

ORIGINAL ARTICLE

Section 136, The Mental Health Act 1983; levels of knowledge among accident and emergency doctors, senior nurses, and police constables

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A copy of the questionnaire used is on the journal web site.

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Objectives: Section 136 of the Mental Health Act 1983 empowers the police to detain those suspected of being mentally ill in public places, and convey them to a place of safety. In practice, accident and emergency (A&E) departments are often used. The authors assessed levels of knowledge of section 136 between A&E doctors, senior nurses, and police constables.

Methods: Doctors and senior nurses in all (A&E) departments in the Yorkshire region were asked to complete a multiple choice tick box type questionnaire, as were police constables from the Humberside Police Force.

Results: 179 completed questionnaires were returned, of which 16 were completed by consultants, 14 by SpRs, 24 by SHO's, 33 by senior nurses, and 92 by police officers. Some 24.1% of A&E staff and 10.9% of police failed to recognise that a person has to appear to be suffering from a mental disorder to be placed on a section 136; 40.2% of police did not know that section 136 is a police power; 55.2% of A&E staff and 14.1% of police incorrectly thought that a person could be placed on a section 136 in their own home; 43.75% of consultants and 50% of SpRs did not consider A&E departments to be a place of safety; 49.4% of A&E staff and 29.3% of police thought that patients could be transferred on a section 136. Only 10.3% of A&E staff and 22.8% of police had received any formal training.

Conclusions: The knowledge among A&E staff and the police of this difficult and complex piece of mental health legislation is poor and requires action through formal education and training. This study not only reflects the levels of knowledge within the groups, it may also reflect the different perceptions of each group as to their role and duties within section 136 of the Mental Health Act 1983.

Section 136 of the Mental Health Act 1983 states that a "police officer who finds a person in a place to which the public have access, who appears to be suffering from a mental disorder and to be in immediate need of care or control, and if the constable thinks it necessary to do so in the interests of that person or for the protection of other persons, to remove that person to a place of safety".¹ "A person removed to a place of safety under section 136 may be detained there for a period not exceeding 72 hours for the purpose of enabling them to be examined by a registered medical practitioner and to be interviewed by an approved social worker and of making any necessary arrangements for his treatment or care."

The place of safety referred to in the act is defined in section 135 as "residential accommodation provided by a local authority under Part III of the National Assistance Act 1948, or under Paragraph 2, Schedule 8 of the National Health Service Act 1977, a hospital as defined by this act, a police station, a mental nursing home or residential home for mentally disordered persons or any other suitable place, the occupier of which is willing temporarily to receive the patient".

In practice police constables often transport these patients to local accident and emergency (A&E) departments. The appropriateness of such practice is in dispute.² The onus for initial assessment is therefore placed on the A&E doctors and senior nurses.

In our clinical practice, we have noticed that when patients are brought to our A&E department under section 136, there is often a suboptimal level of knowledge of the provisions of this section both among A&E doctors, nurses, and the police. As we were unaware of any previous comparative research, we performed a questionnaire study to evaluate levels of

knowledge of section 136 between A&E staff and police constables. It is important to recognise that this paper relates to the Mental Health Act in England and Wales only.

METHODS

Multiple choice tick box type questionnaires were distributed to all A&E departments in the Yorkshire region, between June and July 2000. Consultants, specialist registrars (SpRs), senior house officers (SHOs), and senior nurses (grade F and G) were asked to complete them without consulting any member of staff or any literature relating to the Mental Health Act 1983. Staff were also requested not to discuss the questionnaire with anyone until the study was completed. Police constables, with the cooperation of the deputy chief constable of Humberside Police, voluntarily completed the questionnaires at the change of shift.

There was considerable debate among the authors when devising the questionnaire. Every attempt was made to avoid deliberately misleading or ambiguous questions. Relevant sections of the Mental Health Act 1983 and the Department of Health and Welsh Office Code of Practice, Mental Health Act 1983 were studied.³ A detailed literature search was performed, and relevant publications including those from the Royal College of Psychiatrists, MIND, and the British Association for Accident and Emergency Medicine (BAEM) were reviewed. Because of the complexity of section 136, some questions however still may not have appeared completely straightforward.

The completed questionnaire was reviewed and approved by MIND, the mental health charity, who also provided clarification and opinions on a number of points.

Table 1 Percentages of statements considered by respondents to be true

Number surveyed	Consultants 16	SpRs 14	SHOs 24	Nurses 33	Police 92
1. For a person to be placed on a section 136 they must fulfil which if any of the following criteria?					
a) They must have a diagnosed mental disorder	0	0	21	6.1	5.4
b) Be in immediate need of care or control	93.7	92.9	91.6	78.8	93.5
c) Be a risk to themselves	81.3	92.9	87.5	81.8	79.3
d) Appear to be suffering from a mental disorder	87.5	64.3	66.7	45.5	83.7
e) Be in no immediate need of care or control	6.25	0	33.3	0	2.2
f) Be a risk to others	87.5	92.9	83.3	57.6	73.9
g) Be sober	12.5	7.1	41.7	33.3	15.2
2. A patient may be placed on a section 136 by					
a) Any doctor	25	50	29.2	24.2	44.4
b) A social worker	18.75	50	29.2	51.5	26.1
c) Any police officer	100	64.3	45.8	54.5	56.6
d) A psychiatrist	31.25	64.3	70.9	75.8	60.9
e) Any member of the public	12.5	7.2	12.5	3	1.1
f) A registered mental nurse	6.25	42.8	33.3	36.4	36.9
g) The patient's general practitioner	18.75	64.3	41.7	36.6	41.3
3. A patient may be placed on a section 136 in					
a) Their own home	43.75	57.1	45.8	66.7	14.1
b) A public place	87.5	71.4	50	51.5	82.6
c) An A&E department	62.5	85.3	66.7	72.7	70.6
d) A police station	75	85.8	75	81.8	61.9
e) Anywhere	37.5	50	37.5	36.4	19.6
4. Which if any of the following is normally regarded as a place of safety?					
a) An A&E department	56.25	50	54.2	78.8	78.3
b) A general practitioner's surgery	12.5	7.1	16.7	18.2	27.2
c) A psychiatric hospital	100	64.3	79.2	87.9	89.2
d) A police station	93.75	100	70.8	75.8	78.3
e) The patient's own home	12.5	7.1	8.4	15.2	13.1
5. Who would normally be expected to assess a patient on a section 136?					
a) Their own general practitioner	25	21.4	33.3	39.4	33.7
b) A registered mental nurse	12.5	14.3	29.2	33.3	31.5
c) Any doctor	43.75	14.3	16.7	15.2	34.8
d) Any social worker	0	7.1	8.3	6.1	5.4
e) A psychiatric registrar	37.5	21.4	58.3	57.6	48.9
f) An approved social worker	50	50	41.7	57.6	64.1
g) The custody sergeant	31.25	35.7	25	21.2	55.4
h) A consultant psychiatrist	68.75	35.7	79.2	81.8	27.2
6. Which if any of the following documentation must be provided to those assessing a person detained under a section 136?					
a) No documentation	18.75	14.3	8.3	12.1	23.9
b) A record of arrival and discharge times	25	21.4	37.5	18.2	20.7
c) A letter from the patient's general practitioner	0	7.1	4.2	12.1	7.6
d) The police constables notebook	37.5	21.4	20.8	21.2	8.7
e) An official section 136 form	75	71.4	66.7	63.4	20.7
f) The medical records	6.25	57.1	29.2	36.4	40.2
7. If a patient on a section 136 is seen in the A&E department what rights have they got?					
a) None	0	0	8.4	3	1.1
b) Anyone of their choice informed of their whereabouts	87.5	71.4	66.7	72.7	52.2
c) Access to legal advice if requested	68.75	78.6	54.2	48.5	35.9
d) They do not require to be provided with an explanatory leaflet	31.25	7.1	0	24.2	13.1
e) Explanatory leaflets should be provided prior to attending A&E	25	28.6	4.2	12.1	3.3
f) Explanatory leaflets must be provided by the A&E staff	0	21.4	20.8	9.1	18.5
8. Can a patient be transferred while on a section 136?					
a) True	43.75	64.3	50	45.5	29.3
b) False	43.75	14.3	4.2	36.4	40.2
c) Don't know	12.5	21.4	45.8	18.2	30.5
9. When a patient is brought to the A&E department by the police whilst on a section 136;					
a) The police must stay with the patient until appropriate assessment takes place	75	85.7	62.5	57.6	43.5
b) The police must stay when the safety of the patient or staff so require	56.25	78.6	66.7	78.8	71.7
c) The police need not stay with the patient as their only role is the transfer of the patient to the A&E department	18.75	0	12.5	30.3	23.9
d) The police should return to the station to complete the appropriate paperwork	18.75	28.6	8.4	9.1	10.9
e) The police are not involved in a section 136	0	7.1	8.3	9.1	7.6

Table 1 Continued Percentages of statements considered by respondents to be true

Number surveyed	Consultants 16	SpRs 14	SHOs 24	Nurses 33	Police 92
10. Normally a patient can only be discharged from a section 136 by;					
a) His/her general practitioner	12.5	14.3	12.5	9.1	10.9
b) A psychiatric registrar	25	28.6	29.2	39.4	19.6
c) An approved social worker	37.5	35.7	8.3	27.3	34.8
d) A consultant psychiatrist	68.75	64.3	66.7	78.8	73.9
e) The custody officer	31.25	50	16.7	9.1	57.6
f) The A&E triage nurse	0	0	0	0	1.1
g) The A&E registrar	6.25	0	12.5	15.2	6.5
11. Have you ever had any formal training regarding section 136?					
a) Yes	37.5	7.1	0	6.1	22.8
b) No	72.5	92.9	100	93.9	77.2

Statements and corresponding values in bold print represent the correct options.

All results are represented as percentages.

Two senior nurses and one police constable said they knew nothing at all about section 136 and thus answered, "don't know" to all questions.

RESULTS

Altogether 179 completed questionnaires were returned, which consisted of 16 consultants, 14 SpRs, 24 SHOs, 33 senior nurses, and 92 police constables, equating to an overall response rate of 79.6%. There was a 100% response rate from the police as a result of the method by which they were surveyed. Deficiencies in knowledge were identified in many key areas of section 136 (table 1). Some 24.1% of all A&E staff and 10.9% of police constables failed to recognise that in order to place a person on a section 136 that the person has to appear to be suffering from a mental disorder and 27.2% of A&E staff compared with only 15.2% of police incorrectly stated that the person had to be sober.

The knowledge of who could empower the section also was very poor (fig 1). Almost one third of A&E staff thought that section 136 could be enacted by any doctor (29.9%), a psychiatrist (31.25%), a registered mental nurse (31%), or the patient's general practitioner (39.1%). A greater proportion of police thought that the power to use section 136 lay with psychiatrists (60.9%) rather than with the police (56.6%). Surprisingly 40.2% of police did not know that section 136 is a police power. Seven members of the A&E staff and one police officer thought that any member of the public could place another person under this section.

Some 55.2% of A&E staff and 14.1% of police thought that a person could be placed on a section 136 in their own home while 25.3% of A&E staff and 16.3% of police constables did not know that this section could only be enacted in a public place. Differing opinions emerged regarding what constitutes a place of safety, approximately of 50% of consultants and SpRs did not consider A&E departments to be a place of safety but all of them except one consultant considered a police station to be one. Conversely 78.3% of police considered both A&E departments and police stations to be places of safety. The vast majority considered a psychiatric hospital as a place of safety (table 1).

Knowledge of who is normally required to assess a patient detained on a section 136 again was deficient. A&E staff correctly noted that patients must normally be assessed by an approved social worker (50.6%) and by a consultant psychiatrist (71.6%) compared with the police (64.1% and 27.2% respectively), but 32.1% of A&E staff and 33.7% of police thought it was the general practitioner's duty. Some 23.9% of police stated that they did not have to provide any documentation to the person assessing the patient while 8.7% said that the constable's notebook must be provided. Some 68.5% of police either did not know or incorrectly thought that an official section 136 form had to be provided, however no such form exists at present in the Humberside area. Some 32.2% of

A&E staff did not know whether or not they should be provided with an official form while 67.8% thought they should.

Some 25.3% of A&E staff and 47.8% of police either did not know or incorrectly thought that patients, once detained, did not have the right to have anyone of their choice informed of their whereabouts, while 41.4% of A&E staff and 64.1% of police did not know or incorrectly thought patients were not entitled to legal advice if requested. Some 31.25% of consultants, 24.2% of senior nurses, and 13.1% of police stated that there was no requirement to provide explanatory leaflets. Of those who stated that explanatory leaflets should be provided, 14.9% of A&E staff and 41.3% of police stated that these must be provided prior to attending the A&E department, while 12.6% of A&E staff and 18.5% of police said that A&E staff should provide them.

Half of the A&E staff and 29.3% of police thought that patients, detained on a section 136, could be transferred. Seventy five per cent of consultants felt that the police must stay with the patient until appropriate assessment takes place compared with 43.5% of police. Some 71.7% of police stated that they should stay when the safety of the patient or staff so require. Only 10.3% of A&E staff and 22.8% of police had received any formal training in this area. None of the 24 SHOs had received any training. Of the consultants one was section 12(2) approved, two had previously completed the police surgeons' course, two had attended lectures a number of years previously, and one did not specify the type of training received. One SpR and one charge nurse received 30–60 minutes training from an A&E consultant two years previously. Two F grades received a talk from a psychiatric nurse while training. Only 21 police constables had any formal training, 18 during their initial training period, one while undertaking the custody officers course, one attended a "knowledge" based course, and one studied a booklet on the Mental Health Act.

Overall A&E consultants had the greatest level of knowledge with 71.9% of all questions answered correctly (fig 2). The performance of SHOs, nurses, and police were similar.

DISCUSSION

The power of the police to detain mentally ill people dates back to the Vagrancy Acts of 1714 and 1744, which allowed a constable on the order of two magistrates to lock up a "lunatic pauper" in a secure place.⁴ Unlike the earlier acts, which permitted the constable to apprehend a mentally disturbed person anywhere, the Mental Health Act 1959 restricted the power to persons found in a "place to which the public have access".⁵ Section 136 of the Mental Health Act 1983 is identical to that of the 1959 Act.

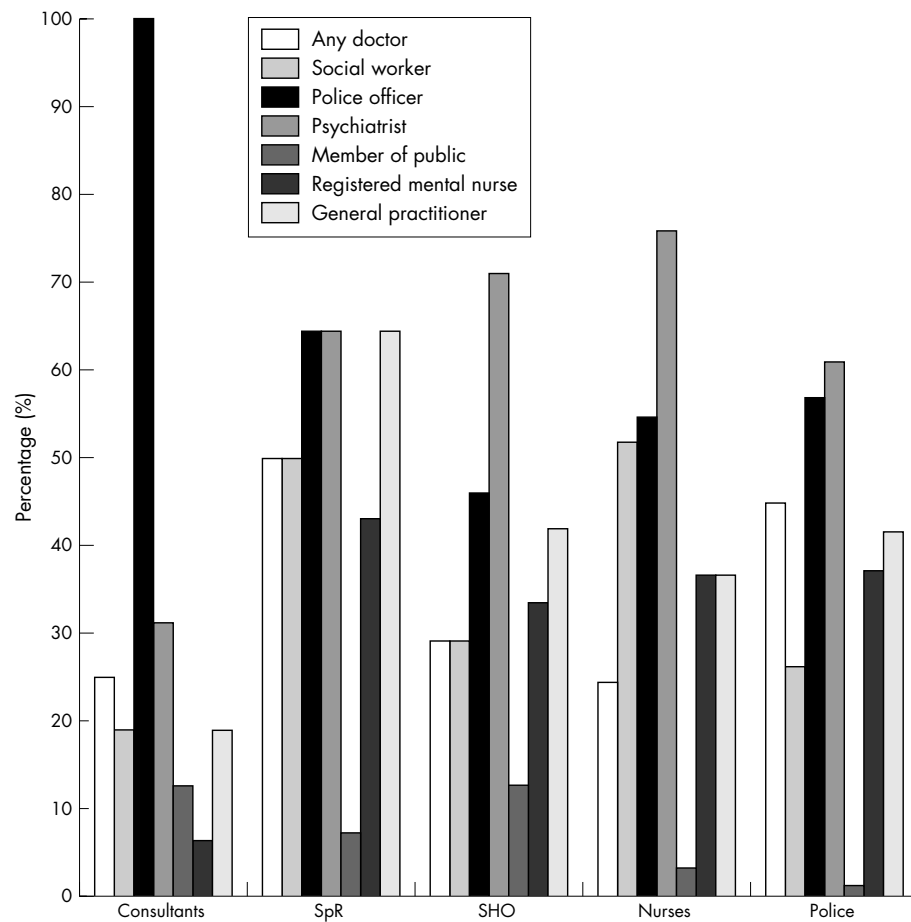


Figure 1 Percentage of various professionals that our subjects thought could place a person under a section 136 detention.

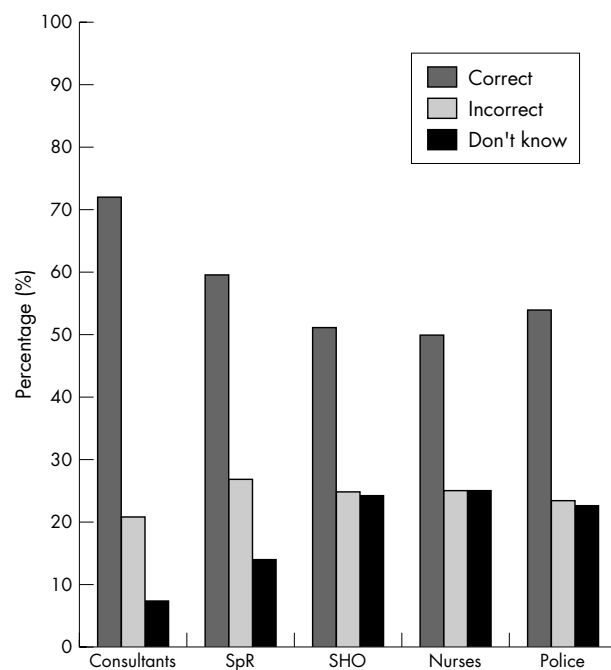


Figure 2 Comparison of overall knowledge between A&E staff and the police.

Since the Community Care Act 1990, police responsibility for mentally ill people in the community has increased greatly.⁶ Several studies cite criticism of the use of section 136 by the police. Rogers and Turner identified that only 74.5% and

80% respectively of patients placed on section 136 were detained in a public place.^{7,8} Patients have been taken unlawfully to hospital⁹ or subjected to undue physical force,¹⁰ and in the past the police have admitted to bending the rules of section 136 to cut corners.¹¹ Despite these criticisms, police make quite an accurate assessment of patients needing psychiatric care.^{8,12} Of those placed on section 136, the appropriateness of referrals by the police has been confirmed by Dunn and Fahy.¹³ Kelleher *et al* reported that police do not misuse section 136 any more than doctors do,¹⁴ while Mokhtar stated that they might in fact have underused it.¹⁵

We identified a lack of knowledge, in many key areas, among all staff surveyed. The fact that 17% of all those surveyed failed to recognise that the person has to appear to be suffering from a mental disorder is a cause for concern. This is one of the fundamental requirements for enforcing a section 136. Also of note was the large proportion of police constables (40.2%) who did not know that section 136 was a police power. Differences of opinion emerged regarding who has the power and responsibility to detain a patient under section 136 and uncertainty about where the section can be enacted. Over half of A&E staff and 14% of police thought that a person could be placed on a section 136 in their own home. At present this section can only be enacted in "a place to which the public have access". This term is not defined in the Mental Health Act but it appears that the public areas of an A&E department or a police station are included in it. Proposed changes to the Mental Health Act 1983 suggests extending police powers to permit enactment of section 136 in private properties.¹⁶

The definition of a place of safety is contentious as evident in this study. In the United Kingdom the most commonly used places of safety are A&E departments, police stations, and psychiatric units. Approximately 50% of A&E middle grade and senior doctors did not consider A&E departments to be a

place of safety but almost all of them considered a police station to be one. The recommendations of the joint working party of the Royal College of Psychiatrists and the BAEM state that A&E departments are inappropriate places of safety as they are not usually appropriately equipped and staffed to supervise patients.² Ryan *et al* echo this position and add that they should be taken to either a police station or an acute psychiatric hospital for assessment.¹⁷ Seventy eight per cent of police constables regarded a police station to be a place of safety. However, this is not a universally accepted position among the police.¹⁸ The National Service Framework on Mental Health states that hospitals should be used in preference to police stations.¹⁹ Ultimately local policy agreements between the agencies involved will need to agree a preferred place of safety. Knowledge of these agreements should be made available to police and health service staff. Some A&E departments in this study are not recognised places of safety under their own local policy guidelines and therefore may reflect poor levels of knowledge among some doctors and nurses surveyed.

Multidisciplinary crisis intervention teams have been implemented successfully in some areas. Some of these teams use their local police station as the place of safety and the approved social worker (ASW) and section 12(2) approved doctor perform a joint assessment there.²⁰ These teams have been shown to result in lower overall admission rates,²¹ but there is no evidence that the location of the place of safety effects overall admission rates. Specialised assessment units closely linked to, or at least very accessible to, psychiatric facilities have also been proposed.²² These may well provide models of best practice and should be given serious consideration when formulating and reviewing local policy guidelines.

The Mental Health Act 1983 Code of Practice states that both a doctor and an ASW must assess the person and where possible this should be a joint assessment.³ Even if after assessment by the doctor admission is not deemed to be necessary, an ASW must assess the person. The doctor performing the assessment should wherever possible be approved by the secretary of state under section 12(2) of the Mental Health Act 1983 as having special experience in the diagnosis and treatment of mental disorders. In practice this doctor is usually, but not necessarily, a consultant psychiatrist. Not all section 12(2) approved doctors are consultant psychiatrists and not all consultant psychiatrists are section 12(2) approved. One third of those surveyed thought it was the general practitioner's duty to perform the assessment. Our results are not unique. In a study performed at Gatwick airport, of the 79 adults and 19 children who were arrested under section 136 none of the children and only half of the adults were eventually seen by a doctor,²³ and in a study of police referrals to the psychiatric services, only 8.6% were assessed by an ASW.⁷

Documentation of detentions under section 136 has been less than satisfactory for some time.⁷ This is highlighted by the uncertainty among our subjects about the existence of an official form. The London Metropolitan Police Service are required to complete Form 434, which should be signed by an inspector,^{7,23} and handed over to staff at the receiving hospital.⁷ However, many police forces throughout the country do not have any official forms or standard procedures for recording section 136 detentions.⁹ The current nationwide absence of a recording system for police use of section 136 has caused confusion about the extent to which it is currently used.⁷ Both the A&E staff and the police had very poor knowledge of the patient's rights. Patients should be cautioned and their rights explained as it is deemed to be an "arrest" for the purposes of the Police and Criminal Evidence Act 1984.²⁵ Where a person has been removed to a place of safety by the police under section 136 the person is entitled to have another person of their choice informed of their removal and whereabouts and access to legal advice should be facilitated whenever requested.³ Where the hospital is used as a place of safety, the hospital managers must ensure that the provisions of section

132 (giving information) are complied with,³ and so patients should be provided with "Rights leaflet" number 5.²⁵

It is debatable whether section 136 provides authority to transfer from one place of safety to another,²⁶ as this is not directly covered in the act. The general opinion of the Royal Society of Health is that transferring from one place of safety to another is legal provided that no assessment has started,⁹ but others disagree with this.²⁵ The majority of A&E staff felt that the police must stay with the patient until appropriate assessment takes place, thus agreeing with the opinion of others.^{3,9} Detention under section 136 lapses once the assessing doctor decides no further management, treatment, or care is required.⁷ Most doctors working in A&E will have had insufficient training in mental illness, as we have identified, and therefore should not make or be expected to make such a decision. This decision needs to be made by both the ASW and section 12(2) doctor.

The Code of Practice requires a local policy to be agreed between the police, social services, and district health authorities for the use of section 136.³ Where such a policy does not exist it is important for a comprehensive one to be implemented, which encompasses all involved agencies and complies with the recommended standards of a place of safety.²² Any existing policies should be reviewed to ensure the most appropriate place of safety is used. This should improve the use of section 136, promoting better relations between A&E staff, social services, and the police and help clarify the legal status of the patient.^{12,26} The requirement for the provision of adequate training for all staff dealing with this section is evident from our results. Differences in levels of knowledge may result from differences in perceptions and understanding of the roles of each group within section 136. Given that the findings of this paper suggest that the current legislation is not readily implemented, it is likely that the new proposals and possible extension of section 136 to cover private property may not be adequately implemented either. This presents a challenge to all of us.

CONCLUSION

Knowledge of section 136 of the Mental Health Act 1983 was deficient among all groups surveyed. A&E consultants had the greatest level of knowledge. These differences may reflect true lack of knowledge or differences in interpretation among groups. The level of training received by both A&E staff and police was inadequate and unsatisfactory. This needs to be tackled as a matter of urgency by a series of in house training programmes and joint meetings between A&E staff and police. Local policies, with clearly defined and adequate places of safety and clarification of areas of responsibility for all involved agencies, must be implemented.

Contributors

Richard Lynch devised the project, designed the questionnaire, participated in data collection, performed the data analysis, sourced and read the relevant references, discussed the questionnaire with MIND, the Mental Health Charity, wrote the manuscript and performed the revisions. Mark Simpson participated in the design of the questionnaire, data collection and editing of the manuscript. Mark Higson assisted with designing the questionnaire, data collection and editing of the manuscript. Paul Grout assisted with designing the questionnaire, liaised with Humberside Police Force regarding data collection and sought approval for surveying the police constables. Richard Lynch will act as guarantor for this paper.

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