



Crisis Incidents in Private Premises

&

Mental Health Welfare Checks

Strategic Intention:

- Ensure the safety, the dignity and the rights of the public are placed at forefront of all WMP decisions on policing and mental health.
- Ensure collaborative partnerships operate effectively.
- Ensure deployments to welfare checks and crisis incidents are timely, proportionate, necessary and lawful.
- Ensure WMP fulfils its responsibilities to protect life as well as under the Mental Health Act 1983 and its Code of Practice.
- Ensure WMP is not operating beyond its legal authority.
- Ensure WMP officers are not operating beyond professional competence.

WMP recognises its responsibility to protect life, in accordance with law – where concerns exist for someone’s welfare arising from their mental health, officers have legal powers to support safeguarding attempts for the purpose of saving life or limb or to prevent a Breach of the Peace which the officer reasonably anticipates will occur imminently. If there is less than an immediate or imminent threat then there may be considerable problems when police officers are asked to confirm that someone is ‘safe’ and ‘well’. The police service is under a duty to mitigate risks and threats to life where the criteria in the case of *Osman v UK* and / or *Syed v DPP* are satisfied.

For these reasons, WMP make the following ‘offer’ –

- Where there is a risk to life (see *Osman / Syed*), WMP will despatch police officers to attend locations and take reasonable and lawful steps to mitigate that risk, using available powers.
- Where there is a less immediate or imminent threat, but where a Breach of the Peace is anticipated, WMP will agree to despatch officers in support of other agencies to mitigate the risk of that Breach (see below). Responsibility for clinical assessment remains with the caller.
- Where there is no threat to life and no anticipated Breach of the Peace, then that individual should be assessed by appropriate healthcare professionals in order that the person is not frightened or stigmatised by the unnecessary presence of the police.
- In a situation where WMP officers are present at an incident where the safety and wellbeing of an individual are in doubt, they will restrict themselves to matters within their competence:
- **This will include and will be limited to:** confirmation of the person’s presence; any immediate threats to life and limb (and officers will act to mitigate them); and any assessment of whether police powers could or should be lawfully applied (ie, s136 MHA, criminal or common law, or intervention under the Mental Capacity Act 2005).

No confirmation can or will be given of whether someone is ‘safe’ and ‘well’, in this context because of the inherent unreliability of assessments by officers who have coercive authority.

BREACH OF THE PEACE

This legal concept is widely misunderstood, both within and without the police service. For the avoidance of all doubt, the definition is contained in the leading case of *R v Howell* [1982] QB 416. A breach of the peace occurs where –

“Harm is done or likely to be done to a person or, in their presence, to their property; or puts that person in fear of such harm being done through an assault, affray, a riot, unlawful assembly or other disturbance.”

Any action taken by police officers to use or to threaten the use of legal powers needs to be justified in law. As such, information supplied by callers and other agencies is a crucial part of any assessment of the proportionality and lawfulness of officers’ action. Any necessary justification for police intervention (or lack of) will need to make express reference to the threat (and risk assessment) arising from information supplied to WMP in 999 calls, or any other communications.

Upon receipt of a request to undertake a welfare (or 'safe and well') check which centres on concerns about someone's mental health, the following questions need to be considered as part of the THRIVE+ assessment:

- **Is this assessed to be a 'life and limb' situation?** – there is a duty on the police service to protect life, but no obligation upon the service to undertake welfare checks outside of this obligation. Police officers and staff will most usually lack the required competence to assess safety and wellbeing in a meaningful or clinical way. Therefore deploying officers could place them in a difficult position, which may be beyond their authority and competence.
- **Is the location of the person known?** – this question is necessary to ensure we prevent confusion between a welfare check, a missing person and what is being asked of the officer.
- **Are we being asked to support other agencies, or provide cover for them?** – nothing prevents the police attending in support of other professionals where this is genuinely necessary to prevent a Breach of the Peace. The likelihood of such a Breach must be objectively assessed on the balance of probabilities.

YOU NOW HAVE THREE OPTIONS

- **Where the location of a person is not known** – and there is a concern for welfare, refer to Force Policy on Missing People including where the person is absent without leave (AWOL) under the Mental Health Act. >> [See 'Offer' on AWOL Patients.](#)
- **Where the location of the person is known** – and it is accepted there is a threat to life and limb (the *Osman / Syed* cases), police officers *must* be despatched as they may be able to exercise powers to force entry and take urgent action to safeguard the person or mitigate the risk.
- **Where there is no evidence of such risks** – this presents difficulties, if officers are asked to give assurances concerning safety and wellbeing. As such, where other organisations make such requests and there is no indication of a risk to life, these requests should be declined and the requesting organisation advised to resolve this in another, more appropriate way.

Neither WMP Contact Handlers nor WMP Officers will give an assurance to another agency that someone is 'safe and well' arising from concerns about that person's mental health.

- **We do not have the training or authority to determine this** – mental health assessment is not a role for police officers and past events show the presence of police officers may have an unintended effect on an individual and can lead to unreliable conclusions being drawn about safety and wellbeing. This may be despite the officers' best efforts to be supportive and helpful.
- **We may only confirm:** the person's location, whether there is any obvious concern for serious illness or injury (in which case, an ambulance should be called) and inform the caller of this, where justified. Further assessment of safety and wellbeing where there is no on-going threat to life and limb is a matter for **the ambulance service, a GP or a mental health service and referrals to the appropriate agency should be (urgently) made, if necessary.**

OPERATIONAL OFFICERS Crisis & Welfare

The Force will only deploy officers to welfare checks connected to someone's mental health if the issue involves a threat to life or limb; OR where officers are acting in support of other agencies to undertake statutory functions or prevent a breach of the peace. Officers may also find themselves at other incidents which involve MH crisis issues in private premises where s136 cannot be used.

Contrary to public perception, police officers cannot give an informed or reliable assessment to others regarding someone's safety and wellbeing where those concerns arise from their mental health. It is **vital** police officers **do not over-reach their competence and legal authority** by giving such assurances. Past events have shown that the involvement of the police can have unintended or unforeseen consequences despite officers trying their diligent and professional best to support vulnerable people and work collaboratively.

Where deployed to a welfare check or 999 calls because of an imminent threat to life and limb, officers may consider the relevance of the following legal powers:

- **Section 17(1)(e) PACE** – power to force entry to save life and limb where there are reasonable grounds to believe the person is on the premises.

Once upon premises, officers should consider should these powers in the following order:

1. **Sections 5/6 Mental Capacity Act** – have you found a life-threatening or life-altering situation which is already deteriorating or likely to do so in respect of an adult who lacks capacity to take decisions? If so, call an ambulance and act accordingly to protect life.
2. **Section 46 Children's Act 1989** – if similar concerns exist for children: consider a PPO.
3. **Criminal or Common Law** – if the above powers do not apply and there are attempted or substantive offences involved, consider criminal law or Breach of the Peace powers to prevent offences and harm. Remove to police custody unless A&E is required for urgent medical reasons (call an ambulance).
4. **Mental Health Act 1983** – officers have *no powers* under the MHA in private premises where someone lives. If section 136 cannot be lawfully applied because of the location in which someone is found, officers must form a view on whether they would consider making use of s136 had the person had been found outside a dwelling.

Refer this incident at this stage to a sergeant or inspector and inform them of your 136 assessment opinion, despite this incident occurring in a dwelling.

- **Absent Without Leave Patients** – [See the 'Offer' on AWOL Patients.](#)
- Information to be provided to another agency or the caller should be limited to: the fact of the person's presence; whether or not they are alive, breathing and conscious (action being taken, if not); and the assessment that officers have no legal powers in the particular situation.

Do NOT confirm the person is 'safe' or 'well' – 'ABC' only and 'here now'.

Where officers attend welfare checks or MH crisis incidents in people's homes, they may have legal authority to keep someone safe from imminent harms (see previous page) but officers do not always have powers to act where non-imminent, non-life threatening vulnerabilities exist. Liaison with other agencies may be necessary in order to allow professionals with other legal powers and skills to safeguard people in the least restrictive or lawfully appropriate way.

Force policy requires officers in these situations to refer matters to a supervisor so they may focus on the person whilst that liaison occurs. Officers should seek advice from MH Triage or a MH Tactical Advisor, if available. The following points will be relevant to supervisors' assessments, ahead of any decision to withdraw officers from a situation where they have done all they legally can, but where concerns may remain for someone's welfare:

- **Section 13 MHA** – if a Local Authority has reason to think that an application for admission to hospital “*may need to be made*”, they have a duty to ensure arrangements are in place to allow for this. It may take time, but is an available tactical option.
- **Section 136 MHA** – officers in this situation are asked to decide whether they would consider use of s136 MHA, had it been lawful to do so. This may indicate an application for admission “*may need to be made*”, as more approximately 50% of detentions by WMP under s136 lead to hospital admission. This view may influence AMHP decisions under s13 MHA.
- **The Sessay case (2011)** – this case in the High Court involved police officers improvising their way through a mental health crisis incident in private premises by attempting to rely on the Mental Capacity Act to justify removal to hospital. The court ruled the MCA cannot be used to remove someone from their home where this is solely for the purposes of MHA assessment, as if the person had been detained under s135 or s136 MHA. >> [See ‘Offer’ on the MCA.](#)
- **Section 4 MHA & Section 135(1) MHA** – *Sessay* reminded us that Local Authorities have responsibilities to ensure AMHPs are available to undertake MHA assessments where required and this may include urgent assessment for admission under s4, from time to time; OR they may secure a warrant from a Magistrate under s135(1) to remove someone to a place of safety.

If officers escalate such a situation to supervisors, support in liaising with other agencies should be given so officers may focus on the person within the incident where circumstances and events may be uncontrolled and involve risk.

- Any referral to an AMHP service, via a mental health triage or via EDT / Crisis Team **requires** a decision from that agency about whether they accept the need to undertake a MHA assessment or whether they are declining to do so and advising any another action.

All details concerning these events should be documented on the incident log, along with the decision-maker's name and professional position. It may not always be possible to protect against all potential risks by lawful means and on occasion Coroners Courts and the IOPC have accepted this, following investigations. A key issue for officers will be that their conduct is defensible, clear and that they have documented any decision-making according to the NDM and in light of the available information and in accordance with relevant legal powers.

