you are addressing them.
  - Give clear, slow and direct instructions. Avoid ambiguity
  - Allow the person time to process information and don't expect an immediate response to instructions.
  - Avoid using sarcasm, metaphors or irony. An autistic person may take what you say literally.
  - Do not shout at the person.
  - Make sure you explain clearly what is happening and where you are taking them.
- Here are some suggestions for interviewing autistic people to help elicit the correct response.
- If asked a yes or no question, they may repeat back the first or last word said with no understanding of the question. Try asking a series of yes or no questions to determine the style and dependability of the response, and then follow this up with the key yes or no questions you need an answer to.
  - Keep your facial expressions and hand gestures to a minimum.

## Legislation

### Mental Health Act 1983

- As amended by Mental Health Act 2007
- As amended by Police and Crime Act 2017

### Code of Practice 2015

- This shows professionals, including Police how to carry out their roles and responsibilities under the MHA 1983

### Mental Capacity Act 2005



## Q. What are the main pieces of legislation police officers use when dealing with mental health or vulnerability issues?

The following legislation covers police powers in relation to MH.

**Mental Health Act 1983** [As amended by the Mental Health Act 2007 & PACA 2017]  
This is the Act that gives the police power to deal with those in MH Crisis – we will look at these powers in detail in this session.

**Code of Practice (2015)** – This shows professionals how to carry out their roles and responsibilities under the MHA 1983, to ensure that all patients receive high quality and safe care.

There have been significant changes in legislation, case law, policy and professional practice since the last code was published in 2008.

The [revised code](#) aims to provide stronger protection for patients and clarify roles,

rights and responsibilities. This includes:  
involving the patient and, where appropriate, their families and carers in discussions about the patient's care at every stage  
providing personalised care

minimising the use of inappropriate blanket restrictions, restrictive interventions and the use of police cells as places of safety.

The main changes to the code include:

- 5 new guiding principles
- new chapters on care planning, human rights, equality and health inequalities
- consideration of when to use the Mental Health Act and when to use the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards and information to support victims
- new sections on physical health care, blanket restrictions, duties to support patients with dementia and immigration detainees
- significantly updated chapters on the appropriate use of restrictive interventions, particularly seclusion and long-term segregation, police powers and places of safety
- further guidance on how to support children and young people, those with a learning disability or autism.

This code came into force on 1<sup>st</sup> April 2015

### **Mental Capacity Act 2005**

Another Act which gives the police powers to assist those suffering mental health concerns – again we will look at our powers under this act during this session.

## **S136(1) Mental Health Act 1983 as amended by the Police and Crime Act 2017**

Mental Health Crises every place but not  
a dwelling



QTS – Has anyone got any knowledge or experience of S136 of MHA?

**Q. Does anyone have any experience of dealing with mental health issues involving anyone they know that they're comfortable with sharing?**

Establish student experiences of S136.

E.G Persons walking close to Hazards/ putting themselves or others in danger/Threatening /Engaged in self Harm

Click – Discuss the places where S136 powers can be used by police

S136 is an emergency power to resolve difficulties associated with a person suffering mental health crisis in a public place.

Act has been changed from 'found in a public place' to 'remove from a public place.'

You can now use S136 in any public or private place except for the below:-

Section 136 (1A) now applies anywhere **except a 'house, flat or room' where someone lives or any non communal , 'yard, garden, garage or outhouse'** but includes railway lines, private vehicles, hospital wards, rooftops of buildings, hotel rooms (if you are staying for a night or short term you can use your powers under S136(1A) but not if it is longer term it is considered a dwelling so you would not be able to use your S136 powers - please see additional handout of updated S136 guidance) and the workplace.

#### Example of Locations Where S136 Can Be Now Used

- Railway lines
- Private vehicles\*
- Rooftops of buildings
- Shopping centres
- Police stations (includes custody)
- Offices
- Schools
- Workplace
- Hospital wards
- Gardens and car parks associated with communal residential property
- Non-residential parts of residential buildings with restricted entry

#### Locations Where S136 Cannot Be Used

##### **•In or on a dwelling including the associated grounds (i.e. garden)**

- A tent
- A caravan or campervan\*
- A private room in a care home where a person lives
- A place of state detention e.g. prison

\*The availability of S136 in relation to a person in a vehicle, such as a campervan or caravan, will partly depend upon where the vehicle is situated. For example, if it is parked on a public road S136 could be used. However, if it is situated on private land, to which the public do not generally have access, S136 could not be used.

Police can enter any location where S136 can be used, if necessary by force, to find and remove a person. Where possible, the help of a person responsible for that place to gain entry should be sought.

**You may force entry (S136 (1B)) to any premises where S136 may be utilised in order to do so. This will be useful when S17 saving life and limb does not apply. i.e S136(1B) can be used where there are concerns**

**for someone's welfare (but not quite as serious as S17 saving life and limb) and there is a suggestion that someone is in immediate need of care or control because of a mental disorder, the police can force entry to private premises, other than dwellings, in order to exercise powers under S136.**

## S136 Mental Health Act - The Basics

### Police Officer Believes

Person Suffering Mental Disorder

Must appear to the officer to be in immediate need of care or control

Must appear to the officer to be suffering from mental disorder

Can be removed to a place of safety

If they are in a place of safety they can be removed to another place of safety.



**QTS – Does anyone have any experience of dealing with mental health issues involving anyone they know that they're comfortable with sharing?**

**Basically-** Detention and conveyance to a place of safety.

The belief is the Police Officer's - This is the decision of the police officer - not Dr or Nurse or any other person

S136 is a preserved power of arrest so you do not need to use the Necessity criteria or caution the subject..

The CoP advises against using the word arrest when detaining a person under S136.

A good phrase might be, " I am GOING TO LOOK AFTER YOU OR TAKE CARE OF YOU , you are being detained for your own safety..."

Arrest or detention by the police is normally associated with suspicion of criminal behaviour, therefore, telling a person who is mentally vulnerable (detained

under MHA 1983), without any further explanation, that they have been arrested (or are being detained) may cause considerable additional distress.

When using [section 136](#) MHA 1983, officers should make it clear to people that they will **have to come with the police because of the officer's concern for their wellbeing, and that they have no choice in the matter.**

**Persons detained under Section 136 are deemed to be in legal custody and can be searched under Section 32, PACE 1984. The police officer may search the person at any time whilst the person is detained if they have reasonable ground for believing that the person:**

- a) May present a danger to themselves or others and**
- b) Is concealing an item that could be used to cause physical injury to themselves or others.**

**WHAT KINDS OF BEHAVIOUR WOULD SUPPORT "immediate need of care or control?"**

It is not enough to be suffering from a mental disorder alone as people live successfully in the community despite suffering from mental illness.

We will discuss what is a place of safety? later in the session

## S136 Mental Health Act - The Basics

However before the officer removes a person to a place of safety-The police officer must, if it is practicable to do so, consult with-

A doctor

A registered nurse

An approved mental health professional

A registered medical practitioner

A paramedic

An occupational therapist



Under the amendment from the **POLICE AND CRIME ACT 2017** there is now a requirement for Police to Seek Health Advice Before Detaining Under S136 Mental Health Act 1983

Before deciding to remove a person to, or keep a person at, a place of safety The police officer must, if it is practicable to do so, consult with-

- Doctor
- Nurse
- Approved Mental Health Professional
- A registered medical practitioner,
- Paramedic
- occupational therapist.

This requirement would provide officers an additional safeguard on section 136 powers which would require a health professional is consulted, prior to the person being formally detained under section 136, provided that the situation was not so urgent that the patient, the police officer, or others would not be put at risk by doing so.

The police are not medically qualified and are only using their individual judgement as to the situation at the time. Benefit of advice over the telephone from a mental health nurse a proportion of section136 detentions can be averted because the health professional can access medical records to help assess the risk, and use their professional expertise to assist the police in deciding whether or not the person needs to be detained or whether an alternative resolution would be appropriate.

It is not envisaged that, in a section136 detention, a health professional would be required to authorise the use of the power. The police officer may be called upon to make a quick decision and a health professional may not always be available. The police officer must take responsibility for whether or not to use their powers if they consider that the person satisfies the criteria for removal under section136 , and while they have regard for the advice give them by a health professional, the decision remains their own.

Therefore, this advice requires police officers to consult a suitable health professional prior to detaining a person under section 136, provided if it is practicable to do so. This will mean telephoning the relevant crisis team in each local health board within the force area prior to detention.

### **S136 FINAL DECISION IS ALWAYS THE POLICE OFFICER [JPLANE]**

Force policies cover exactly how to contact medical professionals. – once operational you will be told the contact numbers for your local MH places of safety.

Best Practice of Sec 136-

At place of Safety relay circumstances to shift coordinator.

Ask them if they are going to accept the detention.

If they do, the detention powers become joint as health carers have the same powers to stop the individual leaving the place of safety.[This is important as it determines if you remain at the place of safety].

If they refuse. Ask the reason why? **If necessary refer to Bronze for arbitration.**

Complete S136 form [see later in PPT]

## S136 Mental Health Act - The Basics

Either finding, or being directed toward, a person with mental disorder in a public place is not enough in itself to detain under s136.

**The power to remove requires 3 conditions to be fulfilled:**

The person must appear to the officer to be suffering from mental disorder

They must appear to the officer to be in immediate need of care or control

The officer must believe that they need removing in their own interests or for the protection of others

Basically: The officer must believe, the person or someone else, will suffer some kind of harm if they do not take action to remove the person



The clear stance is that the officer must believe the person or someone else may suffer some kind of harm if they do not take action to remove them.

**Simply behaving in an odd or unusual way does not necessarily mean they should be removed.**

The power to remove under Section 136 does not expect police officers to attempt to make a diagnosis of someone's mental state but provides power to officers who believe in good faith that someone is mentally disordered and requires immediate care and control to remove them to a place of safety.

## S136 Mental Health Act - The Basics

When might you consider using S136 powers?

Hallucinating

Suicide

Self harm

Dementia

Unable to care  
for themselves

Vulnerable  
misper

Psychotic Illness



Boardblast: Ask student when they would consider to use 136. Discuss with class

There may be many more options that students come up with.

Trainer to discuss each example in turn. Trainer to give examples

## S136 - Place of Safety

Residential accommodation provided by a local social services authority

Hospital (as defined by this act)

Police station\*

Independent hospital or care home for people who are mentally disordered

Any other suitable place



### A place of safety

[Section 135](#)(6) MHA 1983 defines a place of safety as:

- residential accommodation provided by a local social services authority under [Part I](#) of the Care Act 2014 or [Part IV](#) of the Social Services and Well-being (Wales) Act 2014
- a hospital (as defined by this act)
- a police station – more about this on next two slides
- an independent hospital or care home for people who are mentally disordered
- any other suitable place.

Search BOB via Mental Health and click on contact details and telephone numbers  
SWP Places of Safety -

- **Royal Glamorgan Hospital** – Mental Health Unit
- **Prince Charles Hospital, Merthyr** - The Crisis Suite
- **Llandough Hospital, Cardiff** - Hafan y Coed

- **Princess Of Wales Hospital, Bridgend** - The Coity Clinic
- **Neath Port Talbot Hospital** – Ward F Mental Health Unit
- **Cefn Coed Hospital, Swansea**

Gwent Place of Safety –

- **St Cadocs hospital, Caerleon, Newport**

## Juveniles Suffering Mental Health

Under 18  
NEVER TO A POLICE STATION



### Q. Can police take a juvenile vulnerable person to a custody suite?

**Police cells** are not suitable places to detain people thought to have mental health problems.

**Under 18 years should not be detained in a police station as a Place of Safety, in any circumstances.**

#### TRAINER TO EMPATHISE ONLY TO A DESIGNATED PLACE OF SAFETY

Juveniles detained under the MHA never attend a police station. The Legal amendment of S81 PaCa (Police and Crime Act) states, **“A child may not, in the exercise of a power to which this section applies, be removed to, kept at or taken to a place of safety that is a police station.”** (S136A MHA, as it will be amended)

Juveniles only a designated place of safety

Under the age of 18

The new Sec 136A [1] Means that it is unlawful to use a police station as a place of safety for a person under the age of 18 under any circumstances.

The amendment is a ban on the use of police stations – any child detained under S135/136 **cannot be accommodated in any part** of a police station.

Local partners **should plan** for this eventuality

The legal framework governing the admission to hospital and treatment of children is complex. Children of any age may be detained using section 136 of the Mental Health Act (MHA), and any person under 18 may be taken into police protection using **section 46 of the Children Act 1989. [ This is the preferred option]**, Information about the application of MHA powers to children and young people under the age of 18 is provided in Chapter 19 of the MHA Code of Practice for Wales

There has been a suggestion that the police could 'get around' the amendment by arresting instead for other legal reasons where significant resistance or aggression is encountered. However, the whole point of S136 is to provide an ability to intervene without any resort to criminal law because of a principle concern about someone's wellbeing. The whole point of the PaCA amendments is to reduce even further the reliance upon police custody to avoid criminalising young, vulnerable people.

## Police Station/Custody place of safety

Police Stations/Custody Suites are classified as a place of safety for S136

However, they are a last resort and should only be used in certain situations.

i.e. If the prisoner is extremely violent and it's not practical to take them to hospital



**Police cells** are not suitable places to detain people thought to have mental health problems.

For adults they should only be used in exceptional circumstances. A person's condition may be exacerbated by being held in this environment.

This must be emphasised to students.

**QTS – When would a police station be considered as appropriate place of safety?**

### Under the MHA(Police Stations as a Place Of Safety) Regulations 2017

3 criteria must exist in order to allow police stations to be used IN EXCEPTIONAL CIRCUMSTANCES. **NB**, this is about police stations as a whole, not just police custody areas:-

- The detaining officers must reasonably consider that the behaviour of the person poses an imminent risk of serious injury or death, either to themselves or another

person; AND

- The officer must believe that no Place of Safety in the police force area could safely manage that risk; AND
- The decision to rely upon a police station must be authorised by an officer at the rank of Inspector – unless the detaining officer is already of that rank, in which case no further authorisation is required.

**In addition, once detained:-**

- So far as reasonably practicable, a healthcare professional will be present at the police station and will be available to them
- A check by a healthcare professional, **every 30 minutes**.

**Arresting Officer Responsibility**

On arrival at the custody suite following detention under section 136, the police officer will complete the section 136 monitoring form, parts A and B on NICHE and inform the custody sergeant when completed so the sergeant can complete the relevant custody sections.

At this point the custody sergeant will commence the custody handling procedures.

## Transportation



### Q. Why do we use police vehicles for S136? (Transportation)

This is one of the biggest issues-Ambulances are often not available to attend physical injuries let alone S136 conveyance..Transport of S136 [and S135] to a place of safety should be by Ambulance.

Only violent persons should be conveyed in a police van-with a paramedic accompanying in the vehicle and the ambulance following.

#### So why do we use police vehicles for S136 ?

Easier than waiting...

#### SWP Guidance

OFFICERS ARE TO INITIALLY REQUEST Ambulance attendance for transport via 999 facility and ask for an Ambulance themselves and **not via** PSC.

If an ambulance is not available within 30 minutes, or it is inappropriate to wait for one

because the person is in need of urgent physical or medical intervention or treatment, police transport will be used to convey the person detained under Section 136 to an Emergency Department .

Seek authorization from Bronze Inspector[Via PSC-Not point to point] to convey the detainee to the place of safety by police vehicle.

Also given the detainee's condition worsening or the possibility of self harm, an ambulance is the best place for them. We may need to justify why this was not done.

In any case is a police vehicle the best place for somebody suffering with MH issues?  
NO

### 1. Injuries

You have exercised your power under S136 and the person concerned has an injury which requires medical attention.

***How would you deal with this?***

### 2. Crime

You have attended at a report of Criminal Damage in a public place. It appears to you that the suspect is suffering from mental disorder and is in immediate need of care or control.

***How would you deal with this?***



**Group work - Activity 3** – Student to be put into 4 groups to discuss the following questions, Q1 to 2 groups, Q2 to the other 2 groups. Answers to be recorded on a flipchart and fed back to glass

**INJURIES-** Take them to A & E but remember they are still in your custody!!!

If the detainee can be treated for the physical injury at that time then you remain with them and afterward take them to the place of safety.

If the detainee cannot be treated for the physical injury at that time and needs to be admitted:

Once the doctor accepts the detainee they take responsibility for the and arrange a MH assessment. You can then leave. The officer is released from escort guard of the patient.

**Crime-** Deal with the criminal offence in the same way unless they need medical attention first.

## S136 v Criminal Offence

Always deal with the Criminal Offence

Code G Necessity Test

Considerations – Offence is Trivial & Victimless



Criminal matter - officers must not elect to use sec 136 when there are clear criminal offences – unless victimless and trivial offence – officer to dynamic risk assess.

Officers are not in a position to say that the criminal matter was conducted because of the person's mental health condition. Officers are not qualified to make this kind of medical assessment. Officers cannot assess mental health capacity in relation to criminal offences.

If the detainee has been lawfully arrested for a substantive criminal offence in their own home who is then released from police custody, they may be subject to S136 MHA as long as the arrest was, in itself done for a legitimate policing purposes and not a manufactured 'stepping stone' to create conditions in which to justify the use of S136. Custody Sgts may wish to bear this in mind when deciding how to handle the detention of those arrested for minor crimes who are then deemed to require an assessment under the MHA.

Concerns about the person's mental health, still detain for the criminal offence – when at custody bring your concerns to the attention of the Custody Sergeant and update LOG.

MHA 1983 - Sec 35 and 36: allow patients who have been charged with a criminal offence to be remanded to hospital for treatment and psychiatric reports (section 35) or for treatment pending trial (section 36).

MHA 1983 - Sec 38 : allows courts to impose an interim hospital order following conviction in court. This allows clinicians to form a view as to whether a full hospital order under section 37 would be an appropriate disposal for a defendant.

#### **A police power of detention**

- Allows detention up to 24 hours
- For a mental health assessment (does not necessarily lead to admission)
- To the nearest place of safety

**So what if the person is  
in their own home?**



We would not be able to use S136 in this circumstances -  
Voluntary Assessments.,  
Telephoning the CRISIS TEAM  
Call Ambulance  
Consider the Mental Capacity Act  
Consider Breach of the Peace.[ Towards another and not themselves]

# S135 The Mental Health Act 1983



What we need to know -

- Warrants under S.135
- Who applies for a Warrant?

Reasons for Warrant

What is the purpose of Police attendance at a S.135 Warrant?

Use of force – Power of entry

Overview of police powers under Mental Health Act

Sec 135 executing a warrant to search for and remove patients in a household, Warrant application by **AMHP**, local policy? A person will usually be transported to hospital by ambulance. At times it may be more appropriate to be transferred by police.

Police Role- If the person refuses to let anyone in and there is no one else present to grant entry, then force can be used, ONLY IF.. The police officer has a warrant under S135 MHA authorising a search to remove persons believed to be suffering from a mental disorder OR there is a breach of the peace OR to save life or limb or prevent serious damage to property  
Consider methods of least restraint

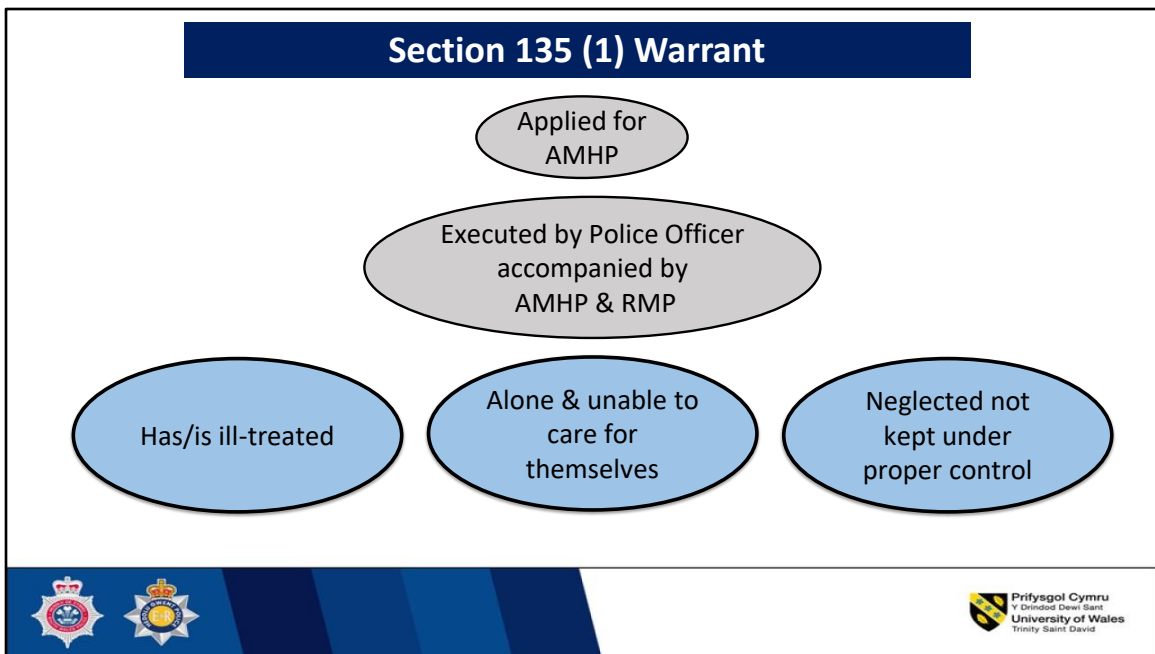
Do we need to use a marked vehicle? NO

Planning in advance can prevent an escalation of risk

This is actually a planned activity based on a number of Mental Health assessments that are done in the home, we need to know why police attendance is necessary at this particular one.

We must consider the potential risk of resistance, violence or escape.

Requests for s135 attendance is most often due to the risk of violence [self harm or escape], to gain entry.



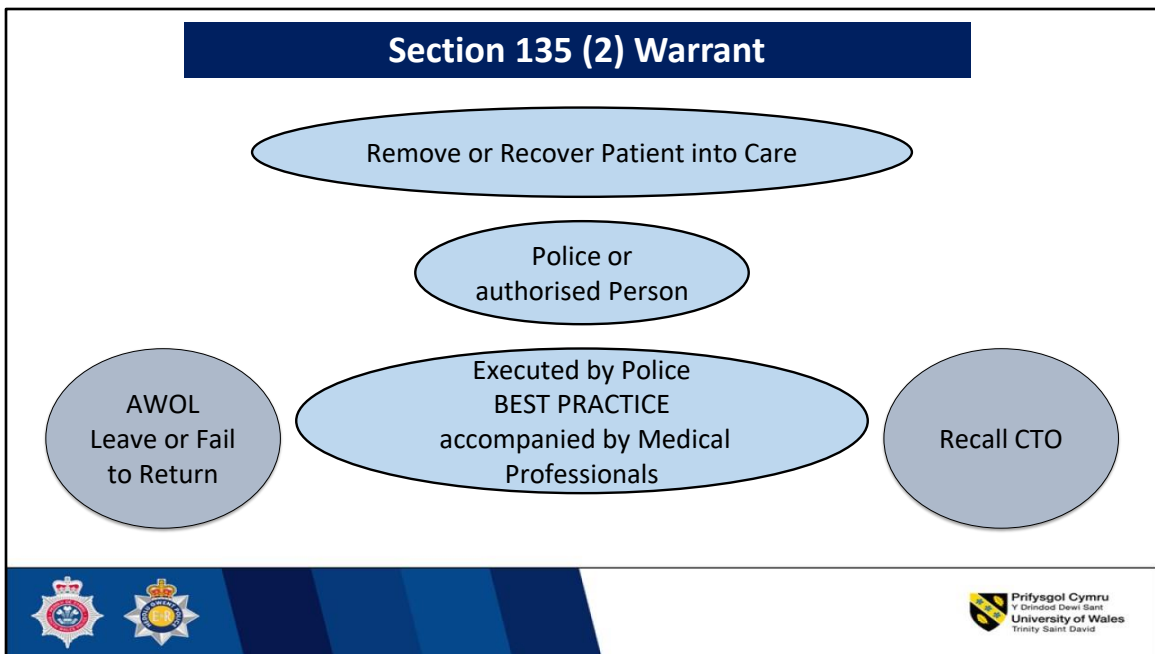
Sec 135(1) Warrant.

Officer must accompany the AMPH and Reg Med Professional to effect entry.

Warrant authorises the officer to use force for entry/restrain the individual/remove to place of safety/restrict movement of other people inside the premises

Person may be removed to place of safety and detained for the new max 24 HOURS.  
(possibility of 12 hour extension)

If there are other persons present at the address where the assessment is to be carried out and they are causing an obstruction to such assessment, they are guilty of an offence under s129 MHA 1983



### Section 135 (2) Warrant

Warrant can be applied for by POLICE (or other authorised person)

Executed by Police (who doesn't have to be accompanied by a doctor, but best practise is to do so)

Used to enter specified premises to remove a person who;

is liable to be taken or returned to hospital where they are absent without leave or they have breached a community treatment order.

In cases where the person hasn't been seen for some time and there are concerns for their safety, officer can consider Sec 17 PACE (save life/limb) however this should be discussed with supervisory.

### Absent Without Leave

A patient is AWOL under sec 18(1) MHA if:

- They fail to return to hospital after a period of leave or being recalled from leave
- Absent from any place they are meant to reside in accordance with conditions of granted leave

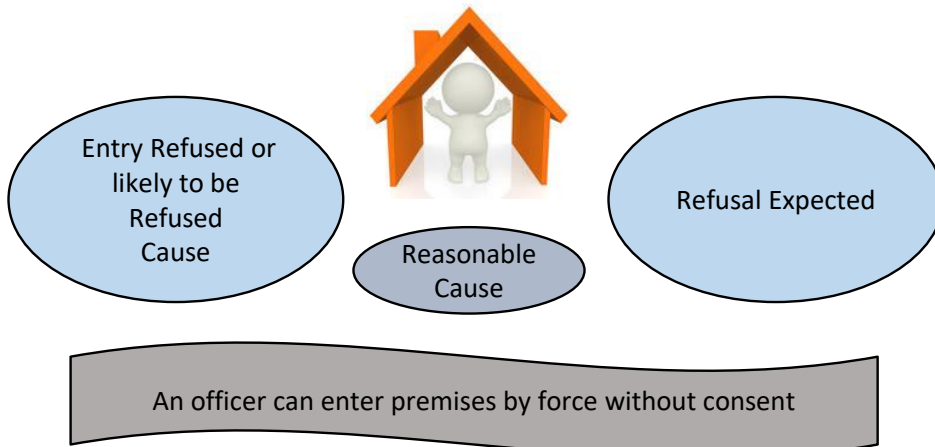
Community Treatment Order (CTO), are when patients who fail to return to hospital when recalled or subsequently abscond from hospital

Patients subject to guardianship are absent from the place they are required to live by their guardian

**\*\*\*For SWP students only\*\*\***

**Trainer to distribute/ email handouts 'Guidance on s135 V2' and 2G MH section 135 doc' which provides SWP policy guidance and the process to follow when out on BCU.**

## Section 135 (2) Warrant ... continued



The Magistrate will authorise a warrant on the grounds below and on RAVE factors (Risk Aggression Violent Escape)

They have reasonable cause to believe that the patient is to be found on premises;  
and  
Admittance to the premises has been refused  
A refusal of such admittance is expected.

Reiterate the below:

The Warrant authorises any constable to enter, if need be by force – premises specified on the warrant.

A warrant will allow a constable to:

- Restrain individual and thereby safely control the assessment process
- Remove to a place of safety
- Restrict movement of other people inside the premises in limited circumstances
- Summarise:



S135 (1) Warrant

Purpose to detain for assessment

Only AMPH can apply and AMPH must be present when executed

S135(2)

Purpose to re-detain for assessment or person does not return after permitted leave.

AMPH or authorised under MHA or Police can apply and Police can execute without AMPH or Doctor present but SWP best practice advises medical professionals to apply and be present for execution.

## Mental Capacity Act 2005

The MCA is a broad legal framework which allows us to help protect vulnerable people aged 16 or over who lack the mental capacity to make decisions or adequately protect themselves.  
[Mental health, drink, drugs, age, unconsciousness etc.]



### Q. What do you think of when you hear the term 'Mental Capacity'?

**MENTAL CAPACITY ACT 2005** - Applies to persons 16 and over in Public and private places.

#### PUBLIC

E.G Person at RTC with a bad head injury who have lost capacity and refuse to go to the hospital. This is a restraining power and not a detention. You can only take them to A.E.

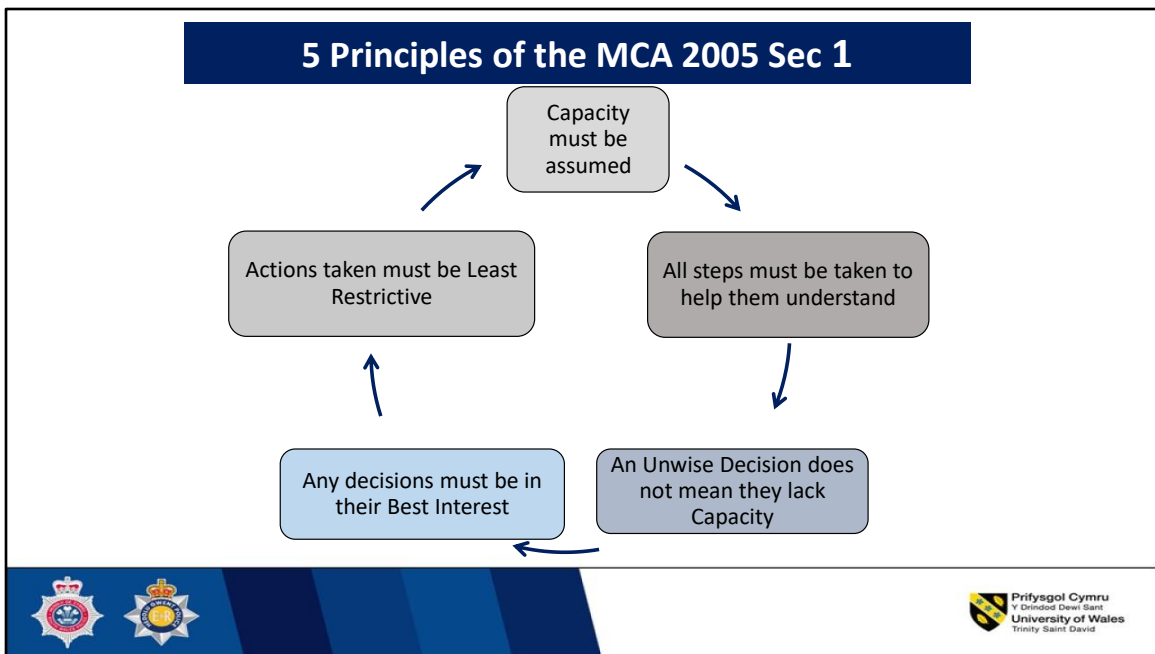
#### PRIVATE

E.G They have taken a drugs overdose at their home and they refuse to go to hospital.

The Act offers protection to carers and others [such as police officers], who find themselves involved in the protection of vulnerable adults.

The MCA is most likely to be necessary in emergency situations when officers are faced with someone...who's life may be at risk or who may suffer harm if action is not taken. Examples include people threatening suicide, victims of serious assaults and victims who are declining medical assistance.

In many such situations officers will not have time to discuss, negotiate or explain their actions.

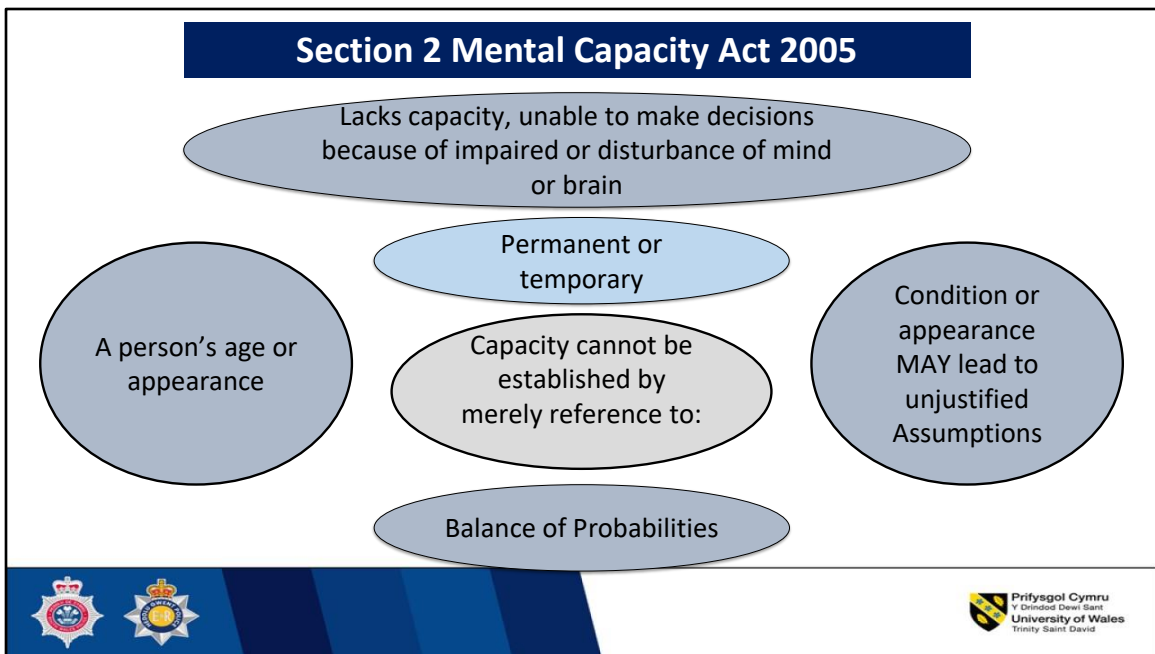


MCA primarily aimed at Health & Social Care professionals who are making decisions about a person's welfare

Sometimes applicable to police officers who may need to make immediate decisions

The **five principles shown above** should govern police responses

1. Officers must assume that a person have capacity unless it can be established that they lack
2. Officers should not treat a person who is unable to make a decision unless they have taken all practicable steps to help that person to do so without success.
3. Officers should not treat a person as unable to make a decision **merely because** they make an unwise decision
4. Officers should Act or Make decisions, under this Act for, or on behalf of, a person who lacks capacity must be done, in his/her **best interests**. S1 [5]
5. Before acting or making a decision, officers must have regard to whether they can achieve the purpose for which it is needed as effectively in a way that is less restrictive of the person's rights and freedom of action.

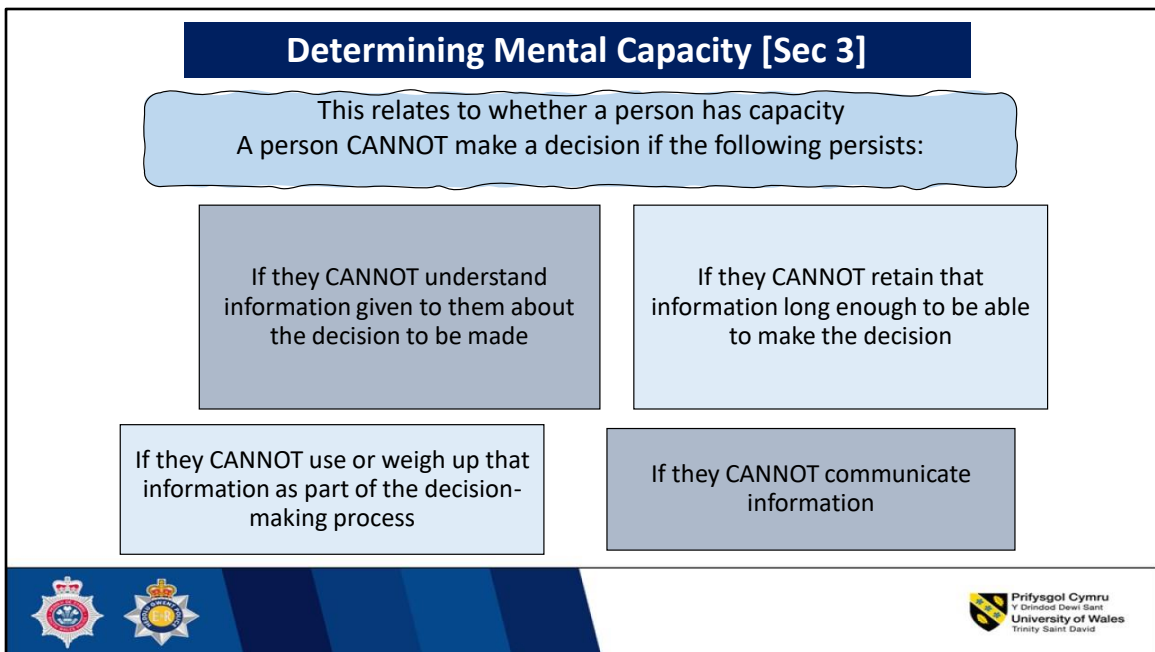


**JUDGING A PERSONS MENTAL CAPACITY SECTION 2-**Capacity is the ability to take in information and use that information to make a decision.

1. This inability to make decisions could be as a result of impairment of, or a disturbance in the functioning of, the mind or brain.
2. It does not matter whether the impairment or disturbance is permanent or temporary.
3. A lack of capacity cannot be established merely by reference to-
  - [a] A person's age or appearance, or
  - [b] A condition of his, or an aspect of his behaviour, which might lead others to make unjustified assumptions about his capacity.

In proceedings under this Act or any other enactment, any question whether a person lacks capacity within the meaning of the Act must be decided on the balance of probabilities.

Not applicable to a person under 16.



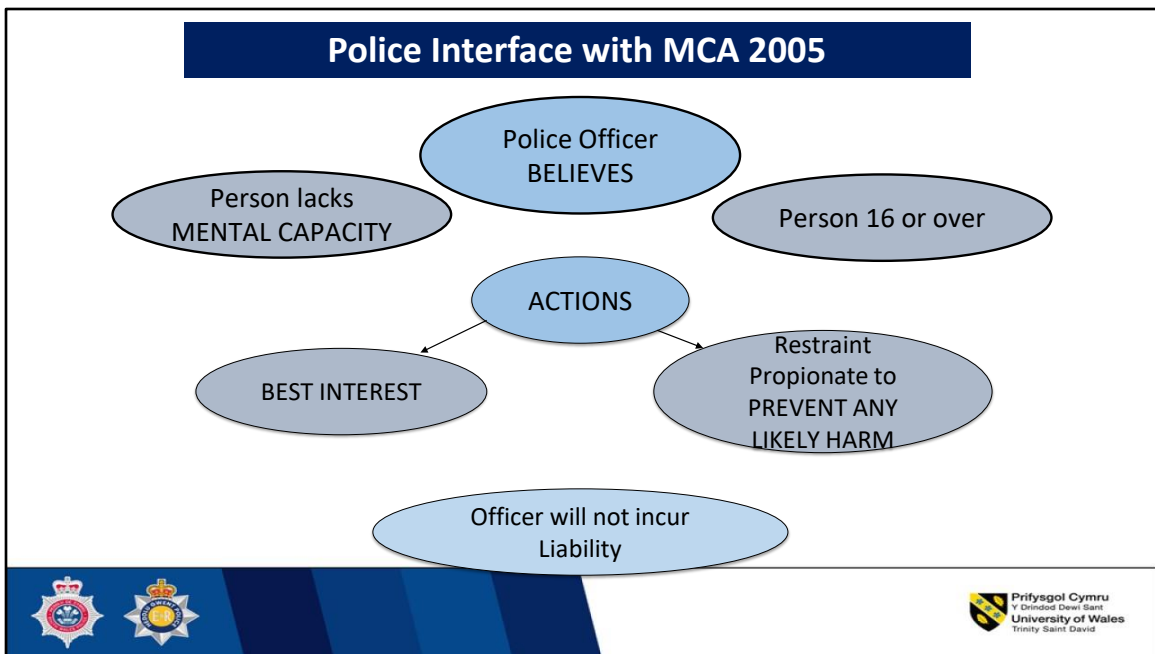
People are unable to make a particular decision if they cannot do one or more of the following things.

In these situations officers can use restraints and can convey to A+E for treatment.  
Complete F299. How to assess capacity.

Should only be used in emergency situations.

Where the person is in their own house and the following applies-

1. They have suffered a physical Injury
2. Harmful Substances taken
3. Intoxicated with Alcohol or drugs.
4. In these circumstances restrain and convey to A+ E if you feel you are acting in the interests of that person.[You are protected from liability]



## Police Involvement with MCA

E.g.

- attempting/threatening suicide,
- victims of serious assaults,
- Casualties of major incidents
- individuals with serious injuries who decline medical aid

In many such situations officers will not have time to discuss, negotiate or explain their actions.

Case:

R (on the application of Sessay) v South London and Maudsley NHS Foundation Trust [2011] EWHC 2617 (QB) (2010)

Police attended the home of a woman after concerns about her mental health were raised. Police removed her from her accommodation and brought her to a hospital, stating that they had used their powers under the Mental Capacity Act 2005 to bring her to hospital. (They could not have used the Mental Health Act, because the woman was detained in her home). The court ruled that the Mental Capacity Act provided no basis for this action, because it did not involve a set of circumstances that were life-

threatening. They should have contacted an AMHP and a doctor to assess the woman under the Mental Health Act in her own home. Officers need to know how to access a mental health assessment in their force and how to contact their supervisor where they encounter problems. If their concerns are only regarding MH...then MCA is not appropriate

Trainer can link back to the exercise “ambulance requiring assistance” ... best interest: health and protection of person/others.

Do not make assumptions.

Do encourage the person to participate.

Do consider the person’s past and present beliefs, values wishes and feelings.

Do take into account the views of others.

Do consider the least restrictive option.

Best Interest

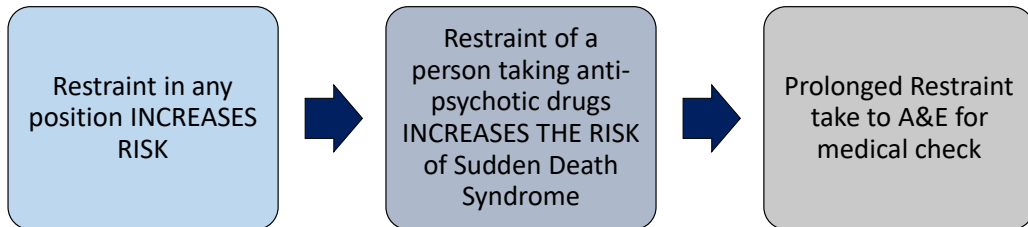
Reasonable believe a person lacks Mental Capacity to make rational decisions

Will not incur any liability if they act in respect of care and treatment and believe it is in the persons best interest

Restraint – proportionate to prevent likely harm

**MCA allows Police Officers to convey a person direct to hospital when they have made a decision based on an honest held belief that the person lacks capacity to make a decision.**

## Restraint with Person Suffering Mental Disorder



**Q. How are you going to restrain a person suffering from a mental illness?**

**Q. What considerations should you have when doing this?**

Before revealing slide: Trainers to ask – considerations for use of restraint .....  
Trainer can write answers on Board:

Trainer to link to OST training – risks of prolonged restraint.

Trainer to highlight:

Officers are to use the minimum force required to restrain the person suffering from a mental illness crisis

Minimise prolonged restraint in a prone position due to positional asphyxia and when person taking anti psychotic drugs increased risk of sudden death syndrome.



See case Osaleni Lewis ... comments from Coroner:

South Wales Police Policy Statement Sec 135 Mental Health Act:

Section 3 Criminal Law Act 1967 3(1)

< A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Sections 5/6 Mental Capacity Act 2005

< In certain circumstances provides protection for people who use restraint where this is necessary to protect a person without capacity from harm and it is a proportionate response to the risk of harm.

Other power:

Powers of arrest, search and seizure under PACE where a criminal offence has been alleged common law powers (including self-defence, the doctrine of necessity and to prevent a breach of the peace).

No restraint position can ever be totally safe or free of risk.

All take-down techniques carry additional risks.

Prone and supine restraint positions both carry (different) risks. It is wrong to consider either one to be safer without fully understanding the practical application. Take-down techniques have been used when they were not entirely appropriate. When used, the person should be brought to the standing position as soon as possible. Care must be taken to avoid anything that impacts on the patient's airway, breathing or circulation. The mouth and/or nose must never be covered and pressure should not be applied to the neck region, rib cage and/or abdomen.

The person must be effectively monitored in accordance with the NHS patient safety alert of December 2014/9.

Any member of police or health staff who observes a safety concern should speak up and never assume that other colleagues have picked it up.

IPCC refers Leon Briggs investigation to the CPS

Mar 9, 2016 The Independent Police Complaints Commission (IPCC) has concluded its investigation into the circumstances surrounding the death of Leon Briggs, and has referred the case to the Crown Prosecution Service (CPS) for a decision on whether criminal charges should be brought against any individual.

On 4 November 2013, Mr Briggs was detained by Bedfordshire Police in a street in Luton under Section 136 of the Mental Health Act and restrained, before being taken in a police van to Luton Police Station. Whilst at the station Mr Briggs was placed in a cell and restrained. During his detention, Mr Briggs became unresponsive and an ambulance was called. He was taken to hospital where he was pronounced dead. The IPCC has investigated a police detention officer and five police officers – two

police constables and three sergeants – for their involvement in the restraint of Mr Briggs.

IPCC Commissioner Mary Cunneen said:

“I have reviewed the evidence and report findings, following the completion of the IPCC’s investigation into the events leading up to Leon Briggs’ death. I have decided that there is an indication five officers and a member of staff may have committed criminal offences.

“I have therefore referred the case to the Crown Prosecution Service to consider whether there is sufficient evidence and if it would be in the public interest for any offences of unlawful act manslaughter, gross negligence manslaughter, misconduct in public office, and health and safety offences to be charged.”

The role of the CPS is to decide whether any person should be charged.

Mr Briggs’ family has been updated and the officers and staff member concerned have been provided with a summary of the IPCC’s conclusions.

Notes:

A referral to the CPS does not mean that criminal charges will necessarily follow

**\*\*\* Trainer to signpost the students on Moodle to the C of P ‘Memorandum of Understanding – The Police Use of Restraint in Mental Health & learning Disability Settings’ which students should read \*\*\***

This Memorandum of Understanding (MoU) provides clarity on the role of the police service in responding to incidents within mental health and learning disability settings. The intention is to outline when and how the responsibilities of the police service fit in to the established roles and responsibilities of care providers.

## Mental Health App

The Mental Health App went live on 14th July 2020 & replaces both the S136 & the Home Office mental health monitoring forms.

The new **All Wales Mental Health Monitoring Form** must be used in all cases of S135 & S136, voluntary assessments & The Mental Capacity Act. It should be completed in real time at the health place of safety (HPOS) & sent by email to the dedicated health board email address whilst officers are at the HPOS.

The App allows officers to submit the mental health monitoring form, complete their assessment, & to locate near-by mental health crisis services. The App aims to achieve greater integration between frontline officers & those staff working within the Mental Health Triage service, & will facilitate information sharing with our partners quicker than ever before.



Please signpost the students to the MH app PPT that is on Moodle for them to look at in their own time. If there are any queries in relation to the app itself, then they can contact DSD.

**Give students the hand out on: Mental Capacity Act (2005) and Guardianship (Missing Person) Act 2017**

