

Section 136 – Mental Health Act, 1983 Mentally Disordered Persons found in Public Places Inter-Agency Procedure



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Brief Summary of Document:	Procedure for the use of Section 136 – mentally disordered persons found in public places. Outlines the process for police officers to bring a person to a place of safety. Identifies appropriate places of safety across Carmarthenshire, Ceredigion and Pembrokeshire. Includes practical information for police officers and staff. Section 136 form is also included.
Scope	The procedure covers all areas of the HDUHB. It applies to police officers involved in implementing a Section 136 and all nursing staff, doctors and social workers involved with the person when they arrive at a place of safety.

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To be read in conjunction with:	363 - Hospital Managers Scheme of Delegation policy 625 - CTO policy 008 – Consent Policy 374– Mental Capacity Policy 743 - Sec 135 Policy 731 - Sec 17 Leave Policy 741 - Sec 132 Patients Rights Policy
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Owning committee/group	Mental Health Legislation Committee – Judith Hardisty, Vice Chair
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Reviews and updates		
Version no:	Summary of Amendments:	Date Approved:
1	New policy	29.10.14
2	Updated procedure to reflect the amendments to Section 136 following the implementation of the Policy and Crime Act 2017	13.09.18
3	Revised appendix C inserted	14.02.19
4.	Full 3 yearly review	

Glossary of terms

Term	Definition
AMHP	Approved Mental Health Professional – a professional with training in the use of the Mental Health Act, approved by a local authority to carry out a number of functions under the Act
RC	Responsible Clinician – the approved clinician with overall responsibility for the patient’s care
COP	Mental Health Act 1983, Code of Practice for Wales, Revised 2016 which provides statutory guidance to health professionals on how they should proceed when undertaking functions and duties under the Mental Health Act in Wales.
PACE	Police and Criminal Evidence Act (1984) is an Act of Parliament, which instituted a legislative framework for the powers of police officers in England and Wales to combat crime, and provided codes of practice for the exercise of those powers.
SEC 12 DOCTOR	A medically qualified doctor who has been recognised under Section 12 (2) of the UK’s Mental Health Act (1983) (amended in 1995, 2007), who has specific expertise in mental disorders and has received training in application of the Act.
RMP	A registered medical practitioner (Doctor) approved by the General Medical Council
DGH	NHS District General Hospital which provides secondary care facilities

Keywords	Section 136, Mental Health Act, Place of Safety
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1. 1. Introduction

The Health Board has a duty to ensure that all relevant functions of the Mental Health Act, 1983 (the Act) are applied and monitored. All staff caring for individuals should be familiar with the requirements of the Act and related documents. They must pay due regard to the MHA Code of Practice, apply the Code's guiding principles when carrying out their work.

This procedure has been jointly prepared and agreed between health, social services, third sector agencies, ambulance and police across the counties of Ceredigion, Carmarthenshire and Pembrokeshire.

2. Aim

This procedure provides guidance on Section 136 (sec 136) of the Act which provides police officers with the power to remove persons who appear to be suffering from a mental disorder and to be in immediate need of care or control, from any place other than a dwelling, to a place of safety in order that they may receive a mental health assessment and any necessary arrangements made for their ongoing care.

- All agencies that are party to this procedure are aware of their roles and responsibilities;
- Persons detained under section 136 MHA 1983 are treated with dignity, respect, without discrimination and are assessed as quickly as practicable;
- Persons with mental health issues detained for criminal offences, are processed with due regard to the law.
- All agencies focus on providing the best possible support for the detained person to enable a quick recovery and return to their place in the community.

3. Objectives

A person experiencing a mental health crisis should receive the best possible care at the earliest possible point. The legal changes introduced by the Policing and Crime Act 2017 were intended to improve immediate service responses to people who need urgent help with their mental health in cases where police officers are the first to respond.

The aim will be achieved through the following:

- To ensure section 136 of the Act is implemented lawfully
- To secure the competent and speedy assessment within 24 hours by a registered medical practitioner (RMP), preferably section 12 approved, and an approved mental health professional (AMHP)
- To ensure that the person is assessed in the most appropriate setting.

4. Scope

This procedure relates to all statutory agencies who fulfil a role in the undertakings and requirements of sec 136 of the MHA and who operate within the boundaries of Hywel Dda University Health Board.

5. Section 136 – Legal Framework

Under Section 136(1) of the MHA 1983, a police officer has the power to remove a person who appears to be suffering from a mental disorder and to be in immediate need of care and control.

- a) To a place of safety within the meaning of sec 136, or
- b) If the person is already at a place of safety within the meaning of that section, keep the person at that place or remove the person to another place of safety.

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A person removed to, or kept at a place of safety under this section may be detained there for a period not exceeding 24 hours for the purpose of enabling him to be examined by a RMP and to be interviewed by an Approved Mental Health Professional (AMHP) and of making any arrangements for their treatment or care.

6. Where section 136 power can be used

Sec 136 may be exercised where the mentally disordered person is at any place, other than a "private building" or its associated buildings or grounds which are defined as -

- any house, flat or room where that person, or any other person, is living, or
- any yard, garden, garage or outhouse that is used in connection with the house, flat or room, other than one that is also used in connection with one or more other houses flats or rooms.

Sec 136(1B) enables an officer to enter any place in which sec 136(1) applies if necessary by force, to remove a person if there has been a breach of the peace.

It is unlawful to coax or invite a person outside their property in order to implement sec 136 powers. Please refer to Sec 135 Policy if the person is in private premises and a warrant is required.

The Mental Capacity Act (MCA 2005) may also be appropriate in these circumstances and should be considered. Section 5 and 6 of the MCA do not confer an authority to remove persons to hospital or other places of safety for the purposes set out in section 135 and 136 of MHA, but if a person is believed to lack mental capacity and has physical injuries or is intoxicated (including a toxic overdose) which is believed to require immediate treatment it may be appropriate for the MCA to be used to convey the person to A&E for medical treatment. The MCA may be used by any caring service provider and are not exclusive to the Police. If the MCA is used, removal to a place of safety is not an option "R (Sessay) v South London and Maudsley NHS Foundation Trust (2011) EWHC 2617 (QB)". Police should only perform this over other agencies if the person is unmanageably violent.

7. Consultation with a health professional prior to use of sec 136

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

- a registered mental health nurse; (preferred option)

Although the Policing and Crime Act says consultation can be with a Doctor, AMHP, Paramedic or Occupational therapist the agreement with Dyfed Powys Police local protocol is that it must be a mental health nurse.

The police mental health team based at Headquarters are available to advise, support and signpost but officers cannot be consultees, it has to be a mental health professional.

The purpose of the consultation is for the officer, who is considering using their powers under sec 136, to obtain timely and relevant mental health information and advice that will support them to decide a course

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of action that is in the best interests of the person concerned. Advice is to be sought from the Mental Health Service Duty Manager or Out of Hours Clinical Coordinator (See Appendix A for contact information).

At consultation health staff should advise the officer if a sec 136 should be implemented and where to take the person that is most suitable for their assessment. Health staff should ensure that the advice given is recorded on the Care Partner system and if the person is not registered on the system they must generate a new mental health number.

The officer retains ultimate responsibility for the decision to use their sec 136 powers, having considered the advice given to them as part of any consultation. The officer should ensure that any consultation is recorded on the sec 136 Monitoring Form (Appendix D) and the STORM incident log, including who was consulted and the advice they gave.

The officer should ensure that any decision not to consult before using section 136 powers, and the reason, is also recorded.

Where a person is to be removed to, or kept at a place of safety, the health professional providing the advice must ensure that they contact the sec 136 place of safety to inform them that a person is on route with an expected time of arrival. If the place of safety is in use, the officer will be advised by the health professional to wait.

8. Protective searches

Following detention under sec 136 the officer **must** conduct a search of the person. This power does not authorise an officer to require a person to remove any of their clothing other than outer clothing but does authorise the search of the person's mouth.

An officer searching a person in the exercise of the power to search may seize and retain anything found, if he or she has reasonable grounds for believing that the person searched might use it to cause physical injury to him or herself or to others.

9. Accident and Emergency Department (A&E) for medical assessment and / or treatment

If it is established by the officer or the sec 136 suite staff that urgent medical attention is required, then the person should be conveyed to the local A&E department.

A&E legally falls within the definition of a place of safety, but it should ONLY be used as a temporary place of safety if the patient requires medical treatment that could not be otherwise provided by the mental health place of safety or police custody.

There will be occasions when officers will bring people to A&E if they have agreed to go there voluntarily for an assessment instead of being placed on a sec 136.

Where officers are involved in the transfer of a person detained under sec 136 to A&E, the officers will inform the Duty Nurse at A&E that they are in transit with a sec 136 and the DGH will direct them to the most appropriate place. The sec 136 detention starts under on arrival at A&E.

While awaiting medical assessment and treatment it will not be appropriate for the person to be left unsupervised.

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Officers must complete the sec 136 form upon arrival at A&E (detailing the time of detention) and where a person is transferred from another health based place of safety, and the original sec 136 form accompanies them.

Where the decision is taken to admit the person to a general ward a joint risk assessment and formal handover of responsibility will need to occur before the police officer can be discharged of responsibility for the custody and care of the individual and the hospital will continue to be the place of safety. .

If the individual is admitted to a general hospital ward for observation/treatment, the mental health assessment will take place during the 24 hour period. The general hospital ward staff and police will contact the duty service manager or out of hours manager to advise them that the person has been admitted to a ward and that they require an assessment under sec 136. The AMHP will liaise with the ward staff as to when it is appropriate for that assessment to take place. It may not be possible to undertake and interview in a suitable manner because of the individual's condition or treatment requirements then the doctor may need to consider extending the sec 136 period for a further 12 hours.

If A&E is not the designated place of safety then once A&E staff consider that the person is 'fit for discharge' then the person must be transferred by police to a place of safety for conclusion of the mental health assessment, where appropriate to do so.

10. Extending the detention period

The registered medical practitioner (RMP) who is responsible for the examination of a person detained under section 136 may, at any time before the expiry of the period of 24 hours authorise the detention of the person for a further period of 12 hours (beginning immediately at the end of the period of 24 hours) to a maximum of 36 hours, but only in very limited circumstances.

The authorisation may only be given if the RMP considers that the extension 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 period of 24 hours. 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 for reasons other than the patient's condition i.e. a delay in attendance of the AMHP or RMP is not a valid reason for extending detention.

If the person is detained at a Police Station, and the assessment would be carried out or completed at the Police Station, the RMP may give an authorisation to extend the maximum detention period but this must be approved by a Police officer of the rank of Superintendent or above as it would be unusual for a person to continue to meet the criteria to be held at a Police Station for up to 36 hours.

11. Health based place of safety

A person in mental health crisis should be taken to or kept at a place of safety that best meets their needs. It is preferable to keep patients within their home county for their assessment where they are known by their local team.

The expectation remains that, with limited exceptions, the person's needs will most appropriately be met by taking them to a 'health-based' place of safety - a dedicated sec 136 suite where they can be looked after by properly trained and qualified mental health and medical professionals.

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There will however, be situations in which it is appropriate to use other suitable places, or where other suitable places can supplement the use of health-based places of safety.

It has been agreed locally that adult persons (18 years and above) detained under sec 136 can (where appropriate) be conveyed directly to:

Please see Appendix C – Alternative Community Place of Safety (APOS) risk assessment and contact telephone numbers at Appendix A

Hywel Dda Places of Safety	Address
Bryngofal Ward – Designated POS	Cae Bryn, Prince Philip Hospital, Llanelli
Gorwelion – Community POS	Llanbadarn Road, Aberystwyth
Bro Cerwyn – Community POS	Bro Cerwyn, Fishguard Road, Haverfordwest
Morlais Ward (Under 18s)	Canolfan Gwenog, Glangwili Hospital, Carmarthen

In circumstances where there is no availability of a health based place of safety then officers are required to wait until the suite is vacant and staff are able to accept the person. That discussion should take place within the health consultation.

12. Children and young persons

Children of any age may be detained using sec 136 and any person under 18 may be taken into police protection using section 46 of the Children Act 1989. Information about the application of MHA powers to children and young people under the age of 18 is provided in Chapter 19 of the MHA Code of Practice for Wales. Police must also be aware of the Social Services and Well-being (Wales) Act, 2014 and that the young person gets the help and support they need.

Arrangements must be made, if not already done, for the attendance of an independent appropriate adult. The role and functions of the AMHP could be in conflict with assuming the role of the appropriate adult. A police officer is required to remain in attendance until there is an outcome to the assessment.

13. On detention

Following consultation the officer will:

- Request the attendance of an ambulance. (If an ambulance is not available the officer must record on STORM the outcome of the request and must utilise the most appropriate method of transport to ensure the safe and timely transfer of the person to the place of safety). Police vehicles should only therefore be used when it is the most appropriate method of transport; i.e. the person is behaving, or has behaved, violently.
- Contact the intended place of safety to check availability
- Provide an estimated time of arrival for the person to the place of safety and basic information about the case including whether the individual is intoxicated or under the influence of substances, whether the AMHP could be contacted and whether the individual will not be fit for assessment.
- Provide information of any risks identified.

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14. Conveyance

An assessment must be made jointly between the AMHP, officers and ambulance (if in attendance) which will include any risks to the health and safety of the person and any other affected people, to ensure that the person is transported in the manner most appropriate to their situation. This should be the least intimidating to them and most likely to preserve their dignity and that of their family. The specific needs of children should also be considered.

15. Criminal Offence / Arrest

Where a person is detained by the officer under sec 136 but has committed a criminal offence, the person should be arrested unless the offence is so minor as to be safely set aside. This might occur where the offending was very low-level, possibly 'victimless' and where the behaviour is most likely to be related to their mental health condition.

For offences which are not minor, it is ultimately up to the discretion of the arresting officer to decide if the person should be removed to police custody or to prioritise detention in a health based place of safety.

In these circumstances, the arresting officer must inform the person in charge of the place of safety so that arrangements can be made to take the person to police custody when appropriate following discharge of the sec 136. There must be no assumption by officers or anyone else, that the individual cannot be prosecuted because of their mental health condition. A thorough criminal investigation of the incident should occur on each occasion.

Sec 136 should not be used following an arrest for a criminal offence; if officers have concerns about a person's mental health who they have arrested, they must inform the custody sergeant who can arrange for a mental health assessment in police custody. Officers must also make the custody sergeant aware of any information they hold indicating the detainee has recently been in contact with mental health services.

If the person is drunk and there is no evidence of mental disorder, officers can consider dealing with the individual for drunkenness in a public place, drunk and disorderly or drunk and incapable or contact paramedics if there are concerns about the individual's physical health.

16. Use of Restraint

The use of physical restraint or force may be required when removing a person to, or in a place of safety, for the protection of the person or others (such as the public, staff or individuals). If physical restraint is used, it must be necessary and unavoidable to prevent harm to the person or others, and be proportionate to the risk of harm if restraint was not used. The least restrictive type of restraint must be used and the use of handcuffs, leg restraints and taser will be used as a last resort.

Where officers are involved in any prolonged restraint, they must treat the situation as a medical emergency and obtain emergency medical care for the person by summoning an ambulance to take the person to an accident and emergency department. The provision of such emergency medical care must take priority over the provision of mental health care.

Where staff from a health based place of safety are also involved in a restraint this should be documented and full procedures followed.

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17. Use of a police station

Section 136A(1) states that a Police Station may not be used as a place of safety for a person under the age of 18, in any circumstances.

A Police Station may only be used as a place of safety for a person aged 18 and over in the specific circumstances set out in The Mental Health Act 1983 (Places of Safety) Regulations 2017:

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

An Officer of at least the rank of Inspector must give authority for the use of a Police Station in such circumstances.

The healthcare professional will be required to check the welfare of the detained person at least every half hour and any appropriate action be taken for their treatment and care. The details of these checks should be recorded.

The Custody officer will be required to review, at least hourly, whether the circumstances continue to exist, i.e. that their behaviour poses an imminent risk of serious injury or death to themselves or others, and that because of that risk no place of safety other than a police station in the relevant police area can reasonably be expected to detain them.

In circumstances where the person is sleeping a review may be extended to once every 3 hours provided that the healthcare professional carrying out the half hourly checks has not identified any risk that would require them to be woken more frequently. During this time the half hourly healthcare professional checks should still continue, to assess whether the person is genuinely sleeping, whether such a period of sleep may be beneficial, or whether apparent sleep may be masking other physical symptoms such as a fit or unconsciousness for which urgent medical attention will be required.

The Custody officer will be required to arrange for a person to be taken to another place of safety in the following circumstances;

- i) The requirement that a welfare check be carried out every half hour or that a healthcare professional be present and available throughout the detention are not met, or
- ii) The criteria for using the Police Station as a place of safety no longer exist

However, there is an exception to the above requirements, in that, if arrangements have already been made for a mental health assessment to take place at the Police Station and postponing the assessment would cause distress to the person then transfer need not take place. This may be in circumstances where the AMHP is already on route and the assessment is likely to commence and where transferring the person to another place of safety would be likely to take longer than for the AMHP to arrive at the Police Station.

18. Police handover at the health based place of safety

18.1 The role of the nurse in charge

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The officer will deliver the person into the care of the hospital staff providing information as to the reasons why the sec 136 was implemented. The role of the nurse in charge is as follows:-

- Receive notification regarding the imminent sec 136 arrival and make necessary preparations
- Contact the AMHP
- Meet the person and officers, who will be invited to sit in the waiting area
- Ensure the police officer completes the sec 136 monitoring form (Appendix D)
- Scrutinise the sec 136 form to ensure that it has been completed in full by the officer
- Discuss with the officer whether they are required to remain until handover completed, joint assessment completed and staff are allocated to the sec 136 suite. (Officers are to be given regular updates on time requirement)
- If the person is intoxicated, the nurse in charge must undertake appropriate monitoring and make a judgement about the person's suitability for assessment
- Arrange the services of an interpreter if needed and consider those persons with any sensory needs
- Explain to the person their situation, what to expect and their rights under sec 136 in both verbal and written forms (Appendix E)
- Make entry on Care Partner
- Officers cannot be released if the person is violent, causing a breach of the peace or making attempts to leave.

If there are any questions or uncertainty as to the appropriate risk level, it may be necessary for the officer to remain to ensure the most appropriate outcome is achieved. If after one hour, the handover has not taken place, the matter must be escalated to the Duty Inspector and Duty Nurse.

Where a hospital is used as a place of safety staff must apply sec 132 (provision of information to patients detained under the Act) and ensure all provisions are applied with. This should be documented on Care Partner and a patient's rights proforma completed (Appendix E).

The assessment must be recorded on the sec 136 Monitoring Form (Appendix D). The RMP and AMHP must provide information on the outcome of the assessment. The completed form is to be submitted along with a person's rights proforma to the MHA administration team at the earliest opportunity for monitoring purposes.

18.2 The role of the AMHP

If the person is felt to have a mental disorder then the local authority has a duty to provide an AMHP to assess any person detained under sec 136. The AMHP must provide clear information to the person about their rights, taking into account any language, learning, or cultural needs. The AMHP shall keep the relevant police officers involved in the case fully informed throughout the assessment period and should also:

- Contact the hospital to notify their expected time of arrival as soon as is reasonably practicable. They should normally attend the place of safety within 4 hours from the initial request.
- Co-ordinate a full MHA assessment where required;
- Contact the on call doctor to review the person (one doctor required initially);
- Contact the detained persons nearest relative, friends or carers;
- Find out if a previous psychiatric history exists;
- Consider possible alternatives to admission to hospital;

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- Liaise with the nurse in charge or custody officer regarding progress;
- Complete an AMHP assessment form and attach it to the completed sec 136 form
- Make entry on Care Partner

Securing arrangements for admission to hospital remains the responsibility of the AMHP. Where it has been agreed that the police should resume their duties, they should not become re-involved in supporting any conveyance unless the risk assessment has altered.

If the person is released from detention with other suitable arrangements for care in the community, (if appropriate) this will be arranged by the AMHP.

If the individual is NOT detained under the Act, the AMHP in conjunction with other professionals will decide upon the most appropriate alternative available, e.g:-

- The individual's family can be requested to provide transport home.
- Other transport can be considered to convey the individual home including St Johns Ambulance.
- An agreement may be negotiated in exceptional circumstances, for the hospital to offer a bed overnight until alternative arrangements to return home can be made.

Each decision must be based on the individual's needs, wishes and circumstances. The nurse in charge will contact the police station to notify them of the outcome of the assessment.

18.3 The role of the Registered Medical Practitioner (Doctor)

Where a person has been detained under sec 136, they must be assessed by a doctor who will be required to:

- Assess the person and determine whether the person has a mental disorder and requires admission under the MHA. If it is felt that the person is not mentally disordered then the person can no longer be detained under the section and should be immediately released from sec 136 by the doctor (Code of Practice for Wales, paragraph 16.53). If a person has a mental disorder, they MUST also be assessed by an AMHP.
- When the assessing doctor is an NHS doctor they should ensure that where there is to be an application, a medical recommendation is completed and a hospital bed is available. This will be arranged directly with the ward where the person is being admitted.
- Those assessing the person must record the outcome of the assessment on the sec 136 form which will be made available to them by a qualified nurse
- Make entry on Care Partner (if NHS Doctor)

19. Examination/Assessment at places of safety

The person must not be kept in a place of safety longer than is necessary for the assessment to take place. The assessment process should aim to begin within 4 hours of the start of the sec 136 unless there are clinical grounds to delay the assessment.

Assessments must not be delayed in order to make care arrangements e.g out of area beds, CTO re-call arrangements. The person must be seen so that their immediate care needs can also be established.

The clinical grounds to delay an assessment being carried out are:

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- The person is too intoxicated with alcohol or drugs to be assessed
- The person is too physically unwell and has been transferred to A&E for treatment
- There is insufficient information about the person and it is necessary to delay the assessment until that information can be collated
- The person needs to be transferred between places of safety
- The person requires an interpreter including sign language
- The person has a specific need and the assessing team agree that it is appropriate to delay the assessment until the professional with relevant experience can be present/consulted.

Assessors should ensure that any reasonable adjustments are made for people with an impairment that constitutes a disability under the Equality Act, 2010.

Where individuals have specific needs e.g. Autism, Learning Disability, Hearing Impairment or are under 18, one of the assessing team should have knowledge and experience of working with those specific needs. If this is not possible, the team should be accompanied by, or consult someone with appropriate knowledge and experience as per the Code of Practice.

20. Treatment

Sec 136 does not give authority for treatment and consent must be sought for any treatment and it has to be medically necessary for treatment to be given. If the individual lacks capacity to consent, treatment could be considered under the Mental Capacity Act and also common law may be an option in an emergency. Treatment of under 17s who are not competent to decide about treatment could be given via parental consent. The reasons for treatment and the legal basis need to be documented on the sec 136 Monitoring Form (Appendix D).

21. Transfer between places of safety

Individuals 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. There is no restriction on the number of times that a person can be transferred. Unless it is unavoidable, a person should not be moved from one place of safety to another until it has been confirmed that the new place of safety is willing and able to accept them.

Except in an emergency, the agreement of an AMHP, a RMP or another healthcare professional competent to assess whether the transfer would put the person's health or safety (or that of other people) at risk should be obtained before the person is transferred from one place of safety to another. It is for those professionals to decide whether they first need to examine the person.

Where officers are involved in the transfer, the authority of an Inspector or above will be sought prior to the transfer taking place unless there is a need to respond to unmanageable high risk behavior, or the person needs to go to A&E because they require urgent medical attention.

22. Retaking a person who absconds escapes – Section 138 (MHA)

Sec 138 deals with powers to retake a person subject to sec 136 who escapes from the custody of the police officers.

- (i) Escape during removal to a place of safety

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Where a person escapes in the course of being removed to a place of safety under sec 136 they may not be retaken under this provision after a period of 24 hours has expired from the time of that escape.

(ii) Escape from a place of safety

Where a person escapes after arrival at a place of safety, they may not be retaken under this provision after the maximum time that they could have been detained in that place. In most cases that will be a total period of 24 hours but account also needs to be taken of any extension to that period (up to a maximum of 12 hours), where this has already been authorised by the medical practitioner, at the point of any escape.

23. Monitoring the use of section 136

The Mental Health Legislation Committee (MHLC) will monitor the use of sec 136 via the MH Scrutiny Group and will look for ways to further improve partnership working. The Dyfed Mental Health, Learning Disabilities and Criminal Justice Planning Forum as well as the Sec 136 County meetings and electronic dashboards also serve as groups responsible for examining the processes in place for multi-agency tasks and will investigate the difficulties which may arise from working within the legal framework of the MHA and share good practice issues. It will also provide a forum for the discussion of incidents highlighting concerns. Use of force is captured by the Health Board, audited and reported routinely. Returns on the use of sec 136 are sent quarterly to Welsh Government who also monitors its use across Wales.

24. Responsibilities

24.1 The Chief Executives of the Health Board and Local Authorities and Chief Constable

Are responsible for ensuring that responsibility for management of the legal and appropriate admission and care of persons is delegated to appropriate staff and are assuring this procedure is implemented across Carmarthenshire, Ceredigion and Pembrokeshire.

24.2 Mental Health & Learning Disability Lead Executive and Lead Executives for three local authorities

Are the Executive Directors who have overall responsibility for the effective delivery of MHA and related legislation and policies, ensuring that there are appropriate quality assurance mechanisms in place in relation to the guidance in this procedure.

24.3 Service Managers for three local authorities and Hywel Dda & Custody Inspectors

Have responsibility ensuring that teams implement MHA legislation and guidance observing the MHA Code of Practice. They are also responsible for ensuring systems are in place and monitoring of implementation within their area of responsibility, ensuring that all regulatory authority inspector reports are action planned and acted upon.

24.4 Team Leaders / Ward Managers / Custody Sergeants

Are responsible for ensuring all staff are conversant with the MHA Code of Practice, this policy and related policies. They must be aware of and ensure implementation of the processes and actions that are required to be taken in relation to persons in their service area. They must ensure that all employees in posts in the Health Boards clinical services are aware of their responsibilities in relation to the Act and attend appropriate training commensurate with their role.

24.5 Medical Staff / Section 12(2) Approved Doctors / Approved Clinicians

Hold a key role in the assessment processes that are required to be taken in relation to detention of persons under sec 136. They are responsible for ensuring their registration for the role they carry out is up-to-date.

HYWEL DDA UNIVERSITY HEALTH BOARD

24.6 Registered healthcare professionals

Are accountable for their own practice and must be aware of legal and professional responsibilities relating to their competence, observe legislation and guidance as detailed above and work within the Code of Practice of their professional body.

24.7 Health Board employees working in roles to provide healthcare in direct clinical contact with persons

Are responsible for carrying out procedures in line with the standards detailed in the Health Board's Polices and maintaining their individual competence in the practice of the Act and attending training as required by their roles

24.8 Approved Mental Health Professionals

Hold a key role in the assessment processes that are required to be taken in relation to detention of persons under sec 136. They are accountable for their own practice and must be aware of legal and professional responsibilities relating to their competence, observe legislation and guidance as detailed above and work within the Code of Practice of their professional body.

24.9 Dyfed-Powys Police officers

Dyfed-Powys Police will monitor each sec 136 detention to ensure officers adhere to the legislation relating to consulting a health practitioner (where practicable) prior to detaining a person under sec 136. They will also ensure procedures are carried out in line with the Act and act upon any instances where they are not. Their officers will receive briefings on current sec 136 policy and procedures and also undertake regular joint training.

25. References

Mental Health Act 1983 and all relevant amendments
Mental Health Act Code of Practice for Wales 2016
Mental Capacity Act 2005: Code of Practice (2007)
Mental Capacity Act: Deprivation of Liberty Safeguards Code of Practice (2008)
Mental Health Act, 1983 (Place of Safety) Regulations 2017
Memorandum of Understanding – The police use of restraint in MH&LD settings
Police and Criminal Evidence Act 1984 (as amended)
Police and Criminal Evidence Act 1984: Code of Practice (C) (2014)
Mental Health in Emergency Departments - The College of Emergency Medicine (2013)
Human Rights Act 1998
Data Protection Act 2018
Equality Act 2010
Policing and Crime Act 2017
Department of Health Guidance for the implementation of changes to police powers and places of safety provisions in the MHA 1983 – October 2017
Mental Health Crisis Care Concordat Royal College of Psychiatrists report, Standards on the use of Section 136 of the Mental Health Act 1983 (CR149 2008)

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SECTION 136 FLOW CHART FOR POLICE OFFICERS

Police Officer considers utilising Section 136 Powers

Prior to exercising this power you MUST consult (where practicable a health professional and record this consultation, including the name of the person you liaise with and the time
ALL CONSULTATIONS MUST BE UNDERTAKEN IN A PROFESSIONAL MANNER

CONSULTATION

During office Hours (09.00hrs – 17.00hrs)
Monday to Friday (excluding Bank Holidays)
Officer to contact 01554 781080 where you
will be directed to the Adult Mental Health
Duty Service Manager

CONSULTATION

Out of Hours:
Weekdays – 17.00hrs – 01.00hrs Friday
15.00hrs – Monday 08.00hrs

Contact Glangwili Switchboard on 01267 235151
and request to speak with the **Out of Hours
Clinical Co-ordinator for Adult Mental Health**

CONSULTATION

Monday – Thursday 01.00hrs – 09.00hrs
Ceredigion 01970 628964
Pembrokeshire 07775 581008 Carmarthen
07789 712447
Llanelli 07887 895175

At consultation MH Practitioner will offer advice to the officer on:

- Whether the person is known
- Any specific care plan in place or known risks that the officer should be made aware of (if known)
- Any alternative to a S136 eg. A review by the clinical team
- For Ceredigion & Pembrokeshire a discussion to agree if the individual meets the criteria for the alternative place of safety (APOS)

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Following discussion – MH practitioner will:

- Document discussion held with police officer on Care Partner system
- If the officer decides to detain the individual on a S136 the **S136 Risk Assessment** Document must be followed in order to agree the appropriate place of safety to use

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- All of the above requests for a police officer to stay with the person should be considered following a robust assessment
- Persons under the influence of alcohol/drugs – although persons may be intoxicated, that is not sufficient grounds on its own to indicate that a health-based place of safety is not appropriate
- There is no legal definition of “intoxicated”. Police officers are expert witnesses in presenting evidence of drunkenness and should apply the same process in this situation. Intoxication is not a reason for a person to be detained to Police Custody. This is also outlined in the Section 136 Inter Agency Procedure

Officer contacted
informed if the

are

Upon arrival at Place of Safety the officer completes Section 136 documentation and provides a handover to the nurse that will consist of events leading up to S136, information known by the police including historic and current risk factors

Officer can leave Place of Safety if none of the below apply OR when all agencies are in agreement

- There is a breach of the peace occurring
- There is a high risk of violence and the person poses a danger to themselves or others
- The person is trying to abscond

HYWEL DDA UNIVERSITY HEALTH BOARD

Section 136 – Mentally Disordered Persons Found In A Public Place
Please check that this is the most up to date version 19 Nov 21

Engaging With Someone In Mental Health Crisis

1. Approach the person in a calm manner and using open body language.
2. Try not to cross your arms/legs and use open ended questions which will encourage the person to give a free formed answer rather than a “yes” or “no” response. Actively listen to the person and respond in a kind and compassionate manner.
3. Attempt to ascertain the person’s details such as name and address and D.O.B if possible.
4. What has brought them to the attention of the Police? How are they feeling? What are the risks? What do they feel they could be best supported?
5. Establish whether the person could be under the influence of illicit substances and how this may affect their presentation.
6. Find out what support networks are in place, such as a carer or a support package.
7. Do they have a Care Co-ordinator in the Community Mental Health Centre (CMHC)? If they do, then contact their local Community Mental Health Centre (CMHC) Monday – Friday 09:00 -17:00hrs.
8. If they do not have a Care Coordinator then you can ask to talk to the Duty Senior Nurse on 01554 781080, who will advise further.
9. Outside of working hours - officers should liaise with the out of hours Managers via Glangwili Hospital switch board on 01267 235151

HYWEL DDA UNIVERSITY HEALTH BOARD

Guidance for officers when they are considering detaining a person in mental health crisis on a Sec 136 and when they attend Hywel Dda 136 facilities

- Officers should explore whether the person in crisis is willing to engage with an assessment by a Mental Health practitioner. If in agreement, this should be discussed as part of the consultation. This may be arranged to be undertaken in a local Community Mental Health Centre or the local Accident and Emergency Department.
- The officer considering placing a person on a Sec 136 **must where practicable, consult with a Mental Health Practitioner**. Consultation is about exploring the best options for the person in crisis, **not about locating an open Sec 136 suite**.
- Consultation will identify the best place and Practitioner to assess the person. **This can mean a reduced waiting time for assessment and will ensure best outcomes, support, and treatment for the person. The use of a Sec 136 should be avoided where possible and the least restrictive means used.**
- Outside of working hours - the officer can liaise with the out of hours Managers for consultation and information, to do this they would need to telephone Glangwili Switch Board and ask to be put through to the Out of Hours Clinical Coordinator.

Taking a Section 136 patient to a place of safety

At present, the Hospital Sec 136 suite is located in Bryngofal Ward based at Prince Philip Hospital. There is capacity for one person detained on S136. Bryngofal is a busy Acute Psychiatric Inpatient Unit comprising of up to 16 acutely unwell inpatients. Officers may need to wait a short time to ensure that a comprehensive verbal handover is given and that the 136 document is completed. **It is key that the Sec 136 document is completed to the required standard so that no vital information is missed. The document will be checked by the nurses then sent to the Mental Health Act Department for scrutiny.**

Nursing staff can provide officers with support and guidance on how to complete the Sec 136 document to ensure it is completed correctly.

- There are also two health-based community Alternative Places of Safety, one in Pembrokeshire (Bro Cerwyn) and one in Ceredigion (Gorwelion). Patients do not need to be detained on Sec 136 to be taken to these areas, however consultation should always occur prior to attending these areas with an individual. Each of these suites has capacity for one person at a time. There is also a Sec 136 suite at Morlais Ward, Glangwili which is specifically for under 18's.
- If the person on the Sec 136 is aggressive or presenting with challenging behaviours, then there would be a need for nursing staff and officers to support each other to manage the person safely. This should be reviewed jointly in accordance with the person's presentation so that the officers can leave when it is safe to do so.

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If there are concerns around whether a detained person is medically fit or requiring medical treatment, officers will need to take the person to the local A&E or Minor Injuries Unit to ensure that they receive the appropriate medical treatment.

List of useful numbers

Pembrokeshire CMHT	01437 773157
Pembrokeshire CRHT	01437 772854 / 07775581008
Carmarthen CMHT	01267 236017
Carmarthen CRHT	01267 674083
Llanelli CMHT	01554 772768
Llanelli CRHT	01554 745771 / 07887895178
Ceredigion CMHT	01970 615448
Ceredigion CRHT	01970 628964
Bryngofal Ward	01554 745752
Morlais Ward	01267 674061

HYWEL DDA UNIVERSITY HEALTH BOARD

Appendix C

S136 Risk Assessment Document to determine requirement for; Alternative Place of Safety or Health Place of Safety HPOS

Risk Factors to consider during a S136 consultation

Health, Local Authority and Police should agree a plan to manage the individual detained ahead of the interview process

Current or recent indicators of Low Risk.	Current or recent indicators of Medium Risk	Current or recent indicators of High Risk.
<p>Demeanour</p> <p>Not presenting with any concerns in regards to behaviour.</p>	<p>Demeanour</p> <p>Behavioural concerns reported but would not prevent an interview with AMHP and Dr with a police presence.</p>	<p>Demeanour</p> <p>Currently presenting with unmanageable behaviours.</p>
<p>Physical or Sexual Violence</p> <p>No current evidence of any violence. No historical evidence.</p>	<p>Physical or Sexual Violence</p> <p>Current or historical acts of violence. <i>Consider police arrest.</i></p>	<p>Physical or Sexual Violence</p> <p>Current violence requiring police management. <i>Consider police arrest.</i></p>
<p>Substance Misuse</p> <p>No or low evidence of misuse currently</p>	<p>Substance Misuse</p> <p>Some evidence of use but an interview with an AMHP and Dr can be undertaken within an hour.</p>	<p>Substance Misuse</p> <p>Heavily Intoxicated or withdrawal from substances. <i>Consider need for physical assessment. Assessment cannot be undertaken.</i></p>
<p>Absconding Risk</p> <p>No risk currently</p>	<p>Absconding Risk</p> <p>Medium risk of absconding</p>	<p>Absconding Risk</p> <p>Evidence of current or historical risk of absconding without a police presence</p>
<p>Police will not usually be required to remain with the patient, assessment should be undertaken within an hour</p>	<p>If the AMHP and Medic can attend in a timely manner and the police remain the assessment can be undertaken at the APOS Otherwise transfer to HPOS.</p>	<p>If the AMHP and Medic can attend in a timely manner and the police remain the assessment can be undertaken at the APOS Otherwise transfer to HPOS.</p>

Other factors to consider

Is police arrest required post assessment if discharged off S136, if so police should remain so if not detained, the police can progress the arrest.

If a HPOS is indicated

A discussion with Bryngofal staff **must** happen prior to utilising the Hospital 136 place of safety. Out of hours, this would need to be discussed with the out of hour's clinical coordinator and in hours the ward manager.

Should the individual's presentation change whilst in the alternative place of safety and risks escalate the Police should support the management of the patient in the APOS rather than immediate transfer to hospital place of safety.

October 2021

HYWEL DDA UNIVERSITY HEALTH BOARD

Appendix D



Section 136 Mental Health Act 1983 Monitoring Form

Police Reference Number (STORM):.....

Health Board Reference:.....

GREEN SECTIONS TO BE COMPLETED BY HEALTH BOARD PERSONEL ONLY



1. Personal Details

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Name:			
Date of Birth:			
Gender:	Male	Female	Other (Please Specify)
Ethnicity:	Self-defined:		If not self-defined, list from 2011 census to be referred to (see end of form)
Preferred Language:			See end of form for full list of languages
Is a Translator required?	Yes/No		

2. Details of Police Encounter

Date of officer encounter	Date:				
Time of officer encounter (24hr clock)					
Address/Location Details					
Officer encounter with patient	<input type="checkbox"/> Response to call <input type="checkbox"/> Referral <input type="checkbox"/> During contact in public place				
Police officer concern for person's Mental Health	<input type="checkbox"/> Actual harm to self <input type="checkbox"/> Actual harm to others <input type="checkbox"/> Risk of harm to self <input type="checkbox"/> Risk of harm to others <input type="checkbox"/> Behaviour difficult to explain				
Is the person suffering from the effect of alcohol or drugs?	Alcohol	Drugs	Both	No	Not Known

Any Additional Information Surrounding Occurrence/Detention:

3. Consultation Process and Action Taken

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Police Officer consultation (Policing and Crime Act) with health professional	<input type="checkbox"/> Triage Team Nurse <input type="checkbox"/> CRHT (Crisis Team) <input type="checkbox"/> CMHT (Community Mental Health Team) <input type="checkbox"/> Approved Mental Health Professional (AMPH) <input type="checkbox"/> Registered Medical Practitioner <input type="checkbox"/> Registered Nurse <input type="checkbox"/> Registered Psychologist <input type="checkbox"/> Registered Occupational Therapist <input type="checkbox"/> Paramedic <input type="checkbox"/> Other (please specify)		
Name of person consulted with			
Date and time of consultation	Date:	Time:	
If consultation not practicable state reasons why			
Is the person already known to mental health services?	Yes	No	Not Known
Outcome of consultation	<input type="checkbox"/> S.136 powers exercised <input type="checkbox"/> S.136 powers exercised against consultation advice <input type="checkbox"/> Voluntary mental health assessment <input type="checkbox"/> Voluntary referral to mental health services <input type="checkbox"/> Mental Capacity Act <input type="checkbox"/> Other (please specify)		
Detaining Police Officer details (name, collar number and station)			
Date S.136 powers exercised			
Time S.136 powers exercised (24hr clock)			
Has the person been detained under S136 before?	Yes	No	Not Known

4. Restraint

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Was physical restraint used during the initial encounter?	Yes/No	If yes, provide details
Was physical restraint used during transport?	Yes/No	If yes, provide details
Was physical restraint used at the place of safety?	Yes/No	If yes, provide details
Use of force form completed?	Yes/No	

5. Place of Safety (PoS)

Was the person initially taken to A&E for illness or injury?	Yes/No	
	Details:	
	If yes, time of arrival (24hr clock)	
	If yes, time of departure (24hr clock)	
Location of 1st place of safety	<input type="checkbox"/> Agreed Health Based <input type="checkbox"/> PoS Police Station <input type="checkbox"/> A&E Department <input type="checkbox"/> Other (please specify)	Name of location Was the person search prior to entering the PoS? Yes/No
Arrival at agreed 1st Place of Safety	Date:	Time:
Conveyance method (if not already there and kept at place of safety)	<input type="checkbox"/> Ambulance <input type="checkbox"/> Police Vehicle <input type="checkbox"/> Other Health Vehicle <input type="checkbox"/> None (if already at PoS) <input type="checkbox"/> Other (please specify)	*If police vehicle used, please state reason why <input type="checkbox"/> Ambulance not available with 30 minutes <input type="checkbox"/> Ambulance not requested <input type="checkbox"/> Police or police/ambulance risk assessment <input type="checkbox"/> Ambulance crew refused to attend <input type="checkbox"/> Ambulance re-tasked to higher priority call <input type="checkbox"/> Not known
Date officer released from PoS		
Did officer stay with patient at PoS	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, length of time officer stayed:
Location of agreed 2nd place of safety	<input type="checkbox"/> Agreed Health Based <input type="checkbox"/> PoS Police Station	Name of location

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	<input type="checkbox"/> A&E Department <input type="checkbox"/> Other (please specify)	
Reason for transfer		
Arrival at agreed 2nd Place of Safety	Date:	Time:
Conveyance method to 2nd place of safety	<input type="checkbox"/> Ambulance <input type="checkbox"/> Police Vehicle <input type="checkbox"/> Other Health Vehicle <input type="checkbox"/> None (if already at PoS) <input type="checkbox"/> Other (please specify)	*If police vehicle used, please state reason why <input type="checkbox"/> Ambulance not available with 30 minutes <input type="checkbox"/> Ambulance not requested <input type="checkbox"/> Police or police/ambulance risk assessment <input type="checkbox"/> Ambulance crew refused to attend <input type="checkbox"/> Ambulance re-tasked to higher priority call <input type="checkbox"/> Not known
Location of agreed 3rd place of safety	<input type="checkbox"/> Agreed Health Based PoS <input type="checkbox"/> Police Station <input type="checkbox"/> A&E Department <input type="checkbox"/> Other (please specify)	Name of location
Arrival at 3rd agreed place of safety	Date:	Time:
Reason for transfer		
Conveyance method to 3rd place of safety	<input type="checkbox"/> Ambulance <input type="checkbox"/> Police Vehicle <input type="checkbox"/> Other Health Vehicle <input type="checkbox"/> None (if already at PoS) <input type="checkbox"/> Other (please specify)	*If police vehicle used, please state reason why <input type="checkbox"/> Ambulance not available with 30 minutes <input type="checkbox"/> Ambulance not requested <input type="checkbox"/> Police or police/ambulance risk assessment <input type="checkbox"/> Ambulance crew refused to attend <input type="checkbox"/> Ambulance re-tasked to higher priority call <input type="checkbox"/> Not known
Reason officer required to remain with detained person	<input type="checkbox"/> Risk assessment (aggression, risk of absconding)	Comments:

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	<input type="checkbox"/> Breach of the Peace) <input type="checkbox"/> Place of safety not forewarned of arrival <input type="checkbox"/> Availability of health staff <input type="checkbox"/> Delay in locating a hospital bed (if required) <input type="checkbox"/> Other <input type="checkbox"/> No delay	
If police custody used as a place of safety for a person aged 18 or above, brief outline of reasons	Joint risk assessment of imminent risk of serious harm or death to self and/or others	Details of authorising officer (must be rank of Inspector or above)

Time the person explain rights when kept at or on arrival at the place of safety	Time:	Information provided by:
Time Local Authority/ informed of S136detention	Name of AMHP:	Local Authority Area:
	Date:	Time:
Name of 1st Assessing Doctor	Name:	S12 (2) Approved - Yes/No
Name of 2nd Assessing Doctor (if required)	Name:	S12 (2) Approved - Yes/No
Date and time assessment started	Date:	Time:
Date and time assessment concluded	Date:	Time:
Extension of 12 hour period required agreed	Name of Responsible Medical Practitioner:	
	Date:	Time:
	Reason for extension:	Intoxication
		Physical Health
	Reason if declined:	

6. Outcome of Assessment

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- Informal admission to hospital
 - Ambulance not requested Admitted to hospital under Section 2 of the MHA
 - Admitted to hospital under Section 3 of the MHA
 - Discharged from S.136 with community/outpatient care plan
 - Discharged from S.136 - no follow-up care and support needed
 - Any Other, please specify
-

Detention under S.136 ended	Date:	Time:
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HYWEL DDA UNIVERSITY HEALTH BOARD

Received at Mental Health Act Department by:

Details:		Date:
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Ethnicity

- Welsh
- English
- Scottish
- Northern Irish
- British
- Irish
- Gypsy or Irish Traveller
- Any other White background - please specify
-
- White and Black Caribbean
- White and Black African
- White and Asian
- Any other Mixed/Multiple ethnic background - please specify
-
- Indian
- Pakistani
- Bangladeshi
- Chinese
- Any other Asian background - please specify
-
- African
- Caribbean
- Any other Black/African/Caribbean background - please specify
-
- Arab
- Any other ethnic group - please specify
-
- Unknown

Preferred Language	
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HYWEL DDA UNIVERSITY HEALTH BOARD

Welsh	Kurdish
English	Lingala
Akan (Ashanti)	Luganda
Albanian	Makaton (Sign Language)
Amharic	Malayalam
Arabic	Mandarin
Bengali & Sylehti	Norwegian
British Signing Language	Pashto (Pushtoo)
Cantonese	Patois
Cantonese & Vietnamese	Polish
Creole	Portuguese
Dutch	Punjabi
Ethiopian	Russian
Farsi (Persian)	Serbian/Croatian
Finnish	Sinhala
Flemish	Somali
French	Spanish
French Creole	Swahili
Gaelic	Swedish
German	Sylheti
Greek	Tagalog (Filipino)
Gujarati	Tamil
Hakka	Thai
Hausa	Tigrinya
Hebrew	Turkish
Hindi	Urdu
Igbo (Ibo)	Vietnamese
Italian	Yoruba
Japanese	Other – please specify in 'Comments' (indicator 17)
Korean	Unknown

