TRUST POLICY AND PROCEDURES FOR THE ADMINISTRATION OF THE MENTAL HEALTH ACT 1983 (AS AMENDED BY THE MENTAL HEALTH ACT 2007)

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Version / Amendment History	Version	Date	Author	Reason
	V1	Jul 2021	J O'Daly-Miller	Original Version
	V2	Oct 2021	J O'Daly-Miller	Amendments reflecting SLA
	V3	May 2024	J O'Daly-Miller	Inclusion of updated s136 MA policy
Intended Recipients: All ward managers and medical staff, Business unit management teams, Divisional Management teams, Matrons (including Midwifery matrons)				
Training and Dissemination: Via the Intranet (KOHA), Head of Legal Services, MHA Admin Team (DHCFT), Trust Safeguarding Group, TDG				
To be read in conjunction with: Trust Clinical Guideline Suicide & Self Harm; Trust policy on Treatment with Lawful consent				
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EIRA stage One Completed Stage Two Completed				
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Date of Issue	July 2024			
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Contact for Review	Head of Safeguarding & Vulnerable People Team			
Executive Lead Signature	Executive Chief Nurse			

Approving Executive Signature	Executive Chief Nurse

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1. Introduction

The University Hospitals of Derby and Burton (UHDB) has a statutory obligation to ensure that its service users, who become subject to the Mental Health Act 1983 (as amended by the Mental Health Act 2007; Identified throughout this document as The Act) are treated lawfully.

The Act enshrines people's rights, protections and safeguards, as well as compulsory action to be taken where necessary, to ensure that people with mental disorders get the care and treatment they need for their own health or safety, or for the protection of other people and it sets out the criteria that must be met before compulsory measures can be taken, along with protections and safeguards for patients.

Part 2 of the Act sets out the civil procedures under which people can be detained in hospital for assessment or treatment of mental disorder. Detention under these procedures normally requires a formal application by either an Approved Mental Health Professional (AMHP) or the patient's nearest relative, as described in the Act. An application is founded on two medical recommendations made by two qualified medical practitioners, one of whom must be section 12 approved for the purpose under the Act (Psychiatrist). Different procedures apply in the case of emergencies.

2. Scope of this document

This policy sets out guidance on the use of the Act within UHDB, addresses particularly the role of UHDB and its staff when caring for patients under the MHA 1983 and outlines the processes / management of statutory documentation relating to detention to be undertaken in relation to admission for assessment, admission for treatment, human rights compliance, appeals, tribunals, transfers and death whilst under section.

This policy applies to all staff working in UHDB and all patients who are detained under any section of the MHA 1983 and are receiving care in UHDB.

3. Definitions

The Act	**Mental Health Act 1983 (as amended 2007)** The legislation governing all aspects of compulsory admission to hospital, as well as the treatment, welfare and after care of detained patients. The Act sets out the framework when and how a person can be detained and protects the rights of those who are detained.
Approved Mental Health Professional (AMHP)	A social worker or other professional approved by the local social services authority to carry out a variety of functions under the Act.
Capacity	"The voluntary and continuing permission of the patient to receive a particular treatment, based on an adequate knowledge of the purpose, nature, likely effects and risks of that treatment including the likelihood of its success and any alternatives to it" (MHA 1983 Code of Practice, Para 24.34)
Consent	'Agreeing to allow someone else to do something to or for you', particularly consent to treatment. Valid consent requires that the person has the capacity to make the decision (or the competency to consent, if a child) and they are given the information they need to make the decision and that they are not under any duress or inappropriate pressure.
Hospital Managers	The UHDB Trust Board are the Hospital managers. They have delegated functions to Delegated Hospital Managers (UHDB Business unit general managers, matrons, senior nurses on-call and patient flow coordinators) and Associate Hospital Managers (See below) and signed a service level agreement with Derbyshire Healthcare Trust to manage Mental Health Act Administration

Associate Hospital Managers	Associate Hospital Managers for the purpose of the Act exercise the functions regarding hearing appeals against section and discharging patients/renewing detention orders. They are responsible for managing a hearing when a request for such a review of their detention has been made by a patient. They must also undertake a review following the renewal/extension of a detention. The AHMs are supplied by DHFCT.
Delegated Hospital managers	Delegated Hospital managers (Business unit general managers, matrons, senior nurses on-call and patient flow coordinators) are delegated by the Hospital Managers to undertake functions in relation to ensuring lawful detention and reception of the patient and statutory MHS documentation (see further in section 5 – responsibilities and duties)
Independent Mental Health Advocate (IMHA)	A statutory role under the MHA 1983. An IMHA advocate offers specialist support to the service user regarding their legal rights and aspects of their treatment under the Act. It is a statutory role under the MHA 1983.
Mental Capacity Act (MCA)	The Mental Capacity Act 2005, which governs decision making on behalf of people who lack capacity.
Mental Health Act Co-ordinator (MHAC)	The Trust has a service level agreement with Derbyshire Healthcare Foundation Trust, and they provide oversight and scrutiny of administration of all section paperwork and manage appeals by patients. They also provide the provide Associate Hospital Managers as and when required for Hospital Managers Panels when these are requested by patients
Mental Disorder	Any disorder or disability of the mind. As well as mental illnesses, it includes conditions like personality disorders, autistic spectrum disorders and learning disabilities but excludes dependence on drugs/alcohol and immoral conduct.
Mental Health Tribunal (MHT)	The first-tier Tribunal (Mental Health) responsible for managing applications and references for people detained under the Act. The main purpose is to review the cases of patients detained under the Act and to direct the discharge of any patients where the statutory criteria for detention are not met.
Nearest Relative (NR)	A person defined by Section 26 of the Act who has certain rights and powers under the Act in respect of a service user for whom they are the Nearest Relative. This is **not** automatically to be assumed as being the "Next of Kin" but is a person identified by the patient as their Nearest Relative
Responsible Clinician (RC)	The person in charge of the care and psychiatric treatment of an individual who is subject to the Act. This will be a Consultant Psychiatrist from Liaison Team or CAMHS who will work closely with the Trust Consultant in charge of the physical treatment of the patient. The Responsible Clinician will be located within the mental health Trust covering the area where the patient is normally resident (on most occasions this will be Midlands Partnership Foundation Trust for Staffordshire patients and Derbyshire Healthcare Trust for Derbyshire patients). The MHAC will ensure that a RC is appointed.
Section	A specific piece of legislation within the Act, which pertains to the type of detention an individual, is subject to.

4. Abbreviations

ADRT	Advanced decision to refuse treatment
AHM	Associate Hospital Managers (Derbyshire Healthcare FT)
AMHP	Approved Mental Health Professional
AWOL	Absent without leave
CQC	Care Quality Commission
CAMHs	Child Adolescent and Mental Health team
DDN	Divisional Director of Nursing
DHCFT	Derbyshire Healthcare FT
GP	General practitioner
HM	Hospital managers
IMHA	Independent mental health advocate
LPA	Lasting power of attorney
MHA	Mental Health Act
MHAC	Mental Health Act Co-Ordinators, Derbyshire Healthcare NHS Foundation Trust
MHT	Mental Health Tribunal
MHLT	Mental Health Liaison Team
NED	Non-Executive Director
NIC	Nurse in Charge
NR	Nearest relative
OOH	Out of hours
RC	Responsible Clinician
UHDB	University Hospitals of Derby & Burton
TSVPC	Trust Safeguarding & Vulnerable People Committee

5. Responsibility and Duties

The Trust Board	The Trust Board – is, for the purpose of the Act, the "Hospital Managers" and have important statutory powers, responsibilities and duties concerning detained patients. Various functions are delegated by the Trust Board to Business unit general managers, Matrons, senior nurses on-call and patient flow coordinators (who, for the purposes of the policy are designated as Delegated Hospital Managers- see Delegated Hospital Managers below)
Associate Hospital Managers	Associate Hospital Managers for the purpose of the Act exercise the functions regarding hearing appeals against section and discharging patients/renewing detention orders. They are responsible for managing a hearing when a request for such a review of their detention has been made by a patient. They must also undertake a review following the renewal/extension of a detention. The AHMs will be supplied by DHFCT under the terms of a service level agreement.
Trust Consultants	Trust Consultants are responsible for: - • ensuring all detained patients are being medically reviewed daily.

Delegated Hospital managers	Delegated Hospital managers (Business unit general managers, matrons, Band 6/7 sisters, senior nurses on-call and patient flow coordinators) are delegated by the Hospital Managers to undertake functions in relation to ensuring lawful detention and are responsible for: - • accepting section papers on behalf of the hospital managers and the Trust • accepting admission of patient by completing the H3 form (record of detention in hospital) or to initiate transfer. • ensuring the patient and their Nearest Relative receive all appropriate information about their legal rights, including the right to appeal in accordance with the requirements of the legislation. • storage of statutory documents on wards in accordance with policy **(original section papers and confirmation of the S132 rights form will be placed in the patient's medical notes)** • notifying the MHAC of the formal MHA admission by sending a notification email to MHAC generic email address: uhdb.mhactadmin@nhs.net • investigation of any incidents or complaints related to the use of the policy.
Mental Health Act Co-ordinator	Advises staff at University Hospitals of Derby and Burton NHS Foundation Trust (UHDB) on the process required to receive and accept the admission of patients who are liable to be detained under the Act including, but not limited to, basic initial scrutiny of the papers relating to a patient's detention.
Responsible Clinician	This must be a mental health professional approved by the Secretary of State e.g. psychiatrist. They are responsible for overseeing the treatment of the patient's mental disorder and must work closely with the Trust consultant physician/surgeon to ensure that both physical and mental health needs are addressed. They are also responsible for deciding, before a detention expires, whether the current period of detention should be renewed.
The Head of Safeguarding & Vulnerable People	They will complete statutory notification to CQC of the death of a detained patient.
Other Staff Members	All staff need to be aware of risk assessments and observations required to ensure effective, safe and personalised care of patients with mental health concerns.

6. Application of the Mental Health Act (MHA)

6.1 Guiding Principles

6.1.1 In making any decisions under the MHA the guiding principles should be considered. These are laid out in Chapter 1 of the Mental Health Act Code of Practice and can be summarised as follows:-

- **Least restrictive option and maximising independence**: People acting without a patient's consent must attempt to keep to a minimum the restrictions they impose on the patient's liberty, having regard to the purpose for which restrictions are imposed.

- **Empowerment and involvement:** The patient must be given the opportunity to be involved, as far as is practicable in the circumstances, in planning, developing and reviewing their own treatment and care to help ensure that it is delivered in a way that is as appropriate and

effective for them as possible. The involvement of carers, family members and other people who have an interest in the patient's welfare should be considered (unless these are reasons to the contrary), and their views taken seriously.

- **Respect and dignity:** People making decisions under the Act must recognise and respect the diverse needs, values and circumstances of each patient, including their race, religion, culture, gender, age, sexual orientation and any disability. They must consider the patient's, family and carers views, wishes and feelings (whether expressed at the time or in advance) so far as they are reasonably ascertainable and follow those wishes wherever practicable and consistent with the purpose of the decision. There must be no unlawful discrimination.

- **Purpose and effectiveness:** Decisions under the Act must be taken with a view to minimising the undesirable effects of mental disorder, by maximising the safety and wellbeing (mental and physical) of patients, promoting their recovery and protecting other people from harm.

- **Efficiency and equity:** People making decisions under the Act must seek to use the resources available to them and to patients in the most effective, efficient and equitable way, to meet the needs of patients, ensure that their health and well-being are optimised and that they are eventually discharged from the section - achieving the purpose for which the decision was taken.

6.1.2 Decisions relating to care and treatment arising under the MHA (e.g., whether to facilitate leave under s17 MHA) must be made by the Responsible Clinician.

6.1.3 All staff should ensure that their decisions made, and actions taken in respect of patients subject to the MHA, follow procedures laid out in the legislation. All decisions made and actions taken should be in accordance with the Code of Practice unless there are robustly justified and documented reasons for deviation.

6.2 Defining the detaining authority

S136	Section 136(1) of the Mental Health Act 1983 empowers a Police Officer to remove a person who appears to be suffering from a mental disorder and to need immediate care and control. The permitted period of detention means the 24 hours beginning with: a) if the person is moved to a place of safety, the time they arrive at that place b) when the person is kept at a place of safety, the time when the police officer decided to keep the person at that place Such removal to a Place of Safety can only take place if the Police Officer believes that it is necessary in the interests of that person or for the protection of others. The purpose of removing a person to the Place of Safety is only to enable the person to be examined by a doctor and interviewed by an Approved Mental Health Professional (AMHP), so that the necessary arrangements can be made for the person's care and treatment. The preferred place of detention should be a hospital or other healthcare setting where mental health services are provided. The preferred Places of Safety for Derbyshire Healthcare Foundation Trust are the: • Section 136 Suite Radbourne Unit Royal Derby Hospital Uttoxeter Road, Derby, DE22 3WQ, Tel: 01332 623700 • Section 136 Suite, Hartington Unit, Chesterfield Royal Hospital, Calow Chesterfield S44 5BL, Tel: 01246 277271

	However, in some circumstances, where it is believed that the detained person requires medical treatment, a Place of Safety is a general hospital. The Trust is a signatory to the Joint Policy for Derbyshire on the Operation of Section 136 of the Mental Health Act 1983, and this is contained within this policy at Appendix 1.
Section 17 Leave	The RC has the power to grant the section 17 leave of absence which allows detained patient to leave the hospital lawfully. When a detained patient has been granted the section 17 leave by another service provider to be admitted to UHDB for care of their physical health, the responsibility for the patient's detention and treatment under the Act remains with the detaining hospital (Responsible Authority). (see appendix 8)
Section 19 transfer	When a patient, detained by another provider service, is admitted to UHDB for care of their physical health, responsibility for the patient's detention and treatment under the Act is transferred to UHDB. The RC retains responsibility for overseeing the care but UHDB has responsibility for funding any specialist nursing support for the patient. Patients should be transferred to a mental health unit as soon as their physical health permits, so they can receive the mental health care and treatment for which they have been detained and a Section 19 transfer form must be completed at this point.(see Mental Health pages on Net-i)
Section 5(2) `Doctors Holding Power`	The section 5(2) holding power can only be used if the patient is admitted and present on an in-patient ward and they are indicating, either verbally or otherwise, that he or she wishes to leave the hospital **and** there are concerns for the patients' safety, or for safety and protection of others. The section 5(2) holding powers cannot be applied in A&E department.
Section 2 Admission for Assessment	The patient can be detained in the interest of their health and safety, or for the protection of others, for up to 28 days for assessment. For section 2 detentions, a RC must have responsibility for overseeing the care, but UHDB has responsibility for funding any specialist nursing support for the patient.
Section 3 Admission for Treatment	The patient must suffer from a mental disorder of a nature or degree which makes it appropriate for them to receive a medical treatment in hospital, and it is necessary for their health or safety or for the protection of others that the patient should receive such treatment, and the treatment cannot be provided unless the patient is detained under section. For section 3 detentions a RC must have responsibility for overseeing the care and psychiatric treatment but UHDB has responsibility for funding any specialist nursing support for the patient.
Other sections	Where a patient transferred from prison, or other hospital, is subject to detention under any other section of the Act, advice should be sought from the MHAC via uhdb.mhactadmin@nhs.net or 01332 787547.

6.3 Consent to Treatment

6.3.1 The Act enables patients to be treated against their will for the first three calendar months, *but only for their mental disorder*, commencing from the first date of administration of medication. **The Act does not** sanction treatment for physical disorders that are unconnected to the mental disorder, even where the patient is unable or unwilling to give consent. (See ***Appendix 12*** Flow chart of consent to treatment under the Mental Health Act).

6.4 Medical and administrative scrutiny and storage of section documents

6.4.1 The statutory forms must be used when a patient is subject to the Act. The statutory forms including the medical recommendations must be scrutinised for accuracy, omissions and errors. These are available on the intranet – Mental Health Act resources, Safeguarding & Vulnerable People pages on Net-i

6.4.2 The Trust Board delegates their responsibilities to receive and check the accuracy of the statutory forms to Delegated Hospital managers (specifically Business unit general managers, matrons, Band 6/7 sisters, senior nurses on-call and patient flow coordinators). The Delegated Hospital Managers will notify the Trust MHAC via uhdb.mhactadmin@nhs.net or 01332787547 of the admission of the patient.

6.4.3 All original section papers should be submitted to the MHAC for scrutiny.

6.4.4 **Mental Health Act Co-ordinator - Responsible for:**

- Ensuring that the Trust's checklist of detention documents is always used (see Appendix 1)
- Undertaking administrative scrutiny, checking that the detention is accurate, appropriate and within time limits.
- Providing guidance and support to any staff member with queries regarding detention and this policy.

6.4.5 Medical recommendations must be scrutinised by Psychiatrists within the Derbyshire Healthcare Foundation Trust (DCHFT) Mental Health Liaison Team, with the clinical expertise to ensure the medical recommendations comply with requirements of the Act.

6.5 Record of an individual's Mental Health Act Activity

6.5.1 Whenever a patient who is subject to a section of the Act is admitted, or an inpatient becomes subject to detention under the Act - the Delegated Hospital Manager must inform the MHAC via uhdb.mhactadmin@nhs.net and all activity / observations and care of the patient must be recorded in the patient's health record.

6.6 Information about patients' rights

6.6.1 The Delegated Hospital Manager should ensure that patients, and where appropriate, their Nearest Relative, are informed of their legal rights under section 132 of the Act. Information leaflets should be given to the patient which include information on how the Act applies to them, an Independent Mental Health Advocate (IMHA) contact details, the right to appeal against section to MHT and right to appeal to the Hospital managers. The rights should be provided both orally and in writing in appropriate format. (see Neti pages on Mental Health, Resources - the Mental Health Fact sheet within the Safeguarding & Vulnerable People pages)

6.6.2 Support with the patient being read their rights under the MHA, and appealing detention to a Mental Health Tribunal if so wished will be provided by the Mental Health Act Coordinator.

6.6.3 The section ***132 Rights Record form Appendix 2*** must be completed to evidence when information given, how it was given and by whom. In addition, the Delegate Hospital

Manager must ensure that the patient understand detention rights information and notify the 'Nearest Relative' of a patient's admission under the Act as soon as possible unless the patient requests otherwise. Again, support with the patient being read their rights under the MHA, and appealing detention to a Mental Health Tribunal if so wished will be provided by the Mental Health Act Coordinator.

6.6.4 **Purpose of Section 5(2)**

6.6.5 An informal patient (a patient not currently subject to the powers of the Mental Health Act) has the right to discharge themselves from hospital at any time they wish.

6.6.6 The Section 5(2) power allows an informal patient to be detained for up to 72 hours to allow an assessment under the MHA with a view to an application being made under Section 2 or 3.

6.6.7 Using Section 5(2) provides a lawful means to detain an informal in-patient who is firmly expressing a wish to or trying leave the hospital. Its purpose is to prevent an inpatient from discharging themselves before a full mental health act assessment is carried out.

6.6.8 **Use of Section 5(2)**

6.6.9 Section 5(2) can only be used for an inpatient who is present in the ward.

6.6.10 An informal in-patient includes a person who has previously been detained under the MHA,but has been discharged from detention and has agreed to stay in hospital further without the use of the powers of the MHA.

6.6.11 Section 5(2) should only be used if, at the time, it is not practicable or safe to take the steps necessary to make an application for detention, without detaining the patient in the interim.

6.6.12 The responsible consultant in charge of the treatment of an in-patient, or their nominated deputy, can furnish a written report to the managers of the hospital to detain the patient **for a maximum of 72 hours if** they conclude that an application for detention under the MHA should be made.

6.6.13 The nominated deputy may if necessary be the medical or surgical registrar. Out of hours it will automatically be the medical or surgical registrar.

6.6.14 A report under section 5(2) may be made in relation to a patient who is not at the time under the care of a psychiatrist or an approved clinician. In such cases, the doctor invoking the power should make immediate contact with a psychiatrist to obtain confirmation of their opinion that the patient needs to be detained so that an application can be made. If possible, the doctor should seek such advice before using the power.

6.6.15 **Application of Section 5(2)**

6.6.16 The Consultant or nominated deputy should personally examine the patient to assess whether detention under Section 5(2) is appropriate. This should be combined with information obtained from nursing staff or the progress notes about the patient's recent behaviour and presentation.

6.6.17 A nominated deputy should use their own clinical judgement in deciding whether to place the person on Section 5(2) or allow them to leave hospital following assessment.

6.6.18 If Section 5(2) is appropriate the assessing Doctor must state on Form H1 Part 1 how the criteria are met and the reasons why informal treatment is no longer appropriate.

6.6.19 The Doctor must inform the patient of their reasons for invoking Section 5(2) and record those reasons in the patient's notes.

6.6.20 The 72 hour period during which the patient may be detained begins when the Form H1 is delivered to delegated hospital manager (an authorised officer) of the UHDB Hospital Managers.

6.6.21 A person authorised by the Hospital Managers (normally band 6/7 nurse, matron, patient flow co-ordinator or general manager) must complete Part 2 of Form H1.

6.6.22 The completed H1 form should then be kept in the patient's case notes.

6.7 Procedures

Appendices 3 – 16 provide flow charts for managing various scenarios under the Act.

7. Monitoring and compliance

Detentions should be reported annually to Trust Board and reported quarterly to Trust Safeguarding Committee. Audit of compliance as below.

Hospital managers must ensure that audit arrangements are in place to monitor the effectiveness of receipt and scrutiny of documents.

Criteria	Lead	Monitoring method	Frequency	Scrutiny & oversight
Compliance with documentation requirements	MHAC	Review of all section documentation	quarterly	Quarterly TSVPORG & TSVPC

8. References

	Code:
Mental Health Act 1983	
Department of Health (2008) Mental Health Act 1983 Code of Practice (Revised 2015).	
Department of Health (2008) Reference Guide to the Mental Health Act 1983	
Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008, as amended by Mental Health (Hospital, Guardianship and Treatment) (England) (Amendment) Regulations 2020	

Appendix 1 – Joint Policy for Derbyshire on the Operation of Section 136 of the Mental Health Act 1983

Joint Policy for Derbyshire on the Operation of Section 136 of the Mental Health Act 1983

See also:	Located in the following policy folder on the Trust Intranet
Missing and Absent Patients.docx	
Mental Health Act 1983 Community Treatment Order Policy.docx	
Protocol for conveyance of service receivers subject to the MHA.docx	
Mental Health Act 1983 Section 135 Joint Policy.docx	
MHA Section 135 and Section 136 form	
MHA Authorisation for extension of period of detention for Section 135 or Section 136	
MHA Patient Information Admission of mentally disordered persons found in a public place (136)	
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/656025/Guidance_on_Police_Powers.PDF	

Service area	Issue date	Issue no.	Review date	
Trust wide	March 2018	06	Feb 2021	
Ratified by	**Ratification date**	**Responsibility for review:**		
Mental Health Act Committee	15/02/2018	Section 135/136 implementation group		

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Document published on the Trust Intranet under: Clinical Policies and Procedures

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ACCESSIBLE INFORMATION STANDARD

The Accessible Information Standard directs and defines a specific, consistent approach to identifying, recording, flagging, sharing and meeting the information and communication support needs of service users.

Ensure you have considered an agreed process for: sending out correspondence in alternative formats and appointments for patients / service users with communication needs, where this is applicable.

Checklist for Joint Policy for Derbyshire on the Operation of Section 136 of the Mental Health Act 1983

Summary (Plain English) Summarise the main points of the policy below in a style that is clear and easy to understand. Ensure the whole policy is written in plain English, using simple language where possible and avoiding convoluted sentences and obscure words. The resulting policy should be easy to read, understand and use.

The policy sets out the procedure for multi-agency working relating to Section 136 of the MHA 1983. The policy has been updated to ensure it is compliant with the Policing and Crime Act 2017, which came into force on the 11th December 2017.

Name / Title of policy/procedure	Joint policy for Derbyshire on the operation of Section 136 of the Mental Health Act 1983	
Aim of Policy	To provide information and guidance to all agencies involved in the implementation of section 136 MHA 1983.	
Sponsor (Director lead)	John Sykes, Medical Director	
Author(s)	Section 135/6 Implementation Group	
Name of policy being replaced	Joint Policy for Derbyshire on the operation of Section 136 of the Mental Health Act 1983 (as amended by Section 44 of the Mental Health Act 2007) "mentally disordered persons found in public places"	**Version No of previous policy: 05**

Reason for document production:	Updated to ensure compliance with the Policing and Crime Act 2017
Commissioning individual or group:	Mental Health Act Committee

Individuals or groups who have been consulted:	**Date:**	**Response**
Tracey Holtom, DHCFT	08/12/17	Agreed
Jacky Ingerson, DCC	08/12/17	Agreed
Phil Taylor, Derby City Council	08/12/17	Agreed
Richard Booth, Derbyshire Police	08/12/17	Agreed
Christine Henson, MHA Manager	11/12/17	Amendments made to update in line with Police and Crime Act
Richard Booth, Derbyshire Police	14/12/17	Amendments to paragraph 4
Chesterfield Royal Hospital	10/01/18	Addition of logo
Derby Teaching Hospital	10/01/18	Addition of logo
Christine Henson, MHA Manager	19/01/18	Insert useful contact numbers
Section 136 implementation group	02/02/18	Minor amendments, page 4

Version control (for minor amendments)

Date	Author	Comment

Joint policy for Derbyshire on the operation of Section 136 of the Mental Health Act 1983

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Joint policy for Derbyshire on the operation of Section 136 of the Mental Health Act 1983

1. Introduction: Section 136 the Police Power to remove a Person to a "Place of Safety"

1.1 Section 136(1) of the Mental Health Act 1983 empowers a Police Officer to remove a person who appears to be suffering from a mental disorder and to be in need of immediate care and control. The permitted period of detention means the 24 hours beginning with:

a) if the person is moved to a place of safety, the time they arrive at that place

b) when the person is kept at a place of safety, the time when the police officer decided to keep the person at that place

1.2 Such removal to a Place of Safety can only take place if the Police Officer believes that it is necessary in the interests of that person or for the protection of others.

1.3 The purpose of removing a person to the Place of Safety is only to enable the person to be examined by a doctor and interviewed by an Approved Mental Health Professional (AMHP), so that the necessary arrangements can be made for the person's care and treatment.

1.4 The aim of this policy is to secure the competent and speedy assessment, by a doctor and AMHP, of the person detained under Section 136 (see CoP: 16.17 to 16.29 for more detail)

2. A 'place other than a private residence'

2.1. A place other than a private residence includes **any place** other than: any house, flat or room where that person, or any other person, is living, or any yard, garden or outhouse that is used in connection with the house, flat or room, other than one that is used in connection with one or more other houses, flats or rooms. It does not include private premises, such as the person's own place of residence or private homes belonging to others, in which case a section 135 warrant is needed. It is not appropriate to encourage a person outside in order to use section 136 powers. Section 135 should be used if the person is in private premises (CoP 16:18)

3. Removal from the public place to a Place of Safety

3.1. Section 136 is not intended to be used as a way to gain access to mental health services and the person should be encouraged to take a route via primary care services, or to contact local mental health services. A Police Officer may, without the

use of Section 136 powers, decide to escort a person who is voluntarily seeking urgent mental healthcare to an appropriate service. (Cop: 16.21)

3.2. When considering the use of police powers to detain people under the Act, less restrictive alternatives to detention should be considered. Health and/or social care professionals may be able to identify alternative options. For example, with the person's consent, the Police, or any other qualified person may convene a mental health assessment without using Section 135 or Section 136 powers, by requesting that a section 12 approved doctor attends in order to assess the person and make arrangements for their on-going care. Where appropriate, and depending on specific circumstances, consultation with carers may help, particularly in the case of children and young people. Health and Social Care Professionals and the Police, should have regard to the principles of the Mental Capacity Act 2005. (CoP: 16.22)

4. Consultation prior to use of section 136

Before deciding that detention under section 136 may be necessary, unless the person is in immediate danger, the police officer must, where practicable, contact and seek advice from a health professional before using the powers to remove a person to, or, keep a person at a place of safety.

This can be:

- A registered medical practitioner
- A registered nurse
- An approved mental health professional
- An occupational therapist
- A paramedic

4.1. The police officers should contact any of the following: Triage service, Crisis team, AMHP services, to consider possible alternatives. This will allow for full consideration of the persons history prior to implementing Section 136. The purpose of the consultation is for the police officer who is considering using their powers under section 136 to obtain timely and relevant mental health information and advice that will support them in their decision.

Useful contact numbers

Service	Place	Contact number
Mental Health Triage Hub	Force Control Room	07740 454817
Crisis Team	Derby Chesterfield High Peak	01332 623900 01246 512831 01298 814784
AMHP service	City County	01332 541900/786968 01629 537904

The police officer should ensure that any consultation and the name of the consultee are recorded and the reason for their decision.

5. Decision whether to use section 136 or Criminal Justice where an offence has been committed

5.1. When a substantive criminal offence has been committed then police custody should be considered as the primary method of detention. The circumstances in which the offence took place, the seriousness of the offence, risk factors and public interest should all be considered. If the detainee is believed to be suffering from mental-ill health it will then be the responsibility of the custody officer to arrange an assessment by the custody medical provider which may result in the requirement for a full mental health act assessment. This will determine if the criminal investigation is to continue. If the person is not fit for detention/questioning and requires a full Mental Health Assessment, options around there release should be considered, bearing in mind the seriousness of the alleged offences and any safeguarding concerns. These will include release under investigation or bail and release into the care of the mental health services, should conditions be necessary and proportionate.

5.2. If a detainee has been arrested for an offence but is so unwell that it is considered hospitalisation should be the primary route then this should be discussed between the relevant bleep holder and Reactive Inspector.

6. Protective Searches Under section 136

Police officers will have the power to search a person subject to section 136 if they have reasonable grounds to believe that the person may present a danger to themselves or others and may be concealing an item that could be used to harm themselves or others.

The power to search does not authorise the police officer to require the person to remove any of their clothing other than an outer coat, jacket or gloves, but does authorise a search of the person's mouth.

A police officer may seize and retain anything found, if they have reasonable grounds to believe they may use it to cause physical harm to themselves or others.

7. Conveying to the Place of Safety

7.1. Transport from a public place to the first Place of Safety will be by ambulance who have a 40 minute response time to a person detained under Section 136. A police vehicle should only be used where the patient is displaying, or can reasonably be expected to display, levels of violence unmanageable in an ambulance.

7.2. Even where the criminal situation does not represent an emergency, the journey should be managed as speedily as possible to reduce distress and so it should always be prioritised by the ambulance service.

7.3. This process should follow the applicable parts of the current 'Protocol for Conveyance of Patients Subject to the Mental Health Act 1983.

8. Identifying the most appropriate Place of Safety

8.1. The preferred place of detention should be a hospital or other healthcare setting where mental health services are provided. However, there will also be circumstances where the urgent physical healthcare needs of the detained person mean that a general hospital or another facility that provides physical health care is the appropriate initial Place of Safety. CoP: 16:36-16:44). The police and partners should determine the appropriate Place of Safety given the circumstances of each particular arrest under section 136.

8.2. The preferred Places of Safety for Derbyshire Healthcare Foundation Trust are the:

Section 136 Suite
Radbourne Unit
Royal Derby Hospital
Uttoxeter Road
Derby
DE22 3WQ

Tel: 01332 623700

Section 136 Suite
Hartington Unit
Royal Hospital
Calow
Chesterfield
S44 5BL

Tel: 01246 277271 or
01246 512563

8.3. The Act now defines a Place of Safety as:

- A hospital
- An independent hospital or care home for mentally disordered persons
- A police station
- Residential accommodation
- Any other suitable place (with consent of a person managing or residing at that place)

8.4. Section 136A(1) states that a **police station may not be used as a Place of Safety for a person under 18 in any circumstances**.

A police station may only be used as a place of safety for a person over 18 in specific circumstances set out in the MHA 1983 (Places of Safety) Regulations 2017.

a) The behaviour of the person poses an imminent risk of serious injury or death to themselves or another person
b) Because of that risk, no other Place of Safety in the relevant police area can reasonably be expected to detain them, and
c) So far as reasonably practicable, a healthcare professional will be present at the police station and available to them

Authorisation of a police officer of the rank of at least inspector is required to use custody as a Place of Safety and he/she must be satisfied that so far as is reasonably practicable, a healthcare professional is present and available to the detainee throughout the period in which he or she is detained at the police station.

Regulation 4(1)(a) requires the custody officer to ensure that the healthcare professional check the welfare of the detained person **at least every half hour** and that any appropriate action be taken for their treatment and care.

8.5. It is therefore important that Police try to ascertain any current or historical risks e.g. criminal convictions associated with the person detained under section 136 and to communicate them to the staff of the Place of Safety. Historical risks should only be considered when looking at the current circumstances and any imminent threats.

8.6. A person detained under Section 136 may be searched prior to arrival at the health based Place of Safety and anything that could be considered a weapon retained by the Police.

8.7. Accident and Emergency departments, fall within the definition of a Place of Safety, but should only be used as a temporary Place of Safety if the patient requires medical treatment that could not otherwise be provided by the mental health Place of Safety or police custody. The 24 hour period starts from the time of arrival to the A&E department.

The police officer accompanying the patient should notify A&E Reception that the patient is detained under section 136 of the MHA 1983 in order to secure a priority medical referral pathway and prompt onward transfer to a designated Place of Safety.

Police officers must complete the section 136 documentation on arrival to A&E (entering the time of detention). While awaiting medical assessment and treatment it is not appropriate for the person to be left unsupervised.

If a Mental Health Act assessment is undertaken in the Emergency Department at the Royal Derby Hospital, it should be facilitated by liaising with the bleep holder at the Radbourne Unit on 01332 623700 or by telephoning 3000. Once the patient is physically fit for discharge, then transfer may be arranged, providing that both the Emergency Department and Radbourne Unit are in agreement. Staff at the Royal Hospital, Chesterfield should ring the bleep holder at the Hartington Unit on 01246 277271 or 01246 512563.

8.8. The CoP: 16:44 recommends that, "... where the Place of Safety is a hospital, the police should make immediate contact with both the hospital and the local social services authority (or the people arranging AMHP services on their behalf), and that this contact should take place prior to the persons arrival at the Place of Safety'. This is to allow arrangements to be made for the assessment to take place as soon as possible.

8.9. This communication from the police to the Place of Safety should be made by the Police Officer responsible for the person detained under section 136 and must include some indication of the nature of the problem and the risk posed by the detained person. This is most important where such risks are likely to require immediate assessment and intervention on arrival.

8.10. This communication from the Police Officer and the timing of the call should be documented by the Place of Safety staff. The bleep holder will ensure that adequate staff will be available to accept the person. The time of the initial police contact, their time of arrival on the unit with the detained person and the time they leave the unit

must be entered onto the joint section135/136 form; this is important so that any healthcare staffing issues can be addressed.

9. Reception at Place of safety

9.1. The maximum period that a person can be detained at a Place of Safety under section 136 is 24 hours, with the possibility of this being extended by a further 12 hours in specific circumstances.

The detention commences:

- When a person is removed to a place of safety under Section 136 at the point when the person physically enters the Place of Safety
- When a person is kept at a Place of Safety under section 136 at the point the police officer makes the decision to keep them at that place

9.2. There should be a clearly identified person available at the Place of Safety to receive the person subject to section 136 and to take charge over arranging the assessment. The time that the detained person arrives at the Place of Safety must be recorded on the section 135/136 form so that the length of the detention period can be monitored to ensure that the assessment is completed within 24 hours of the time of arrival at the Place of Safety. This role can be undertaken by the bleep holder.

9.3. Extending the period of detention

The doctor who is responsible for the examination of the person detained under section 136, in very limited circumstances may, at any time before the 24 hour expiry

period authorise the detention of the person for up to, but not exceeding a further 12 hours (commencing immediately at the end of the initial 24 hour period). See Appendix 2 MHA Authorisation for extension of period of detention for Section 135 or Section 136

Only the doctor is able to authorise this extension if he/she feels it is necessary because the condition of the person detained (physical or mental) is such that it would not be practicable to complete the assessment before the end of the initial 24 hour period. This could, for example, be if the person is too mentally distressed, or is particularly intoxicated with alcohol or drugs and cannot co-operate with the assessment process.

There is no provision to extend the 24 hour period due to a delay in attendance by the AMHP or doctor.

9.4. Any person detained who is under 18 **must never** be taken to a police cell. Any detention of a juvenile should be immediately discussed with the relevant unit bleep-holder and the CAMHS consultant to ensure they are taken to a health based Place of Safety.

9.5. On arrival at the health based place of safety, the relevant documentation must be provided/completed by the police officers accompanying the person. The first task of the co-ordinating person is to check the legal status of that person: section 135 or section 136 and ensure the person is aware of that fact. The place of safety co-ordinator must ensure that the detained person is given a copy of the relevant Patient Rights Information leaflet' and that the provisions of that section are explained to the detained person in an effective way e.g. using an interpreter or alternative methods of communication to overcome language difficulties or hearing or visual impairments. The time this is completed must be recorded on the section 135/136 form.

9.6. After checking that the person is detained under section 135/136 there must be an immediate assessment to evaluate the current risk. Urgent treatment and any other action should be taken before the completion of the psychiatric assessment. This includes checking whether the person is in need of an urgent medical assessment in which case they would need to be transferred to an appropriate place. Suitable numbers of skilled staff should be called to the assessment area to assist in the management of the patient should such staff not already be there.

9.7. An agreement should be reached between the person in charge of the Place of Safety and the police as to when the police can leave, without risk to the individual or staff. The Police Officer is only legally obliged to remain at the Place of Safety if his presence is required to "prevent crime caused by violent behaviour". So, the police should be allowed to leave the person in the care of the hospital as soon as possible and their departure time entered on the section 135/136 form. Any issues arising will need to be escalated to an on-call manager who will liaise with the Reactive Inspector.

9.8. The detained individual should be informed verbally and in writing about their detention under the Mental Health Act, the reasons for this and their rights. They should also be asked whether they wish to have a relative contacted, who may be invited to attend the Place of Safety.

9.9. It is the responsibility of the staff member in charge of the Section 135/136 process to ensure that a doctor and an approved Mental Health professional (AMHP) attend to complete the assessment, if necessary by making the referral if the police have not already done so. It is felt to be best practice for Crisis teams to be informed of all section 135/136 Mental Health Act assessments.

9.10. The AMHP and doctor should undertake a MHA assessment as soon as possible.

9.11. If the doctor sees the person first and concludes they have a mental disorder and that compulsory admission to hospital is not necessary, but that they still may need treatment or care (whether in or out of hospital), the person should still be seen by an AMHP. The AMHP should consult the doctor about any care arrangements that might need to be made for the person's treatment or care (CoP: 16:51).

9.12. Where the doctor arrives before the AMHP, assess the person and finds they do not have a mental disorder, the person must be discharged off the section 135/136.

However, the person should be asked to remain at the place of safety so that an AMHP can see them for further consideration of their social care needs.

9.13. It is important to remember that the definition of mental disorder is wide and includes personality disorder. If the assessment by a doctor reveals that the person is not suffering from a mental disorder, but there are physical symptoms which require treatment, then the person should be released, and appropriate steps taken to manage the physical condition. (CoP: 16:52)

10. Transfer between Places of Safety

10.1. Section 44 of the Mental Health Act amended Section 135 and 136 to enable a person detained at one Place of Safety to be transferred to another. Therefore, a person removed to a Place of Safety may be moved to a different Place of Safety before the end of the maximum 24 hour period for which they may be detained (CoP: 16:53)

10.2. They may be taken to the second or subsequent Place of Safety by a Police Officer, the Approved Mental Health Professional (AMHP) or a person authorised by either of the two. They may be transferred before their assessment has begun, after it has started or following its completion while waiting for appropriate arrangements for care and treatment to be put in place. If it is unavoidable or it is in the detained person's interests, an assessment begun by one AMHP or doctor may be taken over and completed by another, either in the same location or at another place to which the person can be transferred. (CoP: 16:54 and 16:55)

10.3. The decision whether to transfer someone should reflect the individual circumstances of the detained person including their needs and the level of risk. The benefit of the move needs to be weighed against any delay it might cause to the person's assessment and any distress that the journey might cause them. (CoP: 16:56)

10.4. Unless it is an emergency, a person should not be transferred without the agreement of the AMHP, a doctor or another healthcare professional that is competent to assess whether the transfer would put the persons health or safety (or that of other people) at risk. It is for those professionals to decide whether they first need to see the person themselves. (CoP: 16:57). The identity and qualification of the person agreeing to the transfer must be entered in the 'transfer' section of the Section 135/136 form.

10.5. A person should never be moved from one Place of Safety to another unless it has been confirmed that the new Place of Safety is willing and able to accept them (CoP: 16:58). It is the responsibility of the person in charge of the section 136 assessment process at the current Place of Safety to ensure that this confirmation is sought prior to the transfer. In a medical emergency requiring transfer to an emergency department, it can be assumed the A&E Department is able to accept the transfer; however, contact should nevertheless be made in advance of arrival.

10.6. Where a police station is used as a Place of Safety early assessment should include a discussion as to whether it would be preferable to arrange transfer to an alternative Place of Safety as soon as it is considered safe and appropriate to do so.

10.7. The maximum legal period of detention is 24 hours and is not affected by any transfers between Places of safety. Therefore, the time of detention at the initial Place of Safety and in each subsequent Place of Safety must be clearly recorded and information shared effectively between the transferring and receiving Places of safety. (CoP: 16:59 and 16:60). These times must be documented using the section 135/136 form.

10.8. Applying the principles of the CoP:1.1 to the decision making process involves considering the following:

- **Least restrictive option and maximising independence:** Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.

- **Empowerment and involvement:** Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when making decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.

- **Respect and dignity:** Patients, their families and carers should be treated with respect and dignity and listened to by professionals.

- **Purpose and effectiveness:** Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.

- **Efficiency and equity:** Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of Mental Healthcare Services are of high quality and given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

11. The Wait for an Initial Assessment

11.1. Assessment by the doctor and an 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, this is in accordance with the best practice recommendations made by the Royal College of Psychiatrists. Where possible the assessment should be undertaken jointly by the doctor and the AMHP (CoP: 16:47)

11.2. It may not be possible to complete the assessment immediately if the person is not in a fit state to be interviewed due, for example, to the effect of medication, illicit drug overdose or drug and alcohol intoxication. Reasons for the delay in conducting the assessment should be documented on the section 136 form and the assessment should then be done at the earliest suitable opportunity.

11.3. It is important that the assessment itself should be comprehensive, including the collection of available and relevant information from informants so that the right decision is reached. Those making the assessment should determine relevant background information, including any current or past involvement with psychiatric services, forensic history, including any current offence and issues relating to risk. It involves checking to ensure that the person is not currently subject to other mental health legislation, such as section 17 leave, guardianship or a community treatment order or on conditional discharge. The assessors should ask the responsible clinician whether they wish to use the power of recall. An application for detention cannot be made if the person is known to be community treatment order (CoP: 10:55). If under a guardianship order the assessors can determine whether the person should be detained under the Mental Health Act. If absent without leave they can be returned to the original hospital by healthcare providers under provisions of section 18. There can also be a delay in obtaining all the information needed to support effective decision making.

11.4. If possible, either a consultant psychiatrist in learning disabilities or an AMHP with knowledge and experience of working with people with learning disabilities should be available to make the assessment where it appears that the detained person has a learning disability. (CoP: 16:48).

11.5. Where the person is detained is under the age of 18, or is known to have moved recently to adult mental health services, they should be taken to an appropriate Place of Safety (CoP: 19:105), where either a child or adolescent mental health services (CAMHS) consultant or/and AMHP with knowledge and experience of caring for this age group should undertake the assessment. If arranging for a CAMHS specialist to assess the person would result in a substantial delay, then those assessing the person should at least discuss the case with an appropriately qualified person. **Where there is no local Place of Safety specifically for under 18's the local health based Place of Safety should be used (CoP: 16:49)**

11.6. A person awaiting assessment in a Place of Safety must receive a swift, competent assessment and treatment in the event of acute deterioration of a physical disorder such as infection, drug intoxication or traumatic injuries.

11.7. When a person is detained elsewhere than a health based Place of Safety, such as a police station, an appropriately experienced doctor must be available to offer immediate telephone advice about management in the case of acutely distressed patients, even before the arrival of a doctor to undertake the psychiatric assessment.

12. Arrangements after the Initial Assessment

12.1. The possible outcomes of the assessment include on-going assessment for detention under the Mental Health Act, informal admission, on-going assessment and support in the community and discharge where no mental disorder has been identified (though the assessed person may still receive practical advice). Where the

decision has been made to proceed to compulsory admission under one of the provisions of the Mental Health Act , the relevant clinical notes and communication/monitoring form should, unless in exceptional circumstances be completed before transferring the patient from the Place of Safety to a psychiatric bed, even when both are in the same psychiatric hospital.

12.2. There may be circumstances where an acutely distressed patient needs immediate nursing management and medication which can be most safely provided by a psychiatric in-patient facility. Both the Radbourne Unit and Hartington Unit are designated Places of Safety and therefore the patient can be transferred to one of their wards in such circumstances. To ensure that this only occurs appropriately (and not for example on account of staff shortfalls), the decision to make such a direct transfer to a ward must be discussed with the relevant manager in charge of the unit and be documented so that it can be discussed by the Section 136 implementation group.

12.3. A person detained under section 136 is not subject to part IV of the Mental Health Act 1983 and therefore cannot be compulsorily treated under this Act. Therefore, if he or she has the mental capacity to make a decision about treatment they can refuse treatment for either physical or mental disorder. However, if the person is assessed as not having capacity in respect of the specific decision around their care and treatment under section 6 of the Mental Capacity Act, treatment can be given if it is proportionate to the risk to self and assessed to be in his or her best interests. Although a person detained under section 136 cannot be compulsorily treated staff can use reasonable force and even seclusion to prevent the detained person from leaving if this is a proportionate response to the risk of harm that they pose to themselves or to others. Police Officers cannot be used in order for restraint whilst a patient is medicated. See the Derbyshire Healthcare NHS Foundation Trust “Violence and Aggression: Prevention and Management Policy and Procedure,” and the “Seclusion – Psychiatric Emergency Clinical Policy and Procedure”, available on the DHCFT intranet, for more details on the use of these options with patients not detained under the Mental Health Act 1983.

12.4. It is the responsibility of the Approved Mental Health (AMHP) to arrange for the detained person to be conveyed to hospital and they should determine the most suitable transport. Where there is no risk to the individual or others, an ambulance should be the preferred option, with police providing an escort where necessary. If there are significant difficulties in finding a bed, then this should be recorded and drawn to the attention of the section 136 Implementation Group.

12.5. Where the person has been assessed and the decision taken not to place them under another section of the Mental Health Act, they should be informed of this decision as soon as it is reached. If informal admission is not appropriate or the person refuses informal admission, they must be returned to the community. It is the responsibility of the AMHP to ensure that appropriate transport arrangements are made for this to happen. It is the responsibility of the doctor to arrange any further psychiatric follow up as necessary.

12.6. In exceptional circumstances where the doctor completes an examination of the person detained under section 136 prior to the arrival of the AMHP and concludes

that the person is not mentally disordered, the person can no longer be detained and must immediately be released (CoP: 16:51). However, the detained person should be invited to remain to see the AMHP but may decline to do so. In such circumstances it will be the responsibility of the staff of the Place of Safety to arrange transport for the patient to return to the community.

12.7. The outcome of the initial assessment must be recorded on the section 136 form. A copy of the AMHP assessment documentation should be kept in the ward area or copied to the Care Coordinator.

13. People who abscond whilst detained under section 136

13.1. Section 138 is the power to retake a person subject to section 136 who escapes from custody:

a) Escape during removal to a Place of Safety (they can be retaken under this provision within a 24 hour period

b) Escape from a Place of Safety (they can be retaken under this provision for the period they were detained. If an extension has already been authorised by the doctor, this could be up to 36 hours)

13.2. If a person who is being taken to, moved between, or detained in a Place of Safety absconds the police must be informed as the person is unlawfully at large and can be retaken by the police within the 24 hour period and returned to the appropriate Place of Safety.

14. Information Sharing in Relation to Section 136

14.1. Information given to the detained individual and their carer:
14.1.1. by the Police

It is important that the person is informed verbally that they are detained under the Mental Health Act, the reasons for this and their rights. Because of their unsettled mental state, it is important to check that they have understood this information, which may need to be repeated several times. It is particularly important for the police to stress that they have been detained on account of their mental health giving rise to concern and that they are not being charged with a criminal offence.

14.1.2. at the place of safety

Information on detention under Section 136 should be given at the Place of Safety, verbally and in writing. In the Radbourne Unit and Hartington Unit the current section 136 information leaflet, should be given to the detained person and its contents explained to them. If the person is detained in a police station, they also need to

receive information about their rights under the
Police and Criminal Evidence Act 1984 Code of Practice.

If the person is transferred from one Place of Safety to another the staff at the subsequent Place of Safety must ensure that the person has received all of the information and check whether it has been understood. If not, every effort should be made to help them understand.

Staff at the Place of Safety must be able to arrange access to trained interpreters by following their local procedure.

14.2. Information from service users to the police and healthcare professionals

14.2.1. Crisis cards, advance statements and decisions are not likely to be helpful at the point of detention but would help in the on-going assessment as they would ensure that the appropriate carers and staff were contacted and that the views and wishes of the person when well were taken in to account. Thus, it is important that the AMHP, nurses and doctors check whether one is available and act on them as appropriate.

14.3. Information sharing between professionals

14.3.1. Information should be shared either with the consent of the individual or on a 'need to know' basis to support risk management and effective decision-making.

15. Monitoring and Audit

15.1. Local monitoring is essential to ensure the appropriate use of the section 136 and a safe assessment process, initiated quickly and with rapid resolution including, where necessary, transfer to an admission ward or discharge.

15.2. Records of section 136 activity will be collated by Derbyshire County Council and Derby City Council at the Section 136 Implementation Group that meets quarterly.

15.3. The minimum data set that is collated by these organisations for each person placed on a section 136 is: Date and Time placed on section 136, gender, age range, ethnicity, date of arrest, presenting issue, place of assessment and outcome.

15.4. **The target time for the commencement of assessment is currently 3 hours:**

15.4.1. The organisations involved in the implementation of section 136 in Derbyshire have agreed that suitably qualified medical practitioner and an AMHP should be able to attend a Place of Safety to commence a face-to-face assessment within 3 hours of being requested to do so (see paragraph 9.1 of this policy)

15.4.2 This response standard is monitored quarterly by the Section 136 Implementation Group, which will promote and encourage positive joint working arrangements of mental health legislation with partners.

Appendix 1 MHA Section 135 and Section 136 form

Click here MHA Section 135 and Section 136 form to access the latest copy of the MHA Section 135 or Section 136 form, the central copy of which is held on the Trust Clinical Approved Forms Library on Connect, the Trust intranet.

Appendix 2 MHA Authorisation for extension of period of detention for Section 135 or Section 136

Click here MHA Authorisation for extension of period of detention for Section 135 or Section 136 to access the latest copy of the MHA Authorisation for extension of period of detention for Section 135 or Section 136, the central copy of which is held on the Trust Clinical Approved Forms Library on Connect, the Trust intranet.

Appendix 3 MHA Patient Information: Admission of mentally disordered persons found in a public place (section 136)

Click here MHA Patient Information Admission of mentally disordered persons found in a public place (136) to access the latest copy of the MHA Patient Information: Admission of patients removed by police under court warrant, the central copy of which is held on the Trust Clinical Approved Forms Library on Connect, the Trust intranet.

Further information can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/656025/Guidance_on Police Powers.PDF

REGARDS EIRA: Assessing Equality Relevance (Stage 1)

Name of the service / policy / project or proposal (give a brief description):

The joint section 136 policy ensures all agencies are aware of the procedure to follow when detaining a person under section 136 of the MHA 1983.

1. Answer the questions in the table below to determine equality relevance:

	Yes	No	Insufficient data / info to determine
Does the project / proposal affect service users, employees or the wider community, and potentially have a significant effect in terms of equality?	√		
Is it a major project / proposal, significantly affecting how functions are delivered in terms of equality?		√	
Will the project / proposal have a significant effect on how other organisations operate in terms of equality?		√	
Does the decision/ proposal relate to functions that previous engagement has identified as being important to particular protected groups?		√	
Does or could the decision / proposal affect different protected groups differently?		√	
Does it relate to an area with known inequalities?		√	
Does it relate to an area where equality objectives have been set by our organisation?		√	

2. On a scale of high, medium or low assess the policy in terms of equality relevance.

	Tick below:	Notes:
High		If ticked all 'Yes' or 'Insufficient data'
Medium	√	If ticked some 'Yes' and / or 'Insufficient data' and some 'No'
Low		If ticked all 'No'

EIRA completed by: Christine Henson
Date: 11/12/17

Appendix 1 - Mental Health Act 1983 Detention Document Checklist

University Hospitals of Derby and Burton NHS Foundation Trust

To be completed by General Manager/ Matron/ Senior Nurse/ Patient Flow Co-ordinator

Patients Name:	**Date of birth:**	**NHS No:**
Date of admission:	**MHA section:**	**Date of section:**

1. Checklist	**Yes(✓)**	**No(✓)**	**Comments**
Is the patient's name and address consistent on all forms ***(no initials or abbreviations)***			**Any errors can be rectified within 14 days**
If the patient transferred from another hospital, has the **H4** form been correctly completed?			**A copy must be given to the transferring hospital**
On the transfer, have you received the original section papers?			**If No, the originals must be requested**
2. Medical Recommendations	**Yes(✓)**	**No(✓)**	
Have the 2 medical recommendations been made separately? If so, there should be no more than **5 clear days** apart?			**If No, the section is invalid – prompt action required.**
If a joint medical recommendation has been made, were both doctors present at the same time?			**If No, the section is invalid – prompt action required.**
Is at least one medical practitioner **section 12** approved doctor?			**If No, the section is invalid – prompt action required**
Has the patient been admitted on section within 14 days of the last medical recommendation?			**If No, the section is invalid – prompt action required.**
Have all detentions been completed as required?			**If No, these can be rectified - prompt action required**
Check that the medical recommendations have the correct hospital name where appropriate medical treatment is available ***(Section 3 only)***			**If No, the section is invalid – prompt action required.**
Are the medical recommendations dated on or before the application?			**If No, the section is invalid – prompt action required**
Have both medical recommendations been signed and dated? **(Date/month/year)** ***(electronic signatures are permissible on electronically submitted forms only*)***			**If No, the section is invalid – prompt action required**
3. Application	**Yes(✓)**	**No(✓)**	
Is the application written out to the hospital to which the patient has been admitted? **(the name and full address of the hospital must be recorded)**			**If No, the section is invalid – prompt action required.**
Has the applicant seen the patient within the last 14 days from the date of signing the			**If No, the section is invalid – prompt action required.**

application? **(the AMHP must have seen the patient within 14 days of making the application)**			
Have all parts of the form been completed as required?			**If no, this must be rectified within 14 days**
Is the application date the same as or after the date of Medical Recommendation? **(the application must not be dated before the medical recommendation date)**			**If No, the section is invalid – prompt action required.**
Has the patient been admitted within 14 days of the application being made?			**If No, the section is invalid – prompt action required.**
Is the application signed and dated?			**If No, the section is invalid – prompt action required.**
Is there a copy of the AMHP report?			**If No, a copy must be requested.**
4. Form H3 Acceptance of Section Papers	**Yes(✓)**	**No(✓)**	
Has the correct parts of the **H3** form been competed?			**H3 form must be completed at the time of admission.**
Has the **H3** form been signed by an Authorised Officer? ***(General manager/ Matron/ Senior Nurse/ Patient Flow Co-ordinator)***			
Has the patient been informed of their legal rights and received the information rights leaflet?			
Has the Nearest Relative been informed of the admission and information of their legal rights?			
Has the appropriate Social Services department been informed of the admission?			

Signed: _____ Date: ____/_____/_____

Print Name: _____

Once completed this form should be kept on the ward together with the original section papers for the MHAC collection.

Appendix 2 - MHA Section 132 Explanation of rights to detained patients form.

University Hospitals of Derby and Burton NHS Foundation Trust

MHA Section 132 Explanation of rights to detained patients form.

Patient's full name: ……..	Date of birth: _ _ / _ _ / _ _ _ _
NHS Number: _ _ _ _ _ _ _ _ _ _	Hospital/ Ward: ……..
Patient's legal status: ……..	Date Section commenced: _ _ / _ _ / 20 _ _

I confirm that leaflet number ……. was explained and given to the patient on

Date: _ _ / _ _ / 20 _ _ at time: _ _ **:** _ _

Please indicate the patient's level of understanding:

☐ I confirm the patient appeared to understand this explanation of his/her rights.
☐ The patient did not understand on this occasion and further attempts will be made.

Please confirm the Nearest Relative details (as specified under Section 26 MHA 1983)

Name:
……
…..

Relationship:
……..……..

Address:
……
…..

Does the patient agree to their nearest relative being informed?
Yes*/No*

☐ I confirm that the patient has been given information regarding the Independent Mental Health Cloverleaf Advocacy (for Derbyshire County residents) – **01924 454875** or Change Grow Live (for Derbyshire County residents - under 18s) - **01332 294534** or One Advocacy Derby (for Derby City residents) – **01332 228748** or Asist Advocacy (for Staffordshire residents) – **01782 845584** and a referral has been made if required.

☐ I confirm that the patient has been given information regarding their right to appeal.

Nurse Signature: …….. Name: ……

Designation: ……. Date: _ _ / _ _ / 20 _ _
I confirm that my rights under the Mental Health Act 1983 have been explained to me and understood by me. I am aware that a Code of Practice is available should I require advice and that a member of staff will explain anything I need to know. Patient signature: …… Date: _ _ / _ _ / 20 _ _
If the patient is not willing to sign the form, please explain why below: ……

Please refer to guidance on page 2 for help in completing this form

MHA Section 132 Record of information given to detained patients.

Detained patients should be provided with this information both orally and in writing. This information should be explained on admission (or as soon as possible afterwards) and at regular intervals (at least every 3 months) and also if the section type changes, if the section is renewed, the patient moves ward, the RC changes.

When explaining their rights under S132, the patient should be informed of:

- The section of the MHA they are subject to and the reasons for this.
- The right to access an Independent Mental Health Advocate.
- The right to apply for a Mental Health Tribunal and the right to free legal representation.
- The right to apply for an Associate Hospital Managers Review.
- Information regarding consent to treatment and the right to be involved with their treatment plan.
- The role of the Care Quality Commission.

Guidance for completing the form:

- All details must be completed on this form.
- The leaflet number referring to the specific section must be entered on this form.
- You must tick the box to indicate whether the patient understood their rights.
- The name and relationship of the Nearest Relative must be checked and entered onto the form (please contact the MHA Co-ordinator immediately with any discrepancies)
- Yes/No* must be deleted appropriately, as this will determine whether written information is sent to the Nearest Relative
- You must tick the next three boxes to confirm the information has been given to the patient.
- A referral must automatically be made to an IMHA if the patient lacks capacity, or at the request of a patient who has capacity.

- The name of the nurse giving the information must be recorded along with the date.
- The patient should be asked to sign the form to confirm they have received the information provided. If they do not wish to sign the form, please record the reason for this in the box provided.
- If an attempt is unsuccessful the form still needs completing and sending to the MHA Co-ordinator and it must be recorded in the notes. Further attempts must be made and a new form submitted for each attempt.
- Once completed the original form must be kept on the ward in patient's file, a copy of this form must be sent to the MHA co-ordinator via UHDB generic email address: **uhdb.mhactadmin@nhs.net**

Appendix 3 – Key actions for Managing all Detained Patients

NB! All forms on see Mental Health Act resources, Safeguarding & Vulnerable People pages on Net-i

Patient admitted who is already detained under a section of MHA or is detained under a section of the MHA after being admitted

↓

Delegated Hospital Manager receives the section papers

↓

Delegated Hospital Manager ensures patient receives all relevant information (See Mental Health Act resources, Safeguarding & Vulnerable People pages on Net-I for information to give to patients) and informs MHAC of detention of patient

↓

i) The Delegated Hospital Manager is to inform the MHAC via uhdb.mhactadmin@nhs.net with patient details and ward/department admitted to.

ii) The Trust Consultant or deputy will undertake an assessment of the patient's physical health and plan of care and consider whether referral to the MHL Team / CAMHs is required (NB; if there are issues of restraint / tranquilisation then a referral to CAMHs / MHLT must be made)

↓

The MHAC will ensure that an RC is appointed, and this is clearly documented. The Consultant Psychiatrist from the Liaison/CAMHS team will act as the Responsible Clinician.

↓

The Trust Consultant or deputy will ensure that medical health care is reviewed daily and that there is regular liaison with the Responsible Clinician.

↓

The delegated Hospital Managers will ensure that any instructions from the MHAC are acted on as soon as possible and always within the timescales given.

↓

On discharged from the Acute Trust or from detention all appropriate documentation must be completed and kept with the original section papers.

Appendix 4 - Section 5(2) Holding Power

- Inpatient (**not in A&E or outpatient department**) wanting to leave hospital premises.
- Staff feel that the patient would be a risk to self or others if allowed to leave.
- Staff have attempted to discuss/reason with the patient.
- Patient is still refusing to stay on premises.
- Staff have reason to believe the patient may have a mental health condition

↓

Nurse in charge to make every effort to contact the doctor and request they attend the ward as a matter of urgency

↓

After examination does the doctor consider that detention under the MHA may be necessary and that a MHA assessment should take place?

YES ↓

Doctor completes **Form H1, completes medical recommendations and the Delegated Hospital Manager** (Band 6 or 7 / Matron, General manager, Patient Flow Co-ordinator) completes **part 2.**

↓

Patient detained under Section 5(2)

NO ↓

Patient is free to leave unless the provisions of the Mental Capacity Act and Deprivation of Liberties Safeguards could be used to restrict the patient in their best interests. (The patient must lack capacity for DOLs to apply and a clear capacity assessment and best interest process must be evidenced in the record)

↓

Delegated Hospital Manager checks the H1 form, gives the patient all relevant information on their rights, files and records in the patient health record and notifies MHAC via uhdb.mhactadmin@nhs.net of detained patient.

↓

Detaining doctor to document in the patient's health record the reasons for the detention and actions taken

↓

The patient can be detained with minimum force necessary for a maximum of 72 hours or until a MHA assessment has taken place (whichever is the sooner) and is not subject to Part IV consent rules therefore any treatment must be in accordance with common law consent or the Mental Capacity Act at this time.

↓

The Mental Health Act assessment to be arranged by the ward as soon as possible:
RDH - the ward arranges a MHA assessment by telephoning the AMHP team via Radbourne switchboard
QHB - contact MHLT if further detention under MHA is required

↓

If **prior to the MHA assessment** being completed, the consultant psychiatrist from MHLT decides that further assessment and detention is **not** required, a section 5(2) termination form should be completed

↓

If on assessment the AMHP does not believe that further detention is required, the section 5(2) ends at that point

↓

The nurse in charge must ensure that the decision to remove the Section has been documented in the patient's health record including the time this occurred.

Appendix 5 – Guidance for completing H1 Form

Part 1 – to be completed by the Doctor

Insert the hospital address – (please see list of 2 addresses to be used below)

↓

Doctor to insert their full name (print)

↓

Delete (a) or (b) as appropriate;

- If completed by Junior Doctor (Bleep Holder) – (a) should be deleted.
- If completed by Responsible Clinician/Approved Clinician – (b) should be deleted.

↓

Insert patient's full name (print)

↓

State why informal treatment is no longer appropriate;

↓

Delete the phrase that does not apply – "consigning it to the hospital managers' internal mail system today at [time]"

↓

Sign and date the form.

Part 2 – to be completed by the General Manager/ Matron/ Senior Nurse/ Patient Flow Co-ordinator

Delete the phrase that does not apply – "furnished to the hospital managers through their internal mail system"

↓

Insert time and date of acceptance.

↓

Sign, print your name and date the form.

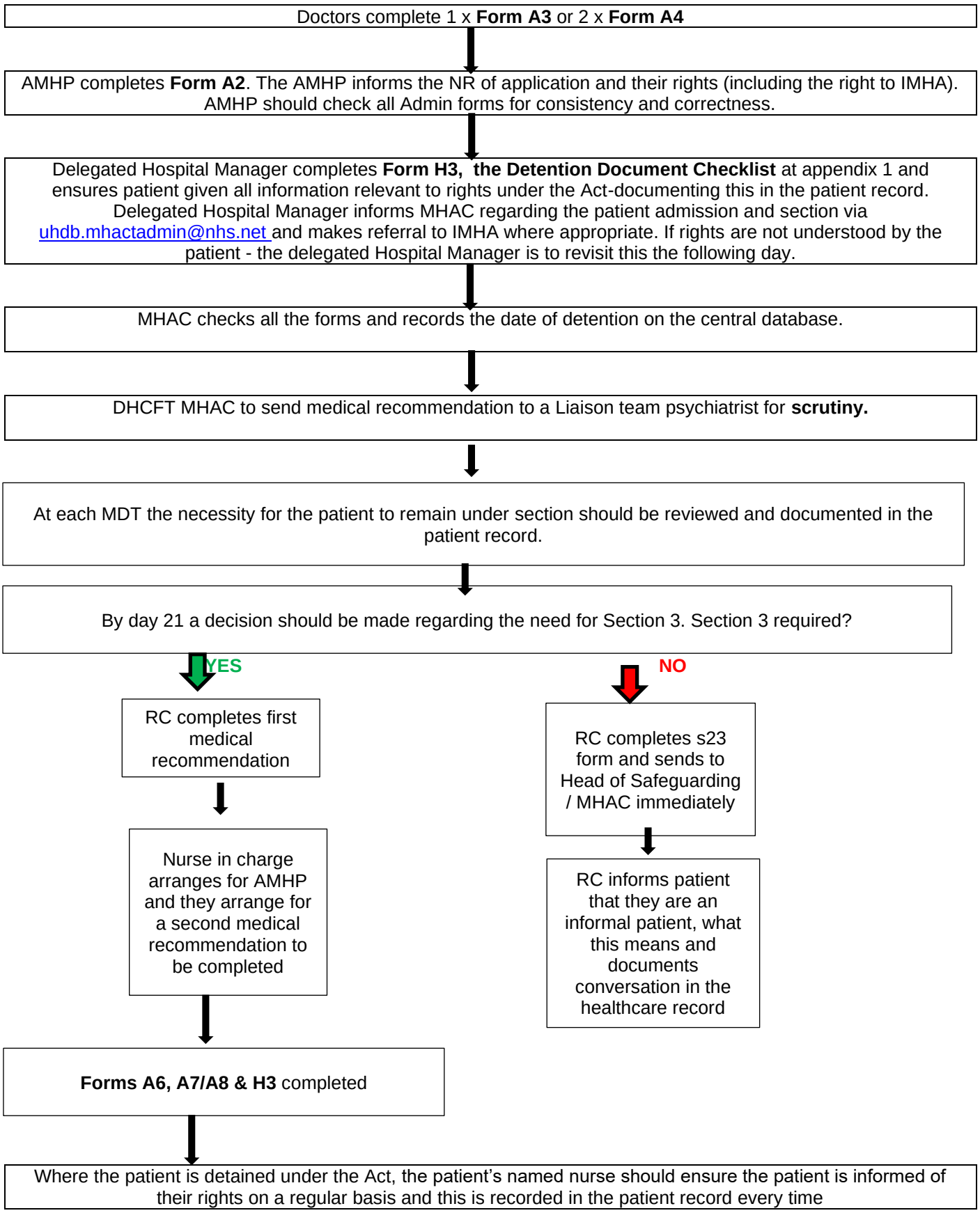
↓

Hospital addresses insert as follows	
Royal Derby Hospital **Uttoxeter Road** **Derby** **DE22 3NE**	**Queens Burton Hospital** **Belvedere Road** **Burton on Trent** **DE13 0RB**

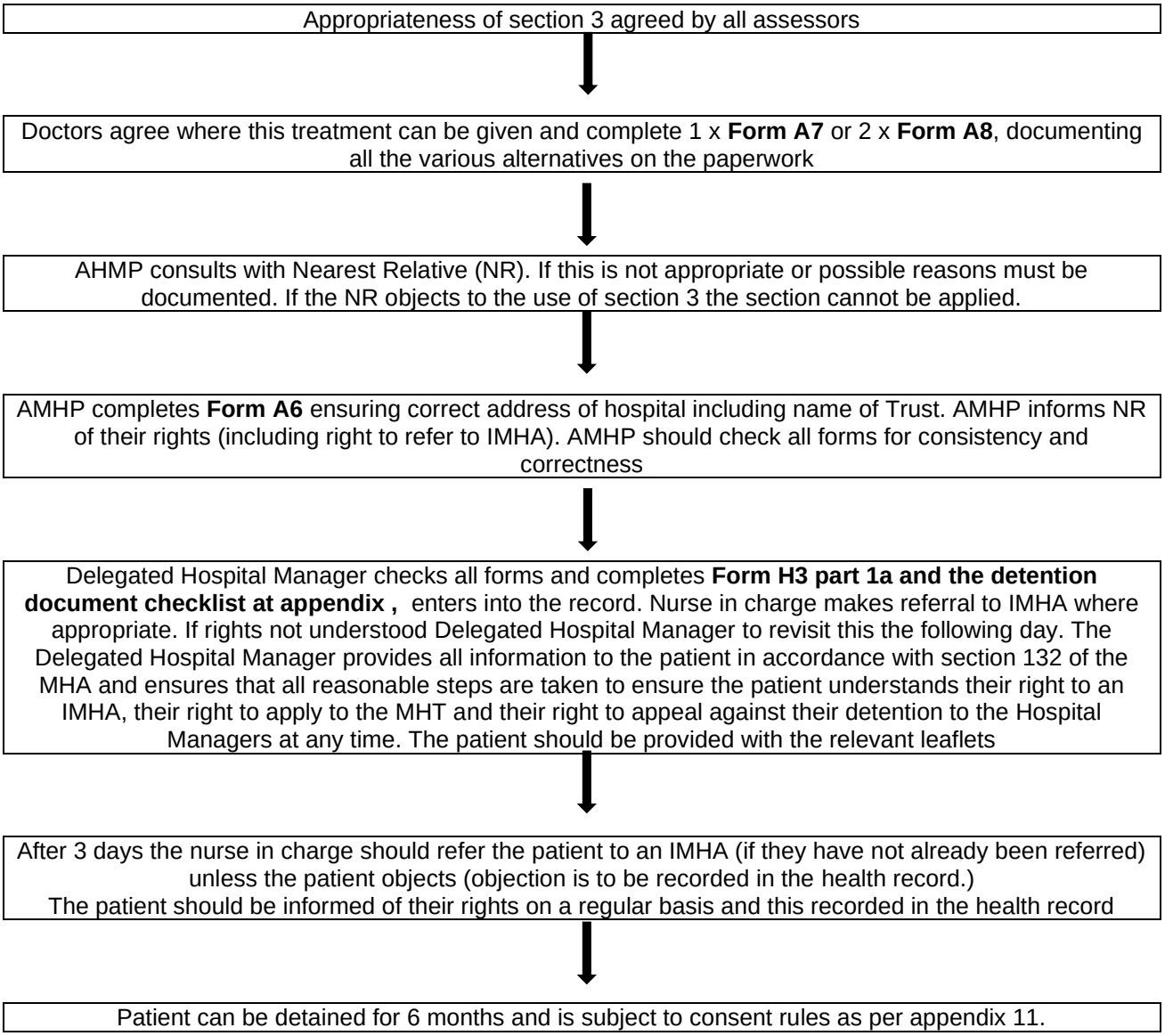
↓

An email notification **must** be sent to the Mental Health Act Co-ordinator via uhdb.mhactadmin@nhs.net of **section 5(2) detention.**

Appendix 6 - Section 2 Admission for Assessment



Appendix 7 – Section 3 Admission for Treatment



Appendix 8 – Section 19 Transfer (Internal and External)

Where a patient subject to MHA requires transfer (whether internal or external) the Patient transfer policy should be followed;

From one Trust ward/unit to another Trust ward/unit

Nurse in charge updates the MHAC via uhdb.mhactadmin@nhs.net Where the RC will change -**Form RC1** must also be completed.

From a Trust ward/unit to a hospital managed by a different Trust

Nurse in charge to speak to proposed destination to ensure they can take a sectioned patient. This should be checked with DND who will check the CQC registration.

Nurse in charge completes part 1 of **Form H4**

Nurse in charge informs MHAC via uhdb.mhactadmin@nhs.net

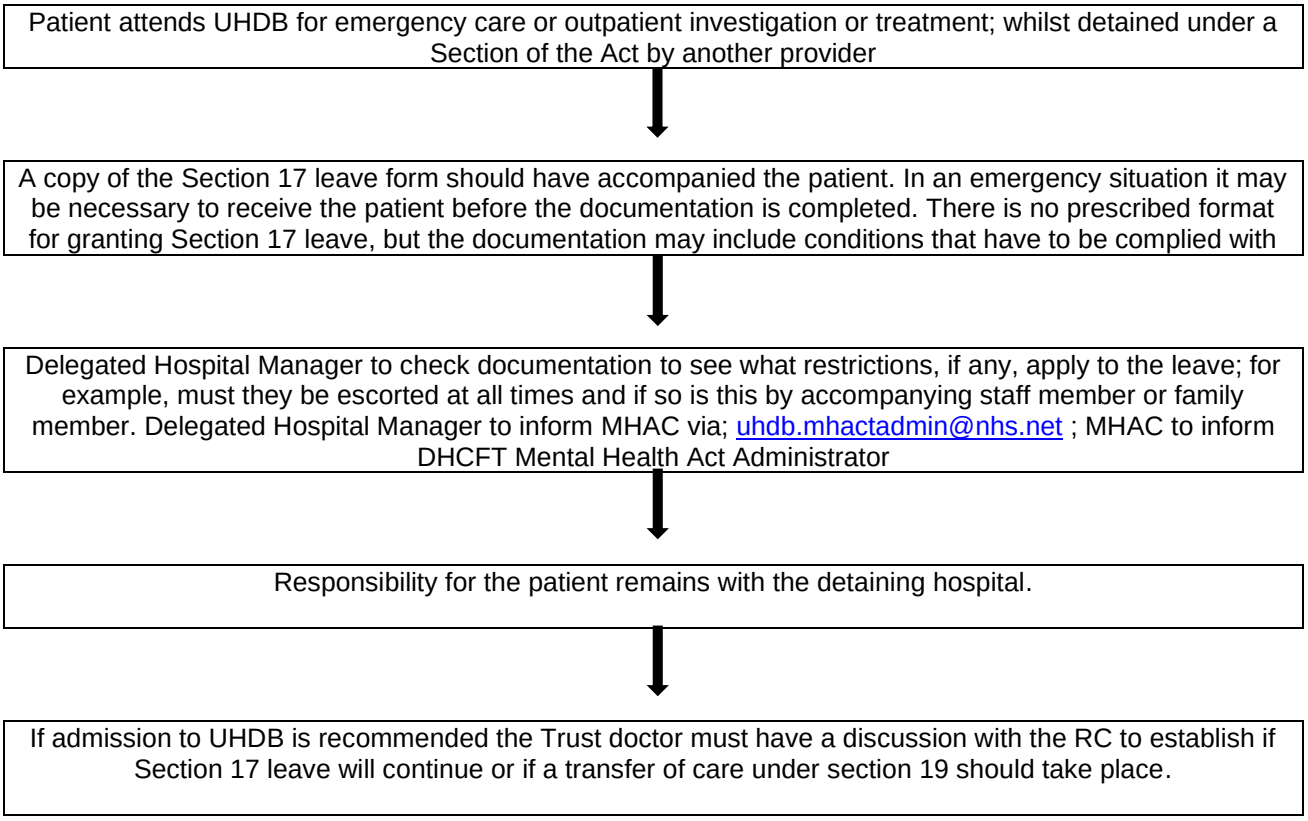
Original section papers and **Form H4** must accompany the patient

Receiving hospital sign and date part 2 of **Form H4**

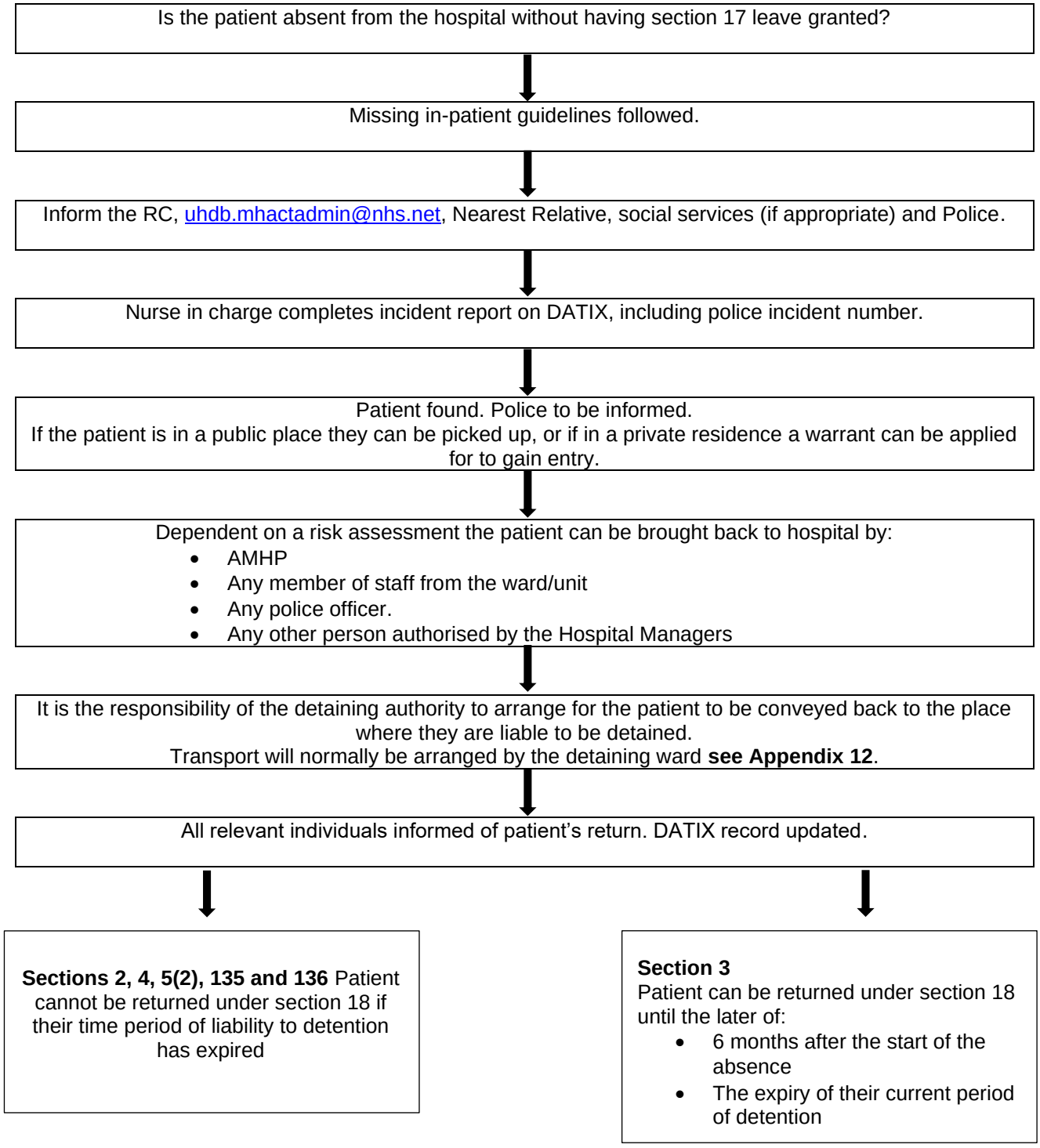
Staff member accompanying patient keeps a copy of the completed **Form H4** and leaves the section papers

Where a patient is transferred to the Trust from another Trust/Independent Hospital the nurse in charge accepting the transfer must ensure that the original section papers are received (including Form H3) and checked as well as the relevant transfer documents (as above) before accepting responsibility or signing **Form H4 -** the transfer documentation. For transfer into the Trust of section 2 or section 3 patients, the admitting nurse should follow the procedure described in appendix 4 and 5 respectively.

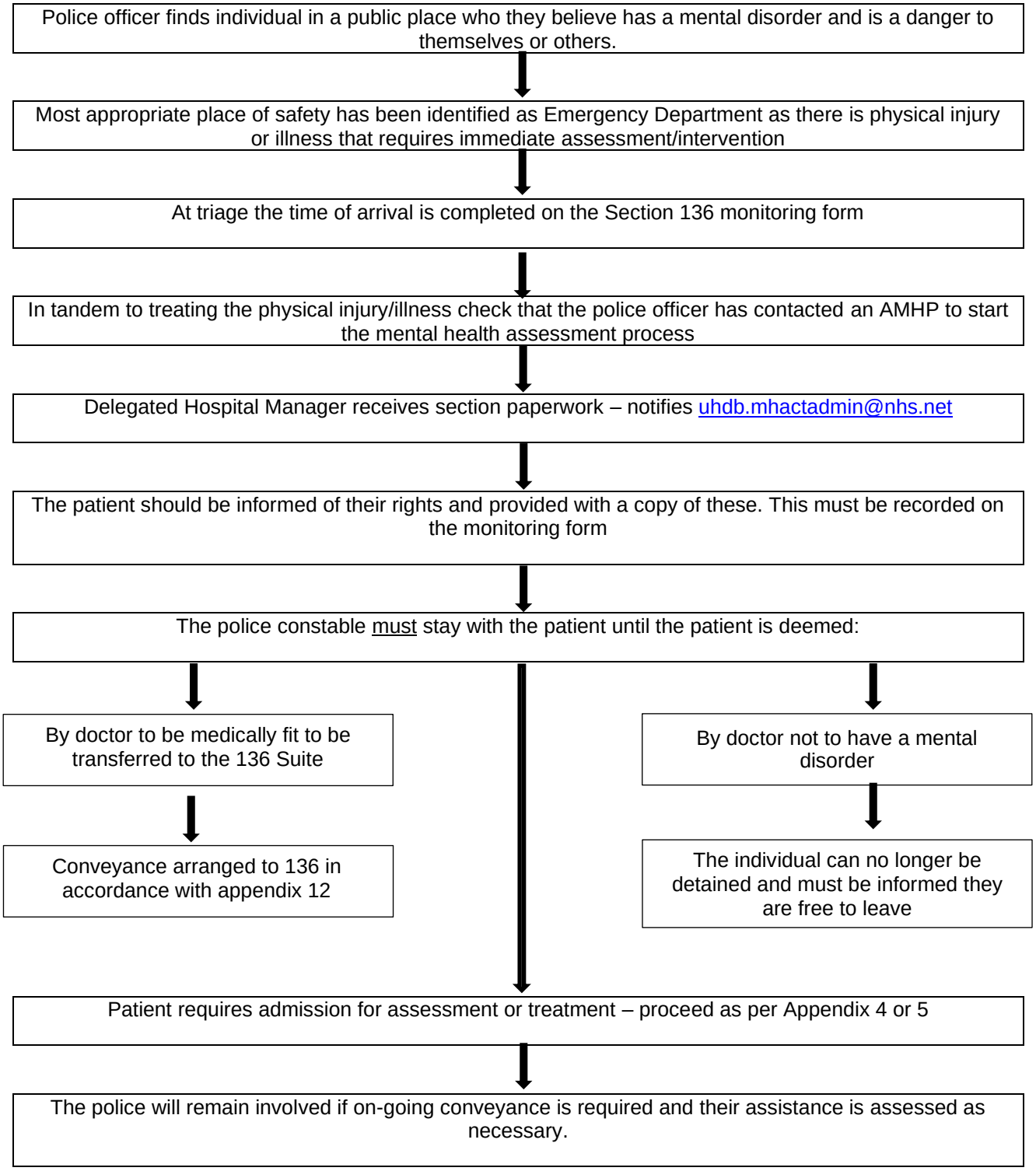
Appendix 9 – Section 17 Leave of Absence



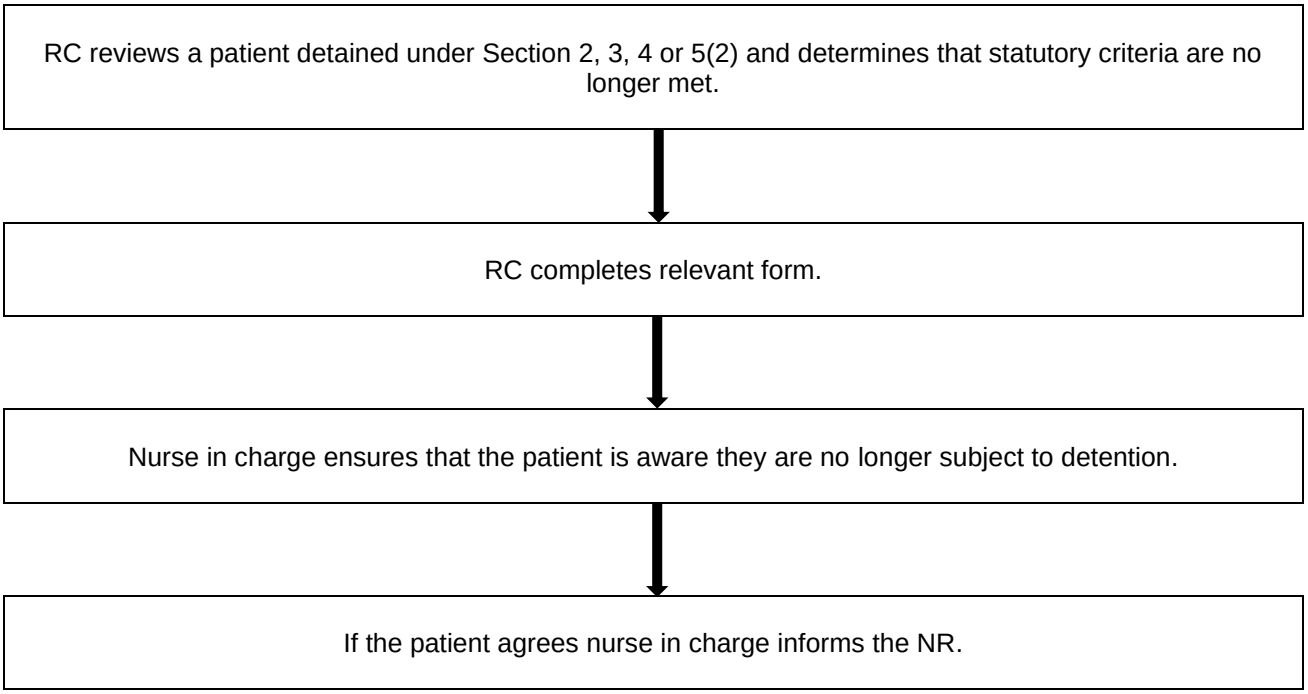
Appendix 10 – Absence without Leave



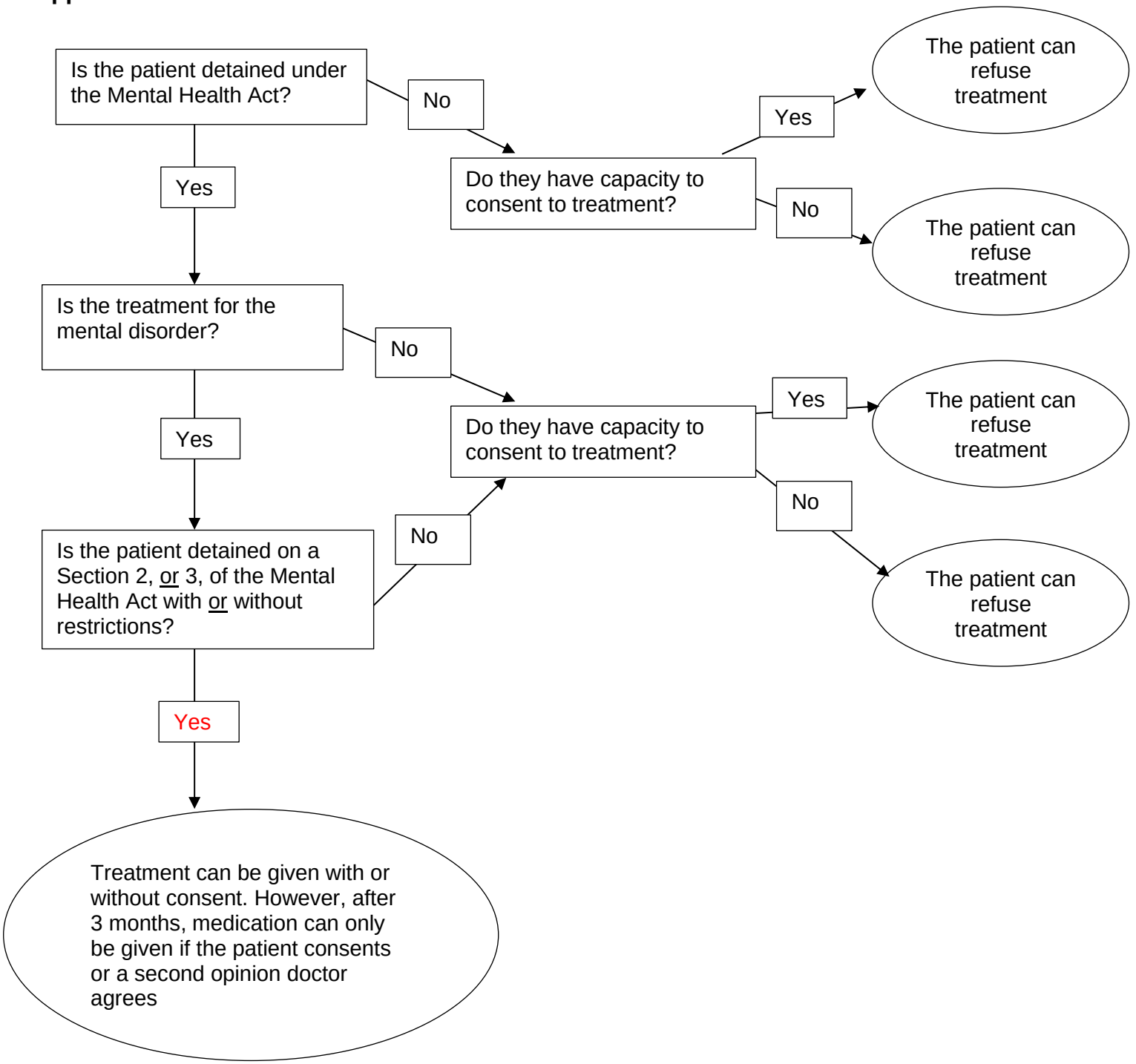
Appendix 11 – Section 136 Police Removal Powers



Appendix 12 – Revoking of a Section



Appendix 13 - Flow chart of consent to treatment under the Mental Health Act



Appendix 14 – Conveyance

Patient needs conveying:

- Between hospitals
- When absent without leave (AWOL) to be brought back to ward.
- Being taken to or transferred between places of safety

Factors for consideration of transport:

- Risk (full risk assessment should be undertaken). Ensure details handed over effectively.
- Privacy and dignity of the patient – the most humane and least threatening method of transport should be used.
- The wishes of the patient and any family/ friends
- Aggression
- Alcohol/ drugs
- Urgency of the transport

EMAS / Prometheus will assist with the conveyance of patients with mental disorder where it is confirmed that this is required/the most appropriate alternative.

Ambulance to be arranged if:

- Patient sedated.
- Police are assisting (as police vehicles not suitable)
- Need due to physical condition

To protect members of the public, multi-agency staff and the patient, the Police will respond to requests for assistance with the conveyance of a mentally disordered patient in violent circumstances or where the patient is likely to become violent. In these situations, the responsibility of Police is to assist in conveyance to a place of safety. There is no responsibility to convey patients between hospitals. (In this situation sedation/ private secure transport may be required.) Contact should be made via the Force Control Room.

Police to assist if:

- Patient violent or dangerous
- Risk assessment suggests potential for violence or aggression.

A patient should only be taken by car if everyone is completely satisfied that this is the most Appropriate method and there is an escort other than the driver. It may be appropriate for the patient to be transferred in a taxi if sufficient staff are available.

A healthcare professional or AMHP should accompany a patient during conveyance

Only such force as is necessary, justifiable and proportionate should be used giving due regard to the dignity of the individual.

AWOL Patients: It is the responsibility of the detaining authority to arrange and fund appropriate transport.

Appendix 15 – Discharge - Mental Health Tribunal

Times when the patient and NR have the right to apply for a Tribunal:

- Within 14 days of section 2 commencing (patient only)
- Once in each period of section 3 detention (patient only)
- Following displacement of NR (12 months) (NR)
- Following barring of discharge by NR (28 days) (NR)

Times for automatic referral for a patient to the Tribunal:

- After six months of detention if the patient has not applied (including time on section 2)
- Every 3 years if the patient has not applied (from the date of the last tribunal) (every year if <18)

↓

Patient should be regularly informed of their rights and confirmation of this discussion confirmed in the **medical records**. This discussion should include information regarding the patient's right to apply to the Mental Health Tribunal. Patient should be referred to an IMHA unless they object.

↓

Patient requests a Tribunal.

↓

MHAC completes **MHT application** indicating name of chosen solicitor where patient has chosen a representative.

↓

MHAC send request to the Tribunal Office. For automatic referrals MHAC write to the Tribunal on behalf of the Hospital Managers.

↓

Tribunal will request via MHA Admin:

1. Authority's statement
2. RC's report
3. Social circumstances report (from Care Co-ordinator)
4. In-patient nursing report (as appropriate)
5. Copies of detention papers, renewals, treatment forms and leave papers

↓

MHAC will request reports from the relevant professionals providing a deadline for completion (3 weeks from the data of application generally or 1 day before the Tribunal for section 2 patients). All instances where reports are not available at least 1 working day prior to the Tribunal will be recorded as incidents on the Datix systems, investigated and reported to the relevant Executive and Board Committees.

↓

Relevant professionals should inform the MHAC of any dates that they or the patient (or nominated representative) would be unable to attend so that they can liaise with the Tribunal Office to arrange a mutually convenient date and time.

↓

Date offered by the Tribunal Office (within 7 days of application for section 2 patients)

↓

All parties (inc. patient, representative, advocate and NR as well as health professionals) informed of date, time and venue.

↓

MHAC liaises with Trust Consultant / deputy or RC involved in care of patient to establish if the patient has the capacity to appoint or instruct their own solicitor/ representative. The patient should be provided with a list of solicitors specialising in mental health law. (The Trust does not allow the display of posters advertising individual solicitor, nor does it make recommendations).

↓

Where the patient lacks capacity to appoint/ instruct a representative it is the responsibility of the Tribunal to appoint a representative for the patient.

↓

Pre-discharge planning meeting should be held to consider plans should Tribunal discharge the patient. Assessment and Care Plans updated. **Review summary** completed.

↓

Medical member of Tribunal will examine patient before the Tribunal (this may be on the actual day of the Tribunal)

↓

Tribunal panel sits. The attendance of the RC, the Care Co-ordinator and the named nurse is expected. All instances on non-attendance will be reported to the relevant Executive & Board Committees.

↓

After private discussion, the decision of the Tribunal will be announced verbally at the end of the hearing to all present. The written decision must be sent to all parties concerned within 7 days of receipt.

↓

If the patient asks to withdraw their application at any time MHAC should be informed immediately so that they can begin the process to formally withdrawn the application.

Appendix 16 – Discharge – Associate Hospital Manager's (AHM) review meetings & Appeal Hearings

Associate Hospital Managers are provided by DHCFT and the Trust Board delegates its functions in respect of Appeal.

Times when the patient (or LPA) have the right to apply for an AHM Appeal Hearing:

- At any time during detention in hospital under the MHA (patient and NR)

Times when Associate Hospital Managers automatically hold a renewal meeting:

- On renewal of detention under section 3 or 37 (receipt of **Form H5**)

⬇

If patient lacks capacity or objects to their renewal an appeal hearing will be held.

⬇

MHAC will request reports from the relevant professionals providing a deadline for completion:

1. RC's report
2. Social circumstances report (from Care Co-ordinator)
3. In-patient nursing report

⬇

Patients should be regularly informed of their rights and confirmation of this discussion confirmed in the patient health records discussion should include information regarding the patient's right to apply to the Hospital Managers. Patient should be referred to an IMHA unless they object.

⬇

Patient / NR requests a hearing.

⬇

Nurse in charge to make request to MHAC within 1-day request within 1 working day.

⬇

Attendance of RC, Care Co-ordinator and named nurse is expected.

⬇

Relevant professionals should inform MHAC of any dates that they or the patient (or nominated representative/advocate) would be unable to attend so that they can liaise with the Associate Hospital managers to arrange a mutually convenient date and time.

⬇

MHAC arrange for a minimum of 3 Associate Hospital managers to convene.

⬇

Pre-discharge planning meeting should be held to consider plans should the AHM panel discharge the patient. All parties (including patient, representative, advocate and NR as well as RC and other health professionals) informed of date, time and venue.
If reports have not been received a reminder will be sent with the date of the meeting.

⬇

A private consultation room is required for the representative and/or advocate.
.

⬇

If the relevant reports have not been received 10 days before the hearing reminder sent to the professionals, copying in the Ward manager / Clinical Director/ General Manager as appropriate.

⬇

After private discussion, the decision of the panel will be announced verbally at the end of the review meeting/ appeal hearing to all present. MHAC records the decision.

⬇

Chair of Associate Hospital Manager's Panel completes relevant decision form.

Appendix 17 – Change of responsible Clinician

On admission under detention an Approved clinician (consultant psychiatrist) is assigned as a patient's Responsible Clinician (RC). This will be the person with the most appropriate expertise to meet the patient's main assessment and treatment needs.

↓

The name of the RC should be clearly recorded in the record.

↓

The appropriateness of the RC should be kept under review through the planning process.

↓

The functions that can only be undertaken by the RC are:

- Granting section 17 leave
- Renewal of detention
- Discharge from detention (other than by AHMs, MHT or NR)

↓

Where the care of a patient is to be transferred between RCs details should be completed in the medical record.

↓

Where the allocated RC is unavailable the on-call consultant OOH will temporarily become the RC for a particular patient where necessary and appropriate to perform functions only RC can complete this

↓

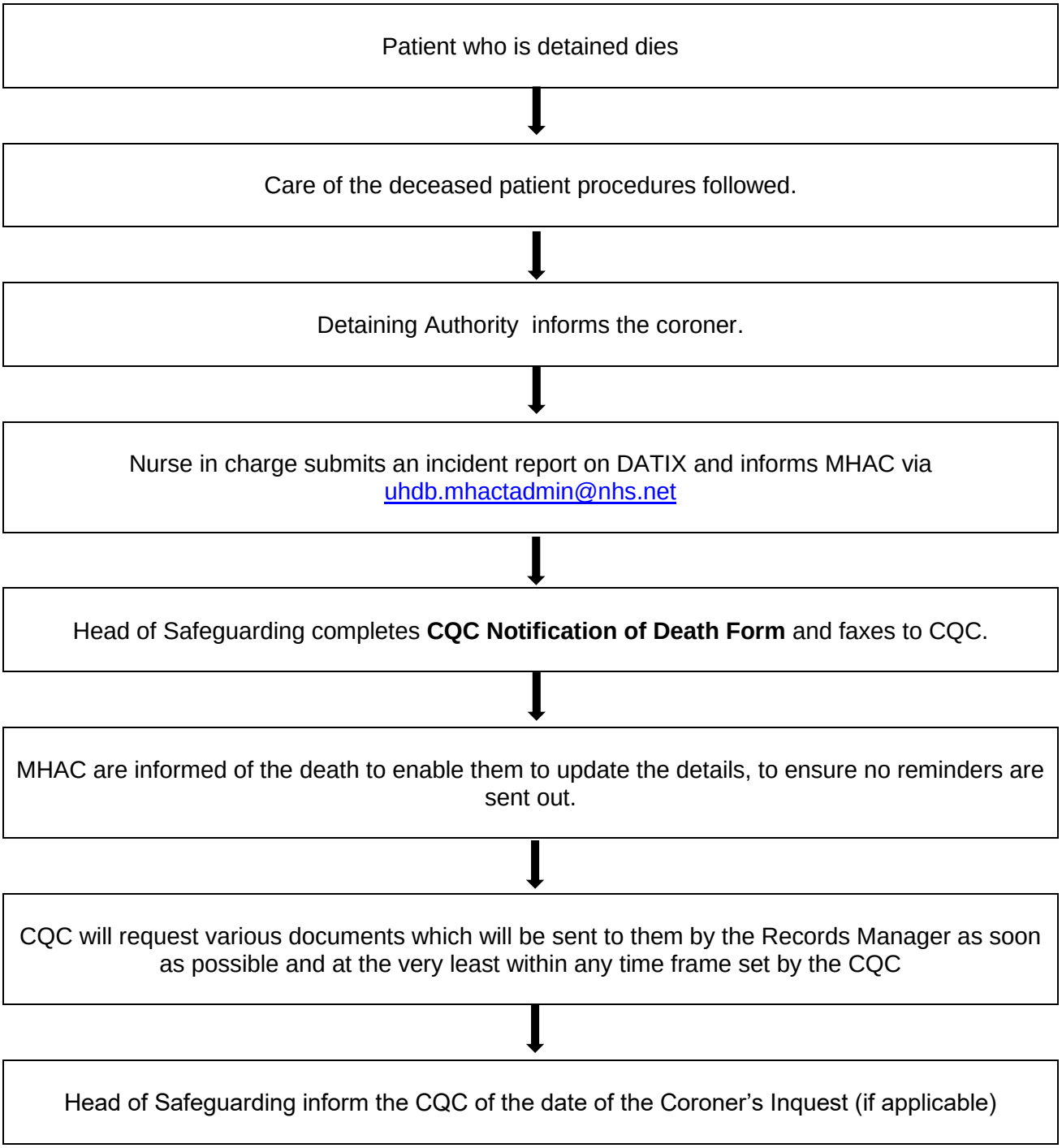
Where the on-call consultant OOH) performs RC functions the following standard form of words should be written into the Healthcare Record at the earliest opportunity:

"I am undertaking duties on behalf of …….(normal RC). In order to ensure the best interests
of…….(patient) are met, the Trust has authorised that I temporarily undertake the role of his/her Responsible Clinician.

In this capacity I have taken the following action……

Signed……..Name……..

Appendix 18 – Death of a Detained Patient



Appendix 19 – Section 29 Displacement of Nearest Relative

The NR is established using a set hierarchy. The NR is the first individual on the following list:

- Relative that the individual ordinarily resides with (over 18)
- Husband, wife, civil partner (or living with as such for at least 6 months)
- Son / daughter (over 18)
- Father / mother (if born out of wedlock – father can only qualify as NR if parental responsibility has been officially assigned to him)
- Brother / sister (over 18)
- Grandparent
- Grandchild (over 18)
- Uncle / aunt
- Nephew / niece (over 18)
- Non-relative that the patient has been living with for at least 5 years.

In establishing complex situations:

- Whole blood relatives rank higher than half blood relatives.
- The eldest of several relatives covered by the same bullet pint ranks highest.
- Step relatives DO NOT count as relatives.
- Individuals living outside the UK do not count (where the patient is ordinarily resident in the UK)

↓

The WARD MANAGER / NIC may bring to the attention of the AHMP any case where they believe the patient's NR is not appropriate.

An AMHP must decide for themselves at any time that a patient's nearest relative is not appropriate. Possible reasons include:

- Abuse / domestic violence.
- NR not known to the patient.
- NR is unreasonably objecting to Section 3 against patient's best interests.
- NR is incompetent due to mental illness.
- Patient does not want NR to perform that role.
- NR does not want to perform that role

↓

If appropriate talk to NR and see if NR will authorise someone else to perform role. **Form NR1** to be completed – this can be revoked at any time

If the patient does not have NR the AMHP should advise them of their right to have one appointed and instigate proceedings. Ensure referral to IMHA made unless patient objects

If the patient states that they don't want their NR to perform the role but the AMHP believes the NR is appropriate advice the patient of their right to initiate displacement proceedings or the NR could authorise someone else by completing **Form NR1**

↓

AMHP to consider all the circumstances of the case and use their discretion as to whether to instigate proceedings

↓

Advice to be sought by AMPH from Local Authority Legal Department

Appendix 20 – Associated Documentation

Mental Health Act Forms	
Section 2	**A1** (application by Nearest Relative) or **A2** (application by Approved Mental Health Professional)
	A3 (joint medical recommendation) or 2 x **A4** (separate medical recommendations)
	H3 (record of detention in hospital)
Section 3	**A5** (application by Nearest Relative) or **A6** (application by Approved Mental Health Professional)
	A7 (joint medical recommendation) or 2 x **A8** (separate medical recommendations)
	H3 (record of detention in hospital)
Section 4	**A9** (application by Nearest Relative) or **A10** (application by Approved Mental Health Professional)
	A11 (note: only one medical recommendation is needed)
	H3 (record of detention in hospital)
Section 5(2)	**H1 Form** (medical report)
Section 19	**H4 Form** (authority for transfer from one hospital to another under different managers)
Section 20	**H5 Form** (renewal of authority for detention)

Other External Forms

Name	**Applicable to**
CQC AWOL Notification	Section 2, 3, 4, 5(2), 135 & 136
CQC Notification of in-patient death	Section 2, 3, 4, 5(2), 135 & 136
Section 136 monitoring form	Section 136