

Case 4 | Issue 32 – Protecting vulnerable people

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Supervision of detainee under Mental Health Act

Observation of a woman detained under s.136 of the Mental Health Act, raising issues about:

- *Searching people detained under s.136 of the Mental Health Act.*

This case is relevant if you work in:

Custody and detention



Mental health



Overview of incident

Ms A had been diagnosed with post-traumatic stress disorder (PTSD) following an alleged rape, and with borderline personality disorder. She was admitted to hospital for reportedly attempting to commit suicide by jumping off a cliff. The hospital discharged Ms A, after she had been medically and mentally assessed. A friend took her home.

The following day, Ms A said she took seven or eight 500mg paracetamol tablets before leaving the house. She also had a small purple pouch stored in the waistband of her trousers, which she said contained roughly 130 to 140 prescribed tablets. Ms A went to see her mental health co-ordinator who told her that she would not section Ms A, but would allow her to go into an assessment unit as a voluntary patient. At around 1.15pm, Mr B, who worked at the local mental health unit, called the police to report that Ms A had run away three to four minutes previously, and had said that she was going to kill herself.

Ms A subsequently visited a local chemist, picked up a large quantity of paracetamol and some aspirin before taking them to the counter. When staff refused to sell her the tablets, Ms A went back to the display and started removing the tablets from the packaging. Staff at the store called the police, saying that Ms A had tried to take tablets. Ms A was taken into a consultation room by Ms C, who said that she knew Ms A because they used to work together at the store.

Police Constable (PC) D and PC E responded to the call and an officer, believed to be PC D, said that he had met Ms A before. This conversation was captured on PC D's body-worn video. Both officers subsequently went to the store. They spoke with Ms A about her previous attempts to commit suicide and asked her if she had taken any tablets today. She replied that she hadn't, but that she wouldn't tell them even if she had. She also told PC D and PC E that she had jumped off a cliff the day before and had been taken to hospital. PC E decided to detain Ms A under s.136 of the *Mental Health Act*.

PC D and PC E completed a police mental health monitoring form for Ms A, in which they stated that their primary concern was 'harm to self', and noted that she had said that she wanted to commit suicide, either by taking an overdose or jumping off a cliff.

Contrary to local force policy, Ms A was not searched at this time. PC D explained that the reason a full search was not done was because he was a man and a full search would have been inappropriate. PC D asked Ms A if she had anything in her possession that she shouldn't have, to which she replied that she didn't because the tablets she had were prescribed. PC's D and E did search her bag, but there was no medication in there.

Subsequently, Ms A attempted to run away from officers. PC E chased her and restrained her on the floor. She patted down her trouser pockets and did not find tablets or weapons. PC E stated that the search went no further than this because Ms A is a woman, and he was aware of her having been sexually assaulted and that she had suffered from post-traumatic stress disorder (PTSD), previously. He said that any further search would have constituted an intimate search, and would have required the presence of a woman officer.

Ms A was handcuffed, and taken to a police car to take her to the mental health suite at the local hospital. In the police car, Ms A tried to tell PC D and PC E that she had taken an overdose of paracetamol, to which the officers did not give a specific response.

Mental Health Act – Code of Practice – Chapter 16: Local policies on use of police powers and places of safety

"People taken to a health-based place of safety should be transported there by an ambulance or other health transport arranged by the police who should, in the case of section 136, also escort them in order to facilitate hand-over to healthcare staff

Read the guidance online here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF

On arrival at the hospital, Ms A told a member of staff that she had taken an overdose of paracetamol tablets and did not feel well. Ms A said that PCs D and E said that she had not mentioned this to them. Staff at the hospital refused to accept Ms A until she had been medically cleared. PC D and PC E subsequently took Ms A to the accident and emergency unit (A&E) at a neighbouring hospital.

On arrival at A&E, Ms A told staff that she had taken paracetamol. For this reason, staff wanted to do a blood test. Ms A refused to have a blood test. Ms A waited with officers in A&E for a bed to become available, and was escorted to the toilet by a woman member of staff during this time. Ms A had still not been fully searched at this time because she was always accompanied by male officers.

PC D contacted Police Sergeant (PS) F to ask a woman officer to attend but was told that none were available.

Ms A was admitted onto a ward, and had her handcuffs removed. Officers remained with her in the room. Both Ms A and Ms G, a medical assistant, said that during the time she was on the ward, Ms A was not escorted to the toilet.

Body-worn footage recorded by PC D around an hour and a half after Ms A was admitted onto the ward shows PC D having a conversation with Ms A, during which she puts her hands briefly under the covers on multiple occasions.

Later on, PC D and PC E were replaced on shift by PC H and PC I. During the handover, PC D informed the incoming officers that Ms A's bag had been searched, but that she had not been fully searched because no woman officer was available. Neither PC H or PC I fully searched Ms A during their shift, and both acknowledged that this was because she was a woman and, because they are men officers, they could not carry out a full search.

Around an hour later, PC H and PC I were replaced by PC J and PC K, though PC H and PC I stayed for around half an hour and discussed the incident. PC H stated that he could not remember if they discussed whether a search had been carried out. Ms A used the toilet during the period that they were on the ward, and all four officers waited outside the toilet in the corridor.

PC J said that he did not search Ms A because the local force policy states that men officers cannot carry out searches (especially intimate) of women.

PC K said that he did not search Ms A because he believed he did not have the power to search people detained under s.136 of the *Mental Health Act*. He said that s.32 of the *Police and Criminal Evidence Act (PACE)* applied if an officer believed a person had anything on them that could cause harm or assist in their escape. PC K said that he did see Ms A putting her hands to her mouth but did not believe there was anything in them.

While Ms A was under the supervision of PC J and PC K, she was brought food including some jelly. PC J began taking photographs of the jelly on his phone to send to a colleague. Ms A said she asked him not to do this, but he ignored her.

Additionally PC J began typing words into his phone and playing them aloud repeatedly in a female voice. At first, it said, "Have the blood test now". Ms A acknowledged that, in the beginning, both she and the officers were laughing at this. However, PC J changed the recording to include a derogatory rhyme involving Ms A's surname. PC J accepted that he had done this, stating that Ms A had previously told him that this was her nickname at school. He said that the comment was not meant in a derogatory manner or intended to upset Ms A. He said that she laughed at the comment and was not upset.

Ms A said that after PC H and PC I left, PC J added a further derogatory word into the recording, but PC J denied this, and no other witnesses could recall hearing this word.

Ms A then changed into her pyjama bottoms in the toilet, unaccompanied. She said that officers patted her trousers down before allowing her to put them on. Ms A moved the pouch containing the medication from her trousers to her pyjama bottoms. She said that while she was changing, the message on PC J's phone continued to play. She said that she asked him to stop playing it but he refused.

Ms A also said that PC J was making sexually inappropriate jokes. However, PC J denied having done this and no witnesses could recall anyone making sexually inappropriate jokes.

Ms A stated that after the message on PC J's phone had stopped she asked officers to turn the lights out so she could sleep but they refused. She then told them she would take an overdose

and she said they replied by saying “don’t be so ridiculous you haven’t got any tablets on you”. She repeated this threat later and was again told that she did not have any tablets. Ms A said she started to get more and more upset and she was trying to talk to PC J but he was ignoring her. She said that originally PC K was helpful, and was de-escalating the situation by talking to her. However, she stated that at some point, both PC J and PC K began playing on their phones and that PC K was listening to music through his earphones.

At this point, Ms A said that she decided to start taking the tablets from her pouch which was in the bed beside her under the covers. She stated that she took two tablets every minute for an hour and that in total she took 120 tablets. To take the tablets, Ms A would put her head under the blanket, take a tablet, and then bring her head back above the covers to take a sip of water.

She said that the nurse came in and did a blood test during the period Ms A was taking the tablets. Ms A stated that she agreed to have the blood test at this time because she believed it had been 12 hours since she had taken the paracetamol, which would mean they would not be detected. However, she later said that her calculations were incorrect.

Ms A stated that she then went to the bathroom again, but was becoming confused. She left the bathroom, showed the pouch of pills to the officers and the nurse and told them she had been taking pills. She said that PC J reacted to this by swearing and telling her to lie down. She went and lay down, and said that she did not remember anything else until she was woken up the next day.

After this, PC K spoke to a doctor, and a woman member of the medical staff was asked to carry out a strip search of Ms A. Subsequently, Ms G and Ms L, another medical assistant at University Hospital B, asked Ms A if they could search her. They then went to the toilet and carried out a full search, taking off all Ms A’s clothes and underwear. No tablets were found during this search. Ms G said that she believed Ms A should have been searched while in A&E.

Ms A remained under observation for the rest of that day, with her Glasgow Coma Score (GSC) being monitored. At one stage, her GSC fell to the minimum level of the scale. A doctor was called, she was admitted to the Intensive Care Unit and put into an induced coma.

Ms A was discharged from University Hospital B the following day. She was searched before being discharged, and then taken to Community Hospital A, where she was searched on arrival.

Type of investigation

IPCC independent investigation.

Findings and recommendations

Local recommendations

Finding 1

1. The local policy on Section 136 of the *Mental Health Act* (1983) states, “All persons detained under Section 136 MHA will be searched by the officers at the point of detention”. It then states, “The power to search is based on Section 32(1) of the *Police*

and Criminal Evidence Act”. However, Section 32(1) of the *Police and Criminal Evidence Act (PACE)* states, “A constable may search an arrested person...if the constable has reasonable grounds for believing that the arrested person may present a danger to himself or others”.

Local recommendation 1

2. The wording of the local policy should be changed to reflect the wording of Section 32(1) of *PACE* to state that persons may be searched at the point of detention and highlight the rationale for carrying out a search as outlined by *PACE*.

Response to the recommendations

Local recommendations

Local recommendation 1

1. The local force policy was amended to reflect the requirements in *PACE*.

Outcomes for officers and staff

PC J

1. PC J was found to have a case to answer for misconduct. This was for acting improperly and breaching the professional standard of “authority, respect and courtesy” by making derogatory comments about Ms A. It was agreed that the officer would accept action by management and carry out re-training on vulnerable people and mental health.

Questions to consider

Questions for policy makers and managers

1. Does your force have a mobile phone usage at work policy?
2. How does your force ensure that conveyance of people detained under the Mental Health Act is done by ambulance wherever possible?

Questions for police officers and staff

3. What would you have done if you found yourself in the same situation, and there were no female officers available, to carry out a more thorough search of the woman?
4. What would you have done if the woman had told you that she had taken tablets?