

On the Horizon



Week ending 2 November 2017

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**WEST YORKSHIRE
POLICE**

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<u>Protect the vulnerable</u>	<u>Attack criminality</u>	<u>Reduce crime</u>
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Protect the vulnerable

Significant Changes from 11 December 2017 to Police Powers and Places of Safety Provisions in Mental Health Act 1983

Information Source: www.legislation.gov.uk

SI 1017/2017, **The Policing and Crime Act 2017 (Commencement No 4 and Saving Provisions) Regulations 2017** has confirmed full commencement of sections 80-83 of the Act, subject to specified saving provisions will take place from 11 December 2017.

These sections make significant changes to police powers under the Mental Health Act (MHA) 1983 including:

- Amendments to s.136 of the MHA 1983 to require police officers to obtain advice from a doctor, nurse, approved mental health professional or other approved person prior to exercising their powers of detention under this section, unless the officer judges it not to be practicable to do so.
- Preventing use of police cells as a place of safety in any circumstances where the detainee is under 18 years of age. Also, the Secretary of State will be able to introduce further regulations (*see SI 1036/2017 below*) to restrict the circumstances in which police cells may be used as a place of safety for adults aged over 18 and the treatment of such persons when so detained. According to the explanatory notes to the 2017 Act, the regulations are likely to include considerations police officers and healthcare professionals must take into account for decision making on whether a person should be most safely managed in a police station or somewhere else; and the related procedural steps.
- Changes to the maximum periods of detention in places of safety and their extension by a responsible medical practitioner.
- Changes to provisions around protective searches relating to individuals removed under sections 135 and 136 MHA 1983, including widening the definition of a place of safety to enable the police to:
 - Conduct such searches of a person in places where officers may not currently have explicit search powers; and
 - Search a person detained under these provisions if they have reasonable grounds for believing the person has a dangerous item concealed on them and presents a danger to themselves or others.

Further legislation and guidance relating to these changes are:

SI 1036/2017 - The Mental Health Act 1983 (Places of Safety) Regulations 2017

These regulations specify the circumstances in which a police station can be used as a place of safety for an adult (i.e. someone over 18 years old) considered to be suffering from a mental disorder for the purposes of sections 135 and 136 of the MHA 1983, as amended by the Policing and Crime Act 2017.

Where a police station is used for such purposes, this SI describes the safeguards and steps that must be taken to protect the person detained.

Also, it provides that occupational therapists and paramedics are part of a wider group of healthcare professionals, one of whom must be consulted by a police officer prior to removing the person appearing to suffer from a mental disorder to any place of safety - where it is practicable to do so.

Department of Health/Home Office - Guidance for the implementation of changes to police powers and places of safety provisions in the Mental Health Act 1983, October 2017

Of particular interest to relevant professionals in police forces, mental health services, clinical commissioning groups and ambulance services, this non-statutory guidance relates to the significant amendments being made to police powers and places of safety provisions.

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Taking a chronological approach to how cases might be dealt with, it aims to identify the most significant changes to the MHA and their likely impact on local policy and procedures. According to the Home Office, this document is anticipated to be the main form of initial advice to help areas prepare for and implement these changes; and may also be used for revisions to existing training courses and other internal guidance used by individual forces and other relevant organisations.

The Mental Health Act 1983 Code of Practice for England, last revised in 2015, will also be amended to reflect the new arrangements in due course.

In addition to the above, SI 1017/2017 stated section 162 of the Policing and Crime Act 2017 will be brought into force from 13 November 2017. This amends the Courts Act 2003 in order to introduce a new section 86A which will require all defendants in a magistrates' court of Crown Court to provide their name, date of birth and nationality.

Currently, there is no offence for not doing so; and no requirement to state or record information on a defendant's nationality. Going forward, it will now be an offence to provide false or incomplete information on these details when requested by the court.

The Home Office also published an updated Commencement Schedule on its website for the Policing and Crime Act 2017 which reflects the above.

New Arrangements and Statutory Guidance for Child Safeguarding from April 2018 – Consultation Launched

Information Source: Department for Education website

Views are sought from stakeholders and all other interested parties on the planned introduction from April 2018 of significantly revised key statutory guidance for child safeguarding, Working Together to Safeguard Children and further associated new regulations.

Largely reflecting important legislative changes from the same date in provisions of the Children and Social Work Act 2017. This overview document for the consultation provides a summary of the changes being made to specific chapters in the main statutory guidance Working Together, which sets out what is expected of organisations, both individually and jointly, to safeguard and promote the welfare of children.

Included as annexes are the following draft secondary legislation:

- The Local Safeguarding Partner (Relevant Agencies) (England) Regulations 2018; and
- The National and Local Child Safeguarding Practice Review (England) Regulations 2018.

Published alongside the main consultation document were:

- **Working Together to Safeguard Children - A guide to inter-agency working to safeguard and promote the welfare of children (April 2018).**
- **Local safeguarding - transitional arrangements - Statutory guidance for Local Authorities, LSCBs, safeguarding partners, child death review panels and the Child Safeguarding Practice Review Panel (April 2018).** All the above bodies must have regard to this guidance when organising and carrying out their transition from the current child safeguarding regime involving LSCBs and serious case reviews (SCRs) to the new system as set out in the provisions of the Children and Social Work Act 2017. However, it will cease to apply when:
 - The Child Safeguarding Practice Review Panel is established and operational;
 - All Local Authority areas in England have completed their transition; and
 - The grace period for LSCBs to complete any outstanding SCRs ends.
- **Child Death Review - Statutory Guidance (October 2017).** This guidance is applicable to all organisations involved in the process of reviewing the deaths of children including the police and coronial services; and should be complied with unless exceptional circumstances arise in order to respond to each child death,

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from any cause, in an appropriate manner. Issued under section 16Q of the Children Act 2004, as inserted by the Children and Social Work Act 2017, it is intended to clarify processes and set out a series of high level principles for how professionals across all agencies involved should work together, with the objectives of:

- Improving the experience of both bereaved families and professionals involved in care for children; and
- To ensure information from the child death review process is captured in every case for the purposes of organisational learning and preventing future deaths.

Proposals to Improve Access to Social Housing for Victims of Domestic Abuse

Information Source: Department for Communities and Local Government (DCLG) website

Views are being sought by DCLG from interested parties on proposed new statutory guidance intended to support Local Authorities in assisting victims of domestic abuse who are residing in refuges or other forms of safe temporary accommodation to access social housing.

This follows findings from a joint Home Office/DCLG review conducted in 2015 which highlighted the need for domestic abuse to receive earlier assistance before reaching crisis point, for which housing provision is considered a key element.

It makes clear these victims should be treated as a priority for housing and those who have relocated from refuges in another area should not be disadvantaged. Also, DCLG are proposing to encourage Local Authorities to make better use their existing powers to assist victims to remain in their own homes without the perpetrator, if they wish to do so. The document will build on and clarifies existing guidelines covering exceptions to the residency tests applied to social housing claims and give priority to the most vulnerable members of society.

In the accompanying press release, DCLG is also stated the Domestic Violence and Abuse Bill 2017-19 which was referred to in the Queen's Speech in summer 2017 will be introduced shortly.

The closing date for responses, using an online form or by email to AllocationGuidance@communities.gsi.gov.uk is 5 January 2018.

Multi-Agency Public Protection Arrangements (MAPPA) – Annual Report 2016/17 Published

Information Source: Ministry of Justice website

The annual bulletin providing figures for the number of offenders managed under MAPPA during the financial year 2016-17 has been released by the Ministry of Justice, covering:

- Numbers by three MAPPA levels and three categories of offender eligibility;
- Breaches of various types of restrictive orders such as Sexual Harm Prevention Orders (SHPOs) and Sexual Risk Orders (SROs);
- Returns to custody; and
- Serious further offences committed.

Headlines included:

- As at 31 March 2017, there were a total of 76,794 MAPPA-eligible offenders, up 7% compared to the previous year. Of these:
 - 72% were Category 1 - Registered Sex Offenders;
 - 27.6% Category 2 - Violent offenders; and
 - Less than 0.5% were Category 3 - Other Dangerous Offenders.
- 98% of all cases were managed at Level 1 - Ordinary Agency Management applied by whichever statutory agency has the lead in supervising them.

Full data tables are available on the MoJ website.



Attack criminality

The National Risk Assessment of Money Laundering and Terrorist Financing 2017

Information Source: HM Treasury website

Following the first such document produced in 2015, HM Treasury and the Home Office have issued a comprehensive national risk assessment (NRA) of money laundering and terrorist financing and how this impacts on the UK, setting out:

- The key risks faced by the UK in these areas of criminality;
- How they have changed since the 2015 assessment; and
- Action taken to address them.

HM Treasury estimates serious organised crime costs the UK tens of billions of pounds each year. Built on lessons learnt from actions taken over the last two years, this assessment is intended to provide a key component in the evidence base and be used by Government, law enforcement agencies and the private sector to improve the response to money laundering and terrorist financing including. Ways in which businesses may be currently vulnerable, e.g. the services and or products being exploited and how offenders are believed to move illicit funds through the UK are highlighted.

Key findings include:

- Criminal exploitation of banks, professional and financial services and cash continue to be the most significant aspects of the high-end money laundering risk.
- Whilst professional services are a key gateway for criminals attempting to disguise the origin of their funds and intelligence gaps remain, understanding has significantly improved since 2015, including better knowledge of the specific services and types of professionals at greatest risk.
- Cash, along with cash intensive businesses like money service firms, remains the favoured method for terrorists to move funds within and out of the UK. This threat mainly concerns the raising of low levels of monies being sent to individuals overseas or to fund travel or attack planning.
- Significant reforms planned by the Government to address these issues, such as the forthcoming introduction new powers to investigate suspicious asset trails through Unexplained Wealth Orders to be introduced by the Criminal Finances Act 2017 which involve new sections 362A to 362I the Proceeds of Crime Act 2002, plus the new Money Laundering Regulations 2017 which have been subject to consultation are expected to take effect. Both of these are **not** yet in force.

Overall, the assessment points out not all those involved in certain at risk sectors are likely to be criminally complicit or negligent, those working in them should be vigilant towards persistent efforts by criminals and terrorists to exploit vulnerabilities.

Consultation on Terrorism Sentencing Guideline

Information Source: Sentencing Council

Views are being sought by the Sentencing Council from stakeholders on the first proposed comprehensive sentencing guidelines for those convicted of terrorism/terrorism-related offences including:

- Preparation of acts of terrorism;
- Causing or attempting to cause an explosion;
- Collecting or sharing extremist material;
- Raising funds for terrorism;

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- Glorification of terrorist acts;
- Failing to disclose information about terrorist acts; and
- Joining or supporting a proscribed (banned) organisation.

It will take into account the developing nature of the terrorist threat including the trend towards unsophisticated use of knives or vehicles and has been published on an accelerated timetable after the recent attacks in the UK. In response to these developments, the Council is proposed sentence lengths should be increased for lower level offences, e.g. where preparations for an attack may not be well developed, or a suspect offered a small amount of assistance to the main offender(s).

Feedback is specifically sought on the following topics:

- Principle factors that make any of the offences included in the consultation more or less serious;
- Additional factors that should influence the sentence handed down by the court; and
- The approach the Sentencing Council has taken.

Current guidance is described as limited and variable and the new document will replace this, plus that issued last year by the Court of Appeal - *R v Kahar and Others* (2016) EWCA Crim 568 which related to the sentencing of the preparation of terrorist acts. However, it is also noted that any terrorist incident where deaths actually occur would be charged as murder.

The closing date for responses, by email to info@sentencingcouncil.gsi.gov.uk is **22 November 2017**.

Guidance for Councils on Mitigating Security Vulnerabilities outside Public Transport Stations

Information Source: Department for Transport (DfT) website

The DfT, which regulates and provides guidance on counter terrorism (CT) security regimes for the protection of people and infrastructure across the transport sector, has produced guidance for Local Authorities covering good practice to prevent terrorist activities in public environments adjacent to transport locations.

Mitigating security vulnerabilities outside railway, bus and coach stations aims to enable councils to contribute towards the safety and security of people using or near to these areas through the use of appropriate management, reinforcing and enhancing of adjacent public areas. Due to the open nature of the environment in and around railway, bus and coach stations, this presents a challenge for CT security and there are opportunities to provide a public environment around them which cannot easily be exploited by terrorists.

In addition, DfT suggests the contents can also offer positive benefits for the wider purpose of helping to reduce the risk of crime/fear of crime and other forms of anti-social behaviour.

Note - the document replaces an earlier version issued in 2003, ***Guidance to Local Authorities: Railway Stations - Security Vulnerabilities Outside Railway Stations***.

New Inquiry into Pop Up Brothels Launched

Information Source: All Party Parliamentary Group (APPG) on Prostitution and the Global Sex Trade on Parliament website
The APPG on Prostitution and the Global Sex Trade has begun a new inquiry which aims to examine the spread of so-called 'pop up' brothels, whereby residential properties and holiday lets are being rented for a limited period and used by offenders as such.

The group states there are growing reports of organised crime groups (OCGs) setting these premises up in order to sexually exploit women. Therefore, it aims to gather evidence on the scale of the issue and make recommendations on what action should be taken by the Government to address it.

In line with set criteria, submissions of less than 3,000 words are invited, addressing a series of specific questions including:

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- How do pop up brothels operation, who is involved, have they increased and what is the impact on the wider community?
- What is the scale and impact of sexual exploitation in these places?
- How can those being exploited be best supported?
- What are links between OCGs and pop up brothels and how can they be stopped from profiting from sexual exploitation?
- What action (if any) should the Government take?

The closing date for written submissions, by email to info@appgprostitution.uk is 18 December 2017



Provide reassurance

Report of Independent Review of Deaths and Serious Incidents in Police Custody

Information Source: Home Office website

On 30 October 2017, the report following a major independent review of deaths and serious incidents in police custody was published.

Commissioned in July 2015 by the then Home Secretary (now PM) Theresa May and concluding in January 2017, the review was conducted by the Rt Hon Dame Elish Angiolini DBE QC and aimed to:

- Examine the procedures and processes surrounding deaths and serious incidents (DSIs) in police custody, including the extent to which ethnicity is a factor.
- Examine and identify reasons and barriers in terms of why the current system for investigating DSIs has fallen short of families' needs and expectations, particularly relating to accountability and sustained learning after these incidents.
- Identify areas for improvement and develop recommendations to ensure appropriate, humane institutional treatment when these incidents occur, with the aim of enhance safety in police custody for all involved.

Also, the link between mental health and deaths in police custody was explored. The review considered the full spectrum from the lead up to these incidents, from initial restraint or other circumstances preceding the death, through the immediate aftermath to conclusion of official investigations.

Key findings included (*not an exhaustive list - these are listed in full in the report's Executive Summary*):

- Many bereaved families, campaigners, lawyers and police officers who informed the review believe the IPCC does not always feel truly independent of the police or of police culture - partly due to the numbers of former officers employed.
- The extent to which restraint techniques contribute to DSIs in custody and its training is, according to the author, a crucial aspect and the report argues police practice must recognise all restraint has the potential to cause death. There is no consistency in this training across the 43 forces in England and Wales.
- Currently, the opportunity for officers to confer with other takes place during a formal meeting prior to IPCC involvement and the appearance of the opportunity for collusion can seriously undermine public confidence in the subsequent evidence provided by officers to an inquiry.
- The failure to learn lessons and to properly consider and implement recommendations and advice arising from materials produced following investigations into DSIs and previous studies and reports was another of the emerging key themes that emerged from the review.
- Drugs and alcohol misuse remain a significant factor in such deaths and Dame Angiolini argued this indicates it is as much a public health issue as one for policing; and therefore adherence to policies designed

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to protect the health and safety of detainees is fundamental, including effective implementation of observation regimes for severely intoxicated detainees.

- The possible refusal of mental healthcare facilities to accept intoxicated people detained under s.136 Mental Health Act 1983 poses a great danger to the lives of such individuals.
- The need for a cautious, informed and empathetic approach to detainees is stressed, particularly due to the fact it may not always be apparent whether a detainee is vulnerable or has unique needs that have to be addressed. For example, a disability, including social communication and perception disorders such as autism and/or learning disabilities or epilepsy may not be visible and/or the actions of vulnerable person might be misinterpreted, which can result in conflict and use of force.
- Women, who comprise a small part of the overall number of people taken into police custody are more likely than males to be experiencing it for the first time and therefore may be unfamiliar with the environment and more vulnerable.
- Concerns were expressed about the poor quality of care in the police custody environment, with failures arising from issues such as the lack of effective instructions to and communication with custody staff.
- Ultimately, the main focus of the police and other agencies should always be to divert the most vulnerable people from police custody at the earliest possible stage and the Government has a responsibility to ensure:
 - Proper resourcing for police and healthcare providers to do so; and
 - The ready availability of the most effective disposals.

A total of 110 recommendations were made to address the issues highlighted covering the following themes:

- Restraint;
- The custody environment;
- Health and wellbeing;
- Funding for families and family support;
- Communications;
- Investigations;
- Coroners and inquests;
- Accountability;
- Training;
- Learning;
- Statistics; and
- Research.

Published alongside the main report was the official Government response and Home Office Research Report 95, ***Deaths in police custody - A review of the international evidence***, by Giles Lindon and Stephen Roe which informed the review.

New Concordat on Children in Custody

Information Source: Home Office website

The ***Concordat on Children in Custody – Preventing the detention of children in police stations following charge*** was also released by the Home Office on the same day as the above independent review.

This document aims to improve understanding in local government and police forces of their respective statutory obligations under the Police and Criminal Evidence (PACE) Act 1984 (PNLD [doc ref S2](#)) and Children Act 1989 ([doc ref S53](#)) around transfer of children from police custody to Local Authority accommodation.

Also, section 11 of the Children Act 2004 requires both of them to have regard to the welfare and protection of children; and ratification of the UK in 1991 of the UN Convention on the Rights of the Child which required custody to only be used as a measure of last resort and for the shortest appropriate period of time.

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Another stated aim of the concordat, which clearly sets out each party's duties and introduces a new protocol for how such transfers should work in practice, is to achieve a decrease in the number of children held overnight in police custody. It is based on the following seven principles:

1. Whenever possible, charged children will be released on bail.
2. Children denied bail will be transferred whenever practicable.
3. Secure accommodation will be requested only when necessary.
4. Local Authorities will always accept requests for non-secure accommodation.
5. The power to detain will be transferred to the Local Authority.
6. Where a Local Authority fails to provide accommodation it will reimburse the police.
7. Police forces will collect data on transfers.

To be successful, the document states that in addition to frontline staff, the interest and active input of Chief Officers, Directors of Children's Services, PCCs, Local Safeguarding Children Boards and other stakeholders will be necessary. A case study from Greater Manchester Police is included.

There are 24 forces listed as signatories including West Yorkshire, plus a larger number of Local Authorities including Bradford, Calderdale, Kirklees, Leeds and Wakefield. Publication follows work conducted on this issue by the national working group on children in custody which was established by the Government in 2014 and involved representatives from relevant stakeholders. The group found very few areas had in place effective local collaboration to ensure transfers happened as they should under the legislation.

Justice Committee Report from Inquiry into Disclosure of Youth Criminal Records

Information Source: Parliament website via BBC News article

Following an inquiry conducted into the current statutory framework governing disclosure of youth criminal records for offences committed when under 18 years old, the Justice Committee warned it undermines the principles of the youth justice system and is in urgent need of reform. Also, concerns were raised the system may fall short of the UK's international obligations in relation to the UN Convention on the Rights of the Child.

Key findings from the inquiry included:

- Adverse impacts are caused to a large number of people by the disclosure of childhood criminal records - e.g. in terms of access to employment, education, insurance and visas.
- There is believed to be a discriminatory impact on Black and minority ethnic children, those within the care system and others.
- 26% of standard and 23% of enhanced DBS checks conducted during 2014/15 related to subjects under 18 at time of conviction.
- In terms of sexual offending committed by children, members of the Committee did not believe this is assisted by giving such offenders a record of a non-filterable sexual offence.

The Committee concluded overall, the evidence it gathered strongly supported the case for reform and made a series of recommendations for achieving this, including:

- The Criminal Records Bill 2017-19, introduced into the House of Lords as a Private Members' Bill, should become an Act.
- An urgent review of the filtering regime applicable to the disclosure of offences, introduced after a Court of Appeal ruling in 2013, should take place to consider:
 - Removing the rule preventing filtering of multiple convictions;
 - Introduction of lists of non-filterable offences capable of being customised for particular areas of employment;
 - A new threshold test for disclosure based on disposal/sentence received; and
 - Reductions in the qualifying periods for filtering childhood convictions and cautions.
- Allowing chief police officers additional discretion to withhold disclosure, taking into account age and circumstances of the offence(s), with a rebuttable presumption against disclosure of police intelligence

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relating to under 18s, including information relating to a reprimand or caution that would otherwise be filtered from a DBS certificate.

- Enable individuals to have a right to apply for review by the Independent Monitor of police decisions to disclose convictions of cautions.
- An approach whereby the point at which applicants for jobs delay having to disclose criminal convictions until later in the recruitment process, allowing their application to be judged on merit, should be extended to all public sector vacancies with a view to making it a mandatory requirement for all employers.

Also, the Committee suggested responsibility for such disclosures should be consolidated into a single Government department.



Provide value for money

Speeches by NPCC Chair and Home Secretary to APCC and NPCC Partnership Summit 2017

Information Sources: Home Office and National Police Chiefs' Council (NPCC) website

On 1 November 2017, NPCC Chair CC Sara Thornton and Home Secretary Amber Rudd delivered speeches to the annual summit held for Chief Officers and Police and Crime Commissioners.

CC Thornton's speech included the following:

- The current 2015 flat cash settlement for forces is thought to be unsustainable, with pay rises and inflationary pressures having to be absorbed and leading to cuts in service.
- Recent increases in crime may need to be considered as more than a blip and rather as a wider shift in offending.
- Initiatives such as those under the Policing Vision 2025 and the wider transformation programme will help to tackle the crime challenges being faced.
- Concerns around the new Emergency Services Network were acknowledged, but it is necessary to provide an effective modern communication system for officers and staff.
- Leadership and debate is required around the College of Policing's professionalisation programme for the service to equip those in the service to be the best they can be.

Points of note from Home Secretary Amber Rudd included:

- The fact the 13% increase in police recorded crime included a genuine rise in some crime types such as homicides, knife crime and firearms was acknowledged, but with "huge" local variations noted.
- Although resources should be discussed between PCCs and the Government, the role should not be just about lobbying the Government for money and more focused on cutting crime, delivering local priorities and being held to account by the public.
- Requests for additional funding must be evidenced based and therefore Policing Minister Nick Hurd has spoken to every force ahead of the forthcoming announcement on the spending settlement. Ms Rudd pointed to police financial reserves now standing at £1.6 billion and the scope for forces to do more to transform to achieve greater efficiencies. These considerations will be balanced as decisions on future funding are taken.
- A new serious violent crime strategy will be published in 2018.
- The Home Office is committed to providing the police with the powers necessary to address changes in crime/offending. Recent reforms to stop and search (Best Use of Stop and Search scheme) are considered to be working - however Chief Constables will still be required to explain local racial disparities in the figures.

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- In relation to the issue of pursuing offenders on mopeds, legislation and practice on police pursuits is being reviewed in conjunction with the Police Federation and IPCC to ensure officers feel they have the necessary legal protection - this review should be completed early in 2018.
- The Home Office will provide whatever support is necessary to deliver the Policing Vision 2025 including relevant expertise and resources for the Police Reform and Transformation Board (PRTB).
- A further £27.45 million from the Police Transformation Fund is being provided for an additional 10 new projects - full details to be provided separately.