

Avon and Somerset Constabulary

Mental Health

(Operational Policing)

Procedural Guidance

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Transfer onto new template and review including consideration of Appendices B.		2	
		3	
		4	

Section 1 Procedure Information

Procedure Information	Reviewed by: (Name, Area/Dept.)	Date:
Signed off by Head of Department/Area:	Supt Andy Williams	27/03/2019
To be read in association with: <i>Please add any relevant APP or ASC procedures</i>		
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Section 2 Introduction

- 2.1 Dealing with incidents involving mental health is complex and multi-factorial. It has been said that work undertaken by professionals “at the interface of the mental health and criminal justice systems is amongst the most complicated by any in those professions.”¹
- 2.2 The needs of the individual are paramount and should be one of the main drivers in the decision making of officers and staff. It is, however, recognised that sometimes an individual will not be in a position to identify or communicate their needs and that there will be times when it is necessary, proportionate and appropriate to consider the use of the Mental Health Act

¹ Professor Jill Peay – “Mental Health and Crime” – Routledge-Cavendish (2010)

1983 or the criminal justice system in order to deal with a situation and that the needs of the community at large must also be considered.

- 2.3 There will also be occasions where it is lawful, necessary, proportionate and appropriate to consider the use of reasonable force 2 managing such situations.
- 2.4 The Force recognises that the police play a key role in providing a response to people with mental ill-health, Personality Disorders, learning disabilities or learning difficulties and other neuro-diverse conditions such as autism and ADHD.
- 2.5 Avon and Somerset Constabulary has adopted and seeks to comply with the Authorised Professional Practice (APP) on Mental Health which is published by the College of Policing. That APP stipulates that each force should have its own policy document covering a range of specific issues as well as local protocols and procedures.
- 2.6 This procedural guide has been prepared in order to meet that requirement and is intended to ensure that officers and staff provide a clear and consistent service to the people identified above whether they are victims, witnesses, suspects, offenders, patients, NHS service users or members of the public requesting or requiring assistance.

Section 3 Principles

- 3.1 It is Avon and Somerset Constabulary's policy to deal compassionately, fairly and appropriately with people with a mental disorder, learning disability or other neuro-diverse condition according to their needs.
- 3.2 Our aim is to ensure that people who present to police whilst experiencing a mental health crisis are supported and managed in the most appropriate way by the most appropriate service.
- 3.3 The force fully endorses the nine core principles of the National Police Chiefs' Council National Strategy on Policing and Mental Health (Draft)

Section 4 Equality

- 4.1 Avon and Somerset Constabulary procedures aim to promote equality, eliminate unlawful discrimination and actively promote good relationships in respect of:
 - Age
 - Disability
 - Gender Reassignment
 - Race

- Religion or Belief
- Gender
- Sexual Orientation
- Marriage & Civil Partnership
- Pregnancy & Maternity

Section 5 Definitions

5.1 Section 1 of the Mental Health Act 1983 states that:

“Mental disorder’ is any disorder or disability of the mind.”

This term covers all areas of vulnerability relating to mental illness, learning disability and other cognitive conditions and neuro-diversity.

5.2 The National Police Chiefs’ Council definition of a mental health related incident (used for the purposes of crime, incident and safeguarding recording) is:

“Any police incident where someone’s mental health is at the centre of the incident or where the police must do something additionally or differently because of their vulnerability.”

5.3 This could include (but is not limited to) instances when:

- a victim has apparent mental health / learning difficulties
- a suspect / offender has mental health / learning difficulties
- a witness has mental health / learning difficulties
- Situations where someone with mental health / learning difficulties is treated as missing or as a patient.

Section 6 Training

6.1 The Constabulary has identified and committed to a training plan with the aim of ensuring that all officers and staff are trained to the recommended standards of the College of Policing in line with the reasonable resources available to the Force. This training plan will be available on Pocketbook.

Section 7 Procedural Guidance

7.1 The Constabulary has prepared the [Mental Health Operational Handbook](#) which contains an easy to read reference to many processes and aspects of the most commonly encountered situations relating to mental health and policing. Included within it is the escalation process to be followed in certain

situations where there is disagreement between police and mental health services.

- 7.2 The Constabulary has also adopted the [College of Policing Authorised Professional Practice on Mental Health](#) and this provides definitive guidance on all relevant aspects of procedure. It should be consulted in conjunction with any locally issued guidance such as this.

Section 8 Local Multi-Agency Protocols

- 8.1 There are two mental health trusts operating within the force area: Avon and Wiltshire Mental Health Partnership Trust and the Somerset Partnership Trust. Both of these are responsible for their own Practice Guidance Notes / Policies for S135 and S136 that set out the provision of multi-agency services to individuals who are likely to be patients under S135 or S136 of the Mental Health Act. These protocols should detail:
- Compliance with relevant legislation, national guidance and other sources of standards for the NHS, Local Authority, Police and partner agencies
 - The use of dedicated mental health Places of Safety on the majority of occasions
 - The use of Emergency Departments only where this is consistent with concerns about urgent healthcare requirements
 - The use of police stations, only in exceptional circumstances and where it is medically safe to do so and the person **is over 18. Persons under 18 should not be brought to police stations as places of safety under any circumstances.**
 - Seek to facilitate the rapid assessment of persons removed to a place of safety.
- 8.2 Clinical practitioners should act in accordance with these protocols at all times.

Section 9 Handling of Incidents with Individuals Presenting with a Mental Disorder

- 9.1 When officers are faced with an individual who it is believed is in mental health crisis there are a number of different scenarios which may be presented. This Procedural Guidance is designed to identify the key questions which officers may have and to provide guidance to assist officers with their decision making in relation to how best to deal with the situation presented to them.

Section 10 Presenting Behaviours

- 10.1 Each situation faced by an officer should be treated as unique and officers should use their best endeavours to ascertain how to deal with a given situation. Officers have a number of powers in their toolkit which will have formed part of their basic and ongoing training. In some instances individuals will be presenting with a number of behaviours which officers should assess and decide how to deal with. These include but are not limited to:-

Section 11 Suspected Acute Behaviour Disturbance (ABD)

- 11.1 Avon and Somerset Constabulary officers and staff will be taught to recognise the signs of ABD. Whilst ABD is not a currently recognised medical condition in itself there are a number of symptoms which collectively indicate that the individual is suffering from an ABD type condition which requires immediate medical assistance.
- 11.2 If there is any suspicion that violence or behaviour stems from a medical condition, the person will be treated as a medical emergency and an ambulance requested so that the person can be taken to an emergency department without delay
- 11.3 The current recognised symptoms of acute behavioural disturbance (ABD) include:
- a state of high mental and physiological arousal – perceiving others as frightening and dangerous, ‘fight or flight’ reaction
 - breathing problems
 - agitation
 - high body temperature and/or sweating – so may try to undress
 - violence, aggression and hostility
 - Insensitivity to pain and incapacitant sprays.
- 11.4 Due to ABD (also referred to as Excited Delirium) are currently not universally recognised or accepted terms within the medical community it is essential that officers accurately describe the symptoms the individual is presenting with to the ambulance service. When contacting ambulance for assistance officers should “Say What You See” – describe the symptoms and, if there is any doubt, ask to speak urgently with a clinician in the ambulance control room.
- 11.5 If there is a belief that ambulance deployment will be delayed and that such a delay is likely to increase the threat to life then officers will need to consider whether taking the person to a hospital Emergency Department is a faster and safer option. Officers should use the most appropriate police vehicle available within the timeframe and circumstances.

- 11.6 Officers should use the National Decision Model and record their rationale for how they dealt with the situation presented as soon as possible.
- 11.7 Officers should also use Body Worn Video to record what is happening and the decisions made.
- 11.8 Wherever possible, people who appear to be experiencing ABD will only be restrained in an emergency and will be contained rather than restrained until medical assistance can be obtained.
- 11.9 Further advice and information can be [located HERE](#) and in the Mental Health Operational Handbook (page 19)

Section 12 Triage

- 12.1 Triage schemes operate within the force area. They aim to improve access to mental health services and provide advice to officers and staff.
- 12.2 Officers are reminded that S136 of the Mental Health Act 1983 now requires officers to consult with medical professionals before invoking S136 where this is practicable (it is recognised and acknowledged that there will be cases where circumstances require immediate action or it is otherwise not practicable.) Officers should consult Triage during operating hours or the out-of-hours services outside of these times.
- 12.3 Contact details, operating hours and who to contact outside of these times can be found on Page 16 of the Mental Health Operational Handbook

Section 13 Advice, Support, Custody and Courts (ASCC) Service

- 13.1 Advice, Support, Custody and Courts (ASCC) provide assessment and advice for people aged 18 and over, either whilst in Police Custody or appearing in the criminal courts (Magistrates Court and Crown Court) in the Avon and Somerset force area, where there are concerns or issues around mental health. Colleagues from ASCC will be based in each of our custody units.

Section 14 Mental Health Monitoring Form (MHMF) Safeguarding Niches

- 14.1 Officers should only complete a Mental Health Monitoring Form after any occasion where they use their powers under Section 136 of the Mental Health Act 1983.
- 14.2 In all other cases where there are concerns regarding the ongoing mental well-being of a person with whom police have had contact, officers should attempt to make contact with Triage / Mental Health services whilst dealing and complete a Safeguarding NICHE.

- 15.1 The police do not have specific powers to deal with a mental health crisis in someone's home alone. It is, however, quite certain that officers will be called to deal with or assist others with managing such situations.
- 15.2 Under S135(1) Mental Health Act 1983 a magistrate may issue a warrant authorising any constable to enter specified private premises, by force if required, to facilitate an assessment and remove the individual to a place of safety if necessary.
- 15.3 This warrant can ONLY be applied for by an Approved Mental Health Professional (AMHP) but it will specifically empower the POLICE to action it. If mental health services request police presence at the execution of a S135 (1) warrant then it should automatically be treated as a legitimate request as the warrant WILL stipulate it is for the police to enact it. An assessment should then be made on the urgency of the request so that it can be prioritised and resourced accordingly.
- 15.4 Amendments to the Mental Health Act following the passing of the Police and Crime Act 2017 have now extended S136 powers to locations which would previously have required a warrant and the power can be used in any place other than a private dwelling or the grounds connected to that private dwelling.
- 15.5 The purpose of a S135(2) warrant is to provide police officers with a power of entry to private premises for the purposes of removing a patient who is liable to be taken or returned to hospital (e.g. Absconded, Community Treatment Orders) or any other place or into custody under the Act. This warrant can be applied for by an AMHP, Police or Hospital Authority.
- 15.6 Where no warrant under S135 (1) and (2) has been issued (e.g. where access has been granted by the individual or co-owner) police may be asked to attend a mental health assessment on private premises when it is anticipated that there is a risk of harm to those attending to undertake the assessment and that assistance may be required to keep the situation safe. They may also be required to convey the patient to hospital under S6 MHA.
- 15.7 Without a warrant under S135 (1 or 2), officers can still consider the following powers in response to a spontaneous situation where the risk of harm is likely:
- Section 17 (1) (e) Police and Criminal Evidence Act 1984 – permits entry to premises to save life and limb.
 - Section 3 Criminal Law Act 1967 3 (1) – “a person may use such force as is reasonable in the circumstances in the prevention of

crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.”

- Section 5 and 6 Mental Capacity Act 2005 – protects decision makers who decide to use restraint in certain circumstances – including, where necessary to prevent self-harm. (This is NOT a power of entry)

15.8 In cases where someone has been “sectioned” as a result of a S135(1) warrant (under S2, 3, or 4) S6 of the Mental Health Act 1983 allows for the use of such force as is reasonably necessary to achieve the objective of conveying the patient to hospital and deems the patient to be in legal custody.

Section 16 Search Powers

- 16.1 Police officers may search a person detained under S135 or S136 if they have **reasonable grounds for believing** a person has dangerous concealed items and may present a risk to themselves or others. The search power does not authorise a constable to require a person to remove any of his or her clothing other than an outer coat, jacket or gloves, but does authorise a search of a person's mouth.
- 16.2 It should be noted that “belief” is the higher end of the suspicion scale as opposed to “suspect” or “suppose”.
- 16.3 On arrival at a place of safety – officers will only conduct a search if this threshold is met but they will be **expected to remain** whilst hospital staff conduct any searches. A search by hospital staff may lead to discoveries which then provide the grounds for officers to take over the search.

Section 17 Using Police Custody as a ‘Place of Safety’

- 17.1 Avon and Somerset Constabulary will only accept adults detained under S136 Mental Health Act 1983 in exceptional circumstances. College of Policing APP on Mental Health states that *“police custody must **not** be used because of ‘lack of space / beds’ and “it is not a police responsibility to find an alternative place of safety and it is not appropriate for police officers to simply take the person to the nearest place of safety.”*
- 17.2 Officers should always contact the relevant S136 Place of Safety to ensure there is space. If there is not space – the relevant mental health trust will inform police of where the person is to be taken.
- 17.3 Persons under 18 years of age will never be brought to custody when detained under these powers.
- 17.4 The law also allows for a person detained under S18 Mental Health Act to be held in police custody. Ideally the person (who will have been detained for

being AWOL / absconded from hospital) will be conveyed directly to the place from which they have not returned / escaped. It is recognised that sometimes this may involve considerable distances and the local NHS does not have automatic responsibility for housing AWOL patients from another area.

- 17.5 The reporting trust should be contacted to make transport arrangements for any person held in police custody under S18 Mental Health Act.
- 17.6 “The police should be asked to assist in returning a patient to hospital only if necessary. If the patient’s location is known, the role of the police should, wherever possible, only be to assist a suitably qualified and experienced mental health professional in returning the patient to hospital” [Paragraph 28.14 Mental Health Codes of Practice](#)
- 17.7 In relation to suspects or offenders – Avon and Somerset Constabulary adhere to the [College of Policing Authorised Professional Practice \(APP\) relating to Detention and Custody](#), including where detained persons suffer from mental ill-health, learning disability or other cognitive or neuro-diverse condition.

Section 18 Use of Section 136 MHA in Custody

- 18.1 Consideration of using s136 in police custody should only occur where it is no longer possible to lawfully detain the individual under PACE for someone who was originally arrested for an offence; and where their mental health problems are believed to be sufficiently serious in their own right to justify the use of s136 if they had been encountered outside of custody.
- 18.2 The presence or suspected presence of mental illness, learning disability or neurological condition should not be an automatic bar to entry into police custody where people have been brought there under arrest on suspicion of a criminal offence.
- 18.3 The existing processes for in-custody mental health assessment should be followed in the vast majority of situations.
- 18.4 The exception to this is where someone is so ill, it is a medical emergency and they are unfit for detention in police custody and in need of urgent transfer to an Emergency Department regardless of the PACE conditions around the investigation.
- 18.5 Use of S136 can also be considered in cases where a person has been arrested for a criminal offence and a mental health act assessment has been sought but not yet carried out, or one has been carried out and no hospital (“bed space”) has been identified. In both of these cases – if the grounds for PACE detention have ceased (which includes approaching the 24 hour PACE

clock limit) then the use of S136 could be considered. In these situations the need for “immediate care and control” would occur if the person were to be released from custody – which they would be unless there was intervention.

- 18.6 The fact that someone is thought to have some kind of mental health condition should not mean the police refuse to detain or suddenly bring detention to an end, by use of pre charge bail or release under investigation. The grounds for using s136 in these circumstances would usually not be met, because for most their condition will not be acute, giving rise to a need for ‘care or control’.
- 18.7 In cases where S136 is used in custody the preferred method of transport to the Place of Safety is by ambulance. Police officers should accompany the ambulance and undertake the handover process as laid out in paragraphs 19 and 20 below.
- 18.8 Interim College of Policing guidance can be found here:



Collins_Mental%20Health%20and%20Policing

Section 19 Use of the Mental Capacity Act (MCA) 2005

- 19.1 The Mental Capacity Act does NOT provide a means by which people can be taken from one place to another purely for the purposes of a Mental Health Act assessment. This was determined in the stated case of R (Sessay) v South London and Maudsley NHS Foundation Trust [2011] EWHC 2617 (QB)
- 19.2 The MCA gives a legal basis for providing care and treatment for people aged 16 years and over who lack the mental capacity to give consent to such care and treatment. It does not matter whether the impairment or disturbance is permanent or temporary.
- 19.3 In relation to the MCA – the issue of “capacity” is a clinical judgement and is best made by the most medically qualified persons present. Where possible, advice should be sought from a clinician such as a paramedic.
- 19.4 However, police officers may need to make immediate decisions in the best interests of the individual that relate to containing, controlling and potentially restraining an individual who lacks the capacity to make the decision in question whilst awaiting further input or direction from a health or social care professional.
- 19.5 It should be noted that the threshold to take action is high and must be in order to perform a vital act to prevent a serious deterioration or to provide life sustaining treatment.

- 19.6 Further advice on the operational use of the MCA can be found in this 7 minute briefing.

Section 20 Transport

- 20.1 Ambulance is the preferred mode of transport to convey an individual to a place of safety or hospital. They should be contacted and requested in every case. In addition to transport we are seeking a clinical assessment of the person detained for any urgent or over-riding medical needs which police officers, with minimal first-aid training and equipment, may not recognise or see.
- 20.2 In cases where a risk assessment then dictates that a wait or delay would create unacceptable risk or unnecessary distress then the most suitable police vehicle available may be used.
- 20.3 Officers are reminded that the security of the detained person within the ambulance remains THEIR responsibility.
- 20.4 The risk assessment may also determine that a police officer accompanies the person in the rear of the ambulance or even that a paramedic travel with officers in a police vehicle.
- 20.5 As a minimum, police officers should follow the ambulance to the place of safety in every case where they have used their powers under S136 or executed a S135 warrant to ensure that the handover process is complete on arrival.
- 20.6 The Mental Health Operational Handbook contains a reference guide in relation to calling for ambulances.

Section 21 Handover to the NHS

- 21.1 When handing over a detainee to the NHS there are three considerations. The person receiving should be:
- Capable (the premises / staff / security are appropriate)
 - Willing
 - Informed (fully briefed on all relevant risk factors (e.g. risk of escape, violence, known / suspected health factors etc.)
- 21.2 The case of [Webley v St George's Hospital NHS Trust & Anor, Court of Appeal - Queen's Bench Division, February 14, 2014, \[2014\] EWHC 299 \(QB\)](#) is instructive in relation to this issue.
- 21.3 This case also set out the “Common Law Duty of Care” beholden on the police

1. A duty to take reasonable steps to ensure that a person does not come to physical harm in their custody
 2. A duty to take reasonable care only to release them into a safe environment
 3. A duty to provide relevant information to those into whose care they are transferred.
- 21.4 As a general rule, officers should expect the handover at a Place of Safety at a Mental Health unit to be conducted relatively swiftly. However, officers should expect to remain at an Emergency Department with a S136 detainee unless staff there are willing to accept responsibility in line with the guidance above. Even with this agreement, officers should, themselves, be satisfied that the three criteria (capable, willing, and informed) are met. It is advised that the handover briefing / conversation is recorded on body worn camera.

Section 22 Community Treatment Orders

- 22.1 Once a recall notice has been correctly issued and taken effect, a Community Treatment Order (CTO) patient is, for policing purposes, an AWOL patient and officers may rely on S18 MHA to detain the patient and return them to hospital.
- 22.2 Further details on CTO's can be read [here](#).
- 22.3 Where entry to a premises is opposed or likely to be opposed, officers are reminded of the detail in paragraph 13 above and the need to obtain a warrant under S135(2) of the Mental Health Act 1983.
- 22.4 Where the location of the patient is known, Avon and Somerset Police will provide support where this is proportionate to the risks involved. If requested to assist, specific questions should be asked to ensure that the CTO has, in fact, been served and served correctly.

Section 23 Warrants Under Section 42 Mental Health Act 1983

- 23.1 S42 MHA warrants recall a person to hospital, who has been conditionally discharged from the provisions of S37 / 41 of the act. The recall warrants are sought from the Ministry of Justice by the professional involved in their care and treatment. Police may be required to assist in carrying out the warrant in the safest way possible in conjunction with our mental health partnership trusts.

Section 24 Offences within In-Patient Psychiatric Mental Health / Learning Disability Facilities

- 24.1 In responding to allegations made by staff / patients in an in-patient unit officers will:

- Not presume that a mental health condition or learning disability, or detention in hospital under MHA means that a suspect did not understand that their actions or what they were doing was wrong.
- **Secure evidence in the normal way and within normal timescales (Golden Hour)** and seek as much background and professional opinion as possible on the patient and their relevant history;
- Take into account any previously unreported violence towards NHS staff / patients and any escalating behaviour which may help inform the CPS public interest decision.

24.2 Where there is evidence of an offence and it is in the public interest, an in-patient at a hospital may be charged and prosecuted.

24.3 Additionally it should be noted that:

- “Capacity” is not the legal issue to be determined – officers should look for evidence of the mens rea (guilty mind)
- The fact that someone is “Sectioned” from custody should not necessarily mean the end of the investigation at that point.
- The more serious the offence – the less relevance the suspect’s “capacity” has on the police or CPS to decision to prosecute. The onus is on the defence to prove mitigating factors such as insanity or diminished responsibility.

Section 25 Prosecution Decisions

25.1 Initially, police officers are required to consider whether there is enough evidence to charge the suspect. To the extent that they are able to use discretion about whether to prosecute for an offence, officers will also consider the suspect’s level of vulnerability.

25.2 The support of an appropriate adult will be sought as necessary to help formalise the outcome of the investigation.

25.3 In some circumstances the purpose or value of prosecuting a vulnerable adult may be considered low and not in the interests of public or justice.

25.4 Certain powers and protections under the Mental Health Act can only be instigated by the criminal courts. Prosecution will be appropriate when criminal courts are best placed to weigh the full context and circumstances of a particular case, in the light of full psychiatric reports.

25.5 For more serious offences prosecution may be necessary even where vulnerable suspects are potentially seriously unwell and remand application may be the only safest option.

- 25.6 Non-Court disposals following discussion with mental health professionals regarding suitability and appropriate use can be a useful as a means to deal with non-serious offences in mental health facilities.
- 25.7 CPS guidance on dealing with Mentally Disordered Offenders can be seen [here](#).

Section 26 Police Assistance on Psychiatric Wards

- 26.1 The role of police in attending mental health units in order to assist in managing safety should be minimised. As a general rule, police should not be called to assist with the transfer of patients from one part of a hospital to another; to assist in placing patients in seclusion or to assist in forcible medication of patients.
- 26.2 However, it is recognised that there have been, and will be, occasions when safety or security on a ward has been seriously compromised or crime is being committed and where police assistance is entirely necessary and legitimate. **Each request should therefore be assessed on an individual basis.** As much information as possible should be obtained to assist in decision making.
- 26.3 The protocols mentioned elsewhere in this document and the national [Memorandum of Understanding](#) on the use of restraint should clearly outline the circumstances in which the police could be called and should also govern the response.
- 26.4 Effective communication between professionals is KEY to managing such situations and, wherever possible, prior to deployment onto any actual ward, officers should ensure they have been fully briefed, the police role has been explained and agreed and that there is a plan (with contingencies) in place upon which everyone is clear.

Section 27 Monitoring and Review of this Procedure

- 27.1 The effectiveness of this procedure will be monitored in its application. Ongoing learning will be applied and may result in consequential changes to the procedure.
- 27.2 This procedure will be formally reviewed at periods as prompted by the Service Improvement Coordinator. Ongoing learning, legislative changes, and other influencing factors may also necessitate a review / update. The review period will not be more than 3 years.

Section 28 Appendices

Equality analysis template

You should use this template to record evidence that equality analysis has been carried out *before* procedure and other decisions take place. The form is a written record that demonstrates that you have shown *due regard* to the need to **eliminate unlawful discrimination, advance equality of opportunity and foster good relations** with respect to the characteristics protected by equality law.

Please ensure you read the guidance notes before attempting to complete this form. If you require further help, please contact #ASC Procedures.

1. About the procedure/project/change

Name of the procedure/project/change:	Mental Health (Operational Policing) Procedure
Revised or new:	New
Intended aims/outcomes:	To ensure that people who present to police whilst experiencing a mental health crisis are supported and managed in the most appropriate way by the most appropriate service.
Relationship with other policies/projects:	National Police Chiefs’ Council – National Strategy on Policing and Mental Health (draft) College of Policing APP on Mental Health College of Policing APP on Detention and Custody National Memorandum of Understanding on The Police Use of Restraint in Mental Health & Learning Disability Settings CPS Guidance on mentally disordered offenders Interim advice from College of Policing on use of S136 Mental Health Act 1983 in custody A&S Mental Health Operational Handbook
Who is the senior lead for the procedure/project:	Supt Andy Williams
Who is the procedure/project manager:	Supt Andy Williams

2. Decide if the procedure/project is equality relevant

**Does the procedure/project involve, or have consequences for employees, officers or the public?
If yes, please state who will be affected.
If yes, then the procedure/project is equality relevant.
If no, you can skip steps 3 to 5. The majority of Constabulary policies and projects are equality relevant because they affect people in some way.**

Following the policy and procedural guidance will ensure that the chances of adverse consequences for employees, officers and the public are greatly reduced.

3. Gather evidence to inform the equality analysis

What evidence have you gathered to help inform this analysis?

Who have you consulted with (e.g. Staff Networks, external advisory groups) in preparation of this procedure and what were the findings?

If there is no evidence available under any of the characteristics, please explain why this is the case.

<i>Description of data & source</i>	Evidence/Data
1.	All of the guidance within this document comes from the best and latest guidance at national level and legislation itself (including in the forms of stated cases.) The principle source documents are listed in the “relationship with other policies” section of this assessment. Many of these documents have been developed or have evolved in response to lessons learned from previous tragic events, independent reviews and inquiries.

<i>Person(s) or group consulted</i>	Findings
1. 2. 3.	

<i>Characteristic</i>	Evidence
Age	N/A

Disability	<p>Any member of staff relying on the information within this policy and procedural guidance will be dealing with or considering the actions to take regarding a member of the public who would be considered to be “mentally disordered” as defined within the Mental Health Act 1983. This is a broad definition covering “any disorder or disability of the mind.”</p> <p>This term covers all areas of vulnerability relating to mental illness, learning disability and other cognitive conditions and neuro-diversity.</p> <p>It is therefore likely that a large percentage would be considered to have the protected characteristic of disability.</p>
Gender reassignment (Transgender)	N/A
Marriage and civil partnership (applies to employment only)	N/A
Pregnancy and maternity	N/A
Race/ethnicity	N/A
Religion or belief	N/A
Sex/gender (generally includes dependent/caring responsibilities)	N/A
Sexual orientation	N/A

4. The duty to eliminate discrimination

Based on the evidence you have analysed, describe any actual or likely adverse impacts that may arise as a result of the procedure decision. In considering ‘adverse’ impact, take into account both (a) unintended consequences for equality groups **and** (b) whether the decision, procedure or activity is fully effective for all target groups. Potential consequences may be unintended and disproportionate, and this may be a form of unlawful discrimination - **if you do not** go on to consider whether the decision, procedure, project or change can be reviewed to mitigate or eliminate these consequences.

Therefore, where actual or likely adverse impacts have been identified, you should also state what actions will be taken to mitigate that negative impact, i.e. what can the Constabulary do to minimise the negative consequences of its decision/action.

If an adverse/negative impact is identified, and no (or no further) mitigation is possible to reduce or eliminate that impact, is it justified as a "proportionate means of achieving a legitimate aim"? How? It is important to be explicit about this.

<i>Characteristic</i>	<i>Actual or likely adverse impacts identified</i>
Age	
Disability	<p>The force has been asked many times to provide its force policy on mental health and, to date, there has not been one. The force is also contacted many times, particularly through FOI requests asking for numbers of incidents involving use of force, use of police cells, and use of police vehicles to transport patients. This appears to be an area of continued public interest. It has also been sought in Court Cases. The fact that no specific policy document existed could be seen as unusual and discriminatory.</p> <p>The College of Policing APP on mental health stipulates that all forces should have a local policy which covers certain topics – all of these (and others) are included within this policy.</p> <p>It is possible that concern may exist about the contents of a policy document relating to managing and supporting people in mental health crisis but it is more likely that concern would exist if we continued to operate without one.</p>
Gender reassignment (Transgender)	N/A
Marriage and civil partnership (applies to employment only)	N/A
Pregnancy and maternity	N/A
Race/ethnicity	N/A
Religion or belief	N/A
Sex/gender (generally includes dependent/caring responsibilities)	N/A

Sexual orientation	N/A
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<i>Characteristic</i>	<i>Other options considered for achieving the same aim – which might have less of an adverse impact</i>
Age	N/A
Disability	The entire ethos of the document is about doing the right thing to ensure that people are properly treated and properly supported and provides guidance on the limits of police powers so that we do not act beyond those or discriminate in any way.
Gender reassignment (Transgender)	N/A
Marriage and civil partnership (applies to employment only)	N/A
Pregnancy and maternity	N/A
Race/ethnicity	N/A
Religion or belief	N/A
Sex/gender (generally includes dependent/caring responsibilities)	N/A
Sexual orientation	N/A

<i>Characteristic</i>	<i>Actions that will be taken to mitigate the adverse impacts identified</i>
Age	N/A
Disability	N/A
Gender reassignment (Transgender)	N/A
Marriage and civil partnership (applies to employment only)	N/A

Pregnancy and maternity	N/A
Race/ethnicity	N/A
Religion or belief	N/A
Sex/gender (generally includes dependent/caring responsibilities)	N/A
Sexual orientation	N/A

<i>Characteristic</i>	<i>Justification for any remaining adverse/negative/disproportionate impact</i>
Age	N/A
Disability	<p>As this policy and procedural guidance is written with the specific aim of assisting staff in managing people in mental health crisis or dealing with people with a mental disorder within the criminal justice system, there is no way of mitigating this fact.</p> <p>However, the opening paragraphs state that it is our policy to “deal compassionately, fairly and appropriately with people with a mental disorder, learning disability or other neuro-diverse condition according to their needs.</p> <p>Our aim is to ensure that people who present to police whilst experiencing a mental health crisis are supported and managed in the most appropriate way by the most appropriate service.”</p> <p>The information within the document is gathered from the best available national policy / strategy and guidance documents.</p>
Gender reassignment (Transgender)	N/A
Marriage and civil partnership (applies to employment only)	N/A
Pregnancy and maternity	N/A
Race/ethnicity	N/A

Religion or belief	N/A
Sex/gender (generally includes dependent/caring responsibilities)	N/A
Sexual orientation	N/A

5. The duty to advance equality of opportunity and foster good relations

Can the procedure/project help to advance equality of opportunity or foster good relations in any way? If yes, provide details. If no, provide reasons.

<i>Characteristic</i>	<i>Ways that this procedure/project can advance equality of opportunity</i>	<i>Ways that this procedure/project can foster good relations</i>
Age		
Disability		
Gender reassignment (Transgender)		
Marriage and civil partnership	Not applicable – see F.A.Q. 6	
Pregnancy and maternity		
Race/ethnicity		
Religion or belief		
Sex/gender (generally includes dependent/caring responsibilities)		
Sexual orientation		

6. Completion and Authorisation

Summary of actions to be taken as a result of this analysis (add additional rows as required):	Name and job title of person who will take this action
--	--

1.	
2.	
3.	

Name & job title of person completing this analysis:	Supt Andy Williams Mental Health Thematic Lead
Date of completion:	28/03/2019
Name & job title of person responsible for monitoring and reporting on the implementation of the actions arising from this analysis:	Inspector Jon Owen Mental Health Co-Ordinator
Date of authorisation:	27/03/2019
Date copied to Retained #ASC Procedures	27/03/2019

Protected characteristics defined

As a public body, the Constabulary must comply with equality legislation. The Equality Act 2010 sets out protected characteristics and the public sector equality duty. There is also secondary legislation and guidance that explains how we need to give due regard to these protected characteristics when developing and implementing strategy, procedure and practice.

The protected characteristics are defined in the table below.

Protected characteristic	Definition
Age	<p>Age</p> <p>(1) In relation to the protected characteristic of age—</p> <p>(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular age group;</p> <p>(b) a reference to persons who share a protected characteristic is a reference to persons of the same age group.</p> <p>(2) A reference to an age group is a reference to a group of persons defined by reference to age, whether by reference to a particular age or to a range of ages.</p>
Disability	<p>Disability</p> <p>(1) A person (P) has a disability if—</p> <p>(a) P has a physical or mental impairment, and</p> <p>(b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.</p> <p>(2) A reference to a disabled person is a reference to a person who has a disability.</p> <p>(3) In relation to the protected characteristic of disability—</p> <p>(a) a reference to a person who has a particular protected characteristic is a reference to a person who has a particular disability;</p> <p>(b) a reference to persons who share a protected characteristic is a reference to persons who have the same disability.</p>
Gender Reassignment	<p>Gender reassignment</p> <p>(1) A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.</p>

	<p>(2) A reference to a transsexual person is a reference to a person who has the protected characteristic of gender reassignment.</p> <p>(3) In relation to the protected characteristic of gender reassignment—</p> <p>(a) a reference to a person who has a particular protected characteristic is a reference to a transsexual person;</p> <p>(b) a reference to persons who share a protected characteristic is a reference to transsexual persons</p>
<p>Marriage & civil partnership</p>	<p>Marriage and civil partnership</p> <p>(1) A person has the protected characteristic of marriage and civil partnership if the person is married or is a civil partner.</p> <p>(2) In relation to the protected characteristic of marriage and civil partnership—</p> <p>(a) a reference to a person who has a particular protected characteristic is a reference to a person who is married or is a civil partner;</p> <p>(b) a reference to persons who share a protected characteristic is a reference to persons who are married or are civil partners.</p>
<p>Pregnancy / Maternity</p>	<p>In a work setting, this spans from the period of pregnancy through to birth and the period of maternity leave (the protected period).</p> <p>Discrimination in this regard involves treating a person differently for being pregnant or on maternity leave. The Act defines two types of pregnancy and maternity discrimination:</p> <ul style="list-style-type: none"> • Unfavourable treatment: This is putting employees or job applicants at a disadvantage because of pregnancy or maternity. For example, you can't subject them to unfair treatment. Your policies and procedures shouldn't put them at a disadvantage and they shouldn't experience unwanted behaviour because of their pregnancy or maternity leave requirements. • Victimisation: This involves treating an employee unfairly because they've made, or supported, an allegation (or complaint) of discrimination. It also relates to employees giving evidence relating to a complaint from another staff member

Race / Ethnicity	<p>Race</p> <p>(1) Race includes—</p> <p>(a) colour;</p> <p>(b) nationality;</p> <p>(c) ethnic or national origins.</p> <p>(2) In relation to the protected characteristic of race—</p> <p>(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular racial group;</p> <p>(b) a reference to persons who share a protected characteristic is a reference to persons of the same racial group.</p> <p>(3) A racial group is a group of persons defined by reference to race; and a reference to a person's racial group is a reference to a racial group into which the person falls.</p>
Religion or Belief	<p>Religion or belief</p> <p>(1) Religion means any religion and a reference to religion includes a reference to a lack of religion.</p> <p>(2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.</p> <p>(3) In relation to the protected characteristic of religion or belief—</p> <p>(a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief;</p> <p>(b) a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief.</p>
Sex	<p>Sex</p> <p>In relation to the protected characteristic of sex—</p> <p>(a) a reference to a person who has a particular protected characteristic is a reference to a man or to a woman;</p> <p>(b) a reference to persons who share a protected characteristic is a reference to persons of the same sex.</p>
Sexual Orientation	<p>Sexual orientation</p> <p>(1) Sexual orientation means a person's sexual orientation towards—</p> <p>(a) persons of the same sex,</p> <p>(b) persons of the opposite sex, or</p> <p>(c) persons of either sex.</p> <p>(2) In relation to the protected characteristic of sexual orientation—</p>

	<p>(a) a reference to a person who has a particular protected characteristic is a reference to a person who is of a particular sexual orientation;</p> <p>(b) a reference to persons who share a protected characteristic is a reference to persons who are of the same sexual orientation.</p>
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Data Protection Impact Assessment (DPIA)

In this stage of the DPIA process you must provide full details about the context, necessity, proportionality and risks associated with the proposal. The information you provide will supplement the information provided in Screening.

The aim of this process is to identify and mitigate risks. If any residual risks to individuals are high then the ICO must be consulted before processing commences.

Data protection legislation sets out various elements that must be addressed in a DPIA. The ICO have set out further essential requirements. These elements are incorporated into the form so it is vital that you fully complete every section.

Data Protection Impact Assessment (DPIA)
<i>Please provide as much detail as possible, avoiding technical language and acronyms, explaining the proposal in a way that someone with no prior knowledge could easily understand.</i>
Section 1 – Necessity and Proportionality
In this section you must demonstrate why the processing is necessary and proportionate, providing evidence to support your assessment.
<ul style="list-style-type: none"> The processing must be necessary for the specific objective of the proposal. It must also be proportionate, meaning that the advantages resulting from the processing should not be outweighed by the disadvantages to individuals.
1.1 What do you want to achieve from the proposal and how will your plans for processing personal data help to achieve your purpose?
<ul style="list-style-type: none"> Clearly state your objective Provide evidence for why the proposal is necessary. The evidence can consist of facts, statistics, reports etc.
Click here to enter text.
1.2 Describe why existing and/or less intrusive measures would be inadequate
<ul style="list-style-type: none"> Describe whether any less intrusive options would achieve the same goal. Consider whether existing processes or techniques could be used instead of new intrusive measures Clearly outline why the processing is proportionate
Click here to enter text.
1.3 What is your intended effect of the processing to the A&SC, the Data Subjects and/or Society and the general public
<ul style="list-style-type: none"> Describe benefits or disadvantages to the above
Click here to enter text.

Section 2 – Scope

2.1 Provide full details of the specific personal data that you intend to process

Click here to enter text.

2.2 Describe the volume and variety of personal data you intend to process

Click here to enter text.

2.3 How long do you expect the processing to last?

2.4 Will you be processing data about children or other vulnerable categories of people?

Please provide details in the text box.

<input type="checkbox"/> Yes	Click here to enter text.
<input type="checkbox"/> No	

2.5 Has personal data been processed in a similar way previously?

Please provide details in the text box.

<input type="checkbox"/> Yes	Click here to enter text.
<input type="checkbox"/> No	

2.6 Have you considered any approved codes of conduct or certification schemes?

Please provide details in the text box.

<input type="checkbox"/> Yes	Click here to enter text.
<input type="checkbox"/> No	

2.7 Special Categories and Sensitive Processing – Will you be processing any of the following sensitive categories of data which relate to an individual's:

- | | |
|--|---|
| <input type="checkbox"/> Race | <input type="checkbox"/> Trade union membership |
| <input type="checkbox"/> Ethnic origin | <input type="checkbox"/> Genetic Data |
| <input type="checkbox"/> Political opinions | <input type="checkbox"/> Biometric Data |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Sex life |
| <input type="checkbox"/> Philosophical beliefs | <input type="checkbox"/> Health |

2.7.1 If any of the above special categories of data are being processed then please specify a legal basis for processing this data

Complete the section relevant to your proposal

Operational Data:

1. It is based on law (please tick to confirm)
And
2. It is necessary for one of the following conditions (select from the list): **Choose an item.**

Administrative Data

- It is necessary for one of the following conditions (select from the list): **Choose an item. OR**
- It is in the substantial public interest and for the following purpose: **Choose an item.**

Section 3 - Consultation

You should consider seeking the views of data subjects unless there's good reason not to. If it's not appropriate to consult then you must clearly document the reasons why. For example, if the processing is taking place without the knowledge of data subjects and consultation would prejudice a law enforcement purpose then you should make this clear. If the processing involves staff data then you consider consulting them or their representatives.

3.1 Do you intend to consult data subjects?

Yes

If yes then outline your plan in **Section 3.2** below together with details of consultation with other stakeholders.

No

If no then outline why this is the case in the text box. Once completed, outline whether you will consult any other stakeholders in **Section 3.2** below.

[Click here to enter text.](#)

3.2 Consultation Action Log

Explain what steps you will take, or have taken, to consult stakeholders. Stakeholders may include:

- | | |
|---|--|
| <ul style="list-style-type: none"> • Data subjects • Union representatives • The Federation. • Legal Services | <ul style="list-style-type: none"> • Information Security • Data Protection • Other Business Area. • Partner agencies • Data processors |
|---|--|

Who	When	How	Outcome

Section 4 – Information Lifecycle

4.1 Provide full a full description of the information lifecycle

Stage of Processing	Description
<p>Collection Where does the data originate from, who will collect it and how will it be data obtained?</p>	
<p>Storage Describe where and how the data is to be stored</p>	
<p>Use Describe how the data will be used. Describe whether it involves new technology or original processing.</p>	
<p>Access Describe who has access to the data throughout the life of the processing</p>	
<p>Recording Describe the processes for recording the data</p>	
<p>Processors Describe the use of processors. If a third party</p>	

<p>is being used then is a contract in place to regulate the relationship? Will the data be processed outside of the UK or the EU?</p>	
<p>Sharing</p> <ul style="list-style-type: none"> • With which external organisation(s) is the data shared, what data is shared, and why? • Describe any sharing that will occur within the A&SC. • Outline any national and international sharing or processing. 	
<p>Review and Retention Describe your plan for review and retention, linking to a retention schedule where appropriate</p>	
<p>Disposal Describe the process for disposal of data, including when and how.</p>	
<p>4.2 Diagrams and Tables If you have a diagram or table which describes or demonstrates the processing then please include below.</p>	
<p>4.3 Assets Describe the assets that you intend to use.</p>	
<p>Asset</p>	<p>Description</p>
<p>Hardware</p>	
<p>Software</p>	
<p>Networks</p>	
<p>Hardcopy/paper</p>	
<p>Any other relevant assets</p>	

Section 5 – Full Risk Assessment

Identify and Assess Risks

In this section you must detail **all** data protection risks, as well as any associated with privacy and the rights and freedoms of individuals. The section focuses on specific data protection and privacy principles. **The assessment criteria outlined in italics in section 5.1 applies to all categories** in Section 5 and 6 i.e. for 'likelihood' you must always assess whether it is 'rare, unlikely, possible, likely or almost certain'. You are only required to record the appropriate likelihood and scale number in the relevant sections.

Consider the impact on individuals and any harm or damage that might be caused, whether physical, emotional or material. Different levels of interference may occur at different stages of the information lifecycle. The European Court of Human Rights has held that a public authority merely storing data is a limitation on the human rights of data subjects.

Where risks are identified you must take steps to integrate solutions into the project and this must be recorded. If any **residual risks are 'high'** then the Data Protection Officer must consult with the ICO prior to processing commencing. Examples of risk factors are provided at the top of each section – these examples are a starting point and you must ensure that all factors relevant to your proposal are considered. If you run out of space then insert my lines into the table. When completing each section, if you are unable to identify a risk relevant to your proposal then please state **"No risks identified"**.

<p>Examples of risks to individuals include:</p> <ul style="list-style-type: none"> • Discrimination • Identity theft • Financial loss • Reputational damage or embarrassment • Physical harm • Wrongful arrest or prosecution • Loss of confidentiality • Inability to exercise rights 	<p>Examples of corporate risks include:</p> <ul style="list-style-type: none"> • Failure to protect the public • Loss of public confidence • Civil litigation • Reputational damage • Regulatory action • Breaching other legal obligations
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<p>You should identify lower risk alternatives such as</p> <ul style="list-style-type: none"> • Deciding not to collect certain types of data • Reducing the scope of processing • Reducing retention periods • Taking additional technical security measures 	<ul style="list-style-type: none"> • Providing staff with training and guidance to understand the risks • Anonymising or pseudonymising the data (take the most identifying fields within a database and replaces them with artificial identifiers, or pseudonyms) • Using different technology • Using an alternative third party processor
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<p>5.1</p>	<p>Fair and Lawful</p>	<p>Data must be processed lawfully, fairly and in a transparent manner NOTE: The 'transparency' element does not apply to operational data, although there is still a requirement to consider providing individuals with information about how their data will be processed.</p> <ul style="list-style-type: none"> • Have you identified the lawful basis of the project? • Do you need to create or amend a privacy notice?
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Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk
	1 - Rare 2 - Unlikely 3 - Possible 4 - Likely 5 - Almost Certain	1 - Insignificant 2 - Minor 3 - Moderate 4 - Major 5 - Critical	High Medium Low	Describe the mitigation and whether it will be implemented	Is the risk: • Eliminated • Reduced • Accepted	High Medium Low

5.2 Specific, explicit and legitimate purpose

The purpose for which for which you process personal data must be specified, explicit and legitimate. Personal data collected must not be processed in a manner that is incompatible with the purpose for which it was originally collected.

- Does your project plan cover all of the purposes for processing personal data?
- Are all elements of the processing compatible with the original reason and justification for the processing?

Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk

5.3 Adequate, relevant and not excessive

Personal data processed must be adequate, relevant and not excessive in relation to the purpose for which it is processed

- Is the quality of the information adequate for the purposes it is used?
- Are measures in place to ensure that data is limited to that which is needed to fulfill the aim of the processing - which personal data could you not use, without compromising the needs of the project?

Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk

5.4 Accurate & timely

Personal data processed must be accurate and, where necessary, kept up to date, and every reasonable step must be taken to ensure that personal data that is inaccurate is erased or rectified without delay.

<ul style="list-style-type: none"> • If you are procuring new software does it allow you to amend data when necessary? • How are you ensuring that personal data obtained from individuals or other organisations is accurate? • Do you have processes in place to keep data up to date? 						
Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk
5.5 Retention Personal data must be kept for no longer than is necessary for the purpose for which it is processed. Appropriate time limits must be established for the periodic review of the need for the continued storage of personal data.						
<ul style="list-style-type: none"> • What are the risks associated with how long data is retained and how they might be mitigated? • Has any review, retention and disposal (RRD) considerations been established • Has an entry been added to the Police retention schedule? 						
Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk
5.6 Security Personal data must be processed in a manner that ensures appropriate security of the personal data, using appropriate technical or organisational measures (and, in this principle, “appropriate security” includes protection against unauthorised or unlawful processing and against accidental loss, destruction or damage).						
<ul style="list-style-type: none"> • What technical and organisational measures are in place to ensure that the data is protected to an adequate level? • What training on data protection and / or information sharing has been undertaken by relevant staff? 						
Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk
5.7 Data Protection Rights Data protection legislation gives data subjects various rights (listed below). Limiting or restricting any of these rights is likely to be a significant impact so the justification for any restriction, as well as mitigations, must be fully outlined. Consider each of the rights listed below and assess whether data subjects would be able to fully exercise these rights. For example:						

If an individual makes a subject access request, will you be able to easily identify, retrieve and extract the data to provide to Data Protection Team?

- 1. Right to fair processing information**
The right to be informed about the collection and use of their personal data.
- 2. Right of access (known as subject access)**
The right to access personal data and supplementary information in order to be aware of and verify lawfulness of processing.
- 3. Right to rectification**
The right to have inaccurate data rectified
- 4. Right to erasure**
The right to have personal data erased (not an absolute right and only applies in certain circumstances)
- 5. Right to restrict processing**
The right to request restriction or suppression of personal data (not an absolute right and only applies in certain circumstances)
- 6. Rights regarding automated decision making and profiling**
Individuals should be protected from significant decisions being made on solely on the basis of an automated decision

The following rights only apply to administrative data and do not apply to operational data

7. Right to object
The right to object to processing based on the performance of public task, direct marketing or scientific / historical research.

Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk

5.8 External Data Sharing, including the involvement of other Controllers and Processors

Your processing may involve the sharing of personal data with 3rd party individuals, organisations or agencies. Use this section to outline the risks that are associated with any data sharing of this nature, including the necessity and proportionality of any such sharing, the contracts or agreements in place, and any data security issues that this may present.

- What contracts, information sharing agreements, or memorandums of understanding are in place?
- What assessments have been made of the 3rd parties to ensure adequate provisions for the technical and organisational security of personal data?
- Has A&SC specifically asked suppliers to undertake a DPIA?

Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk

5.9 International Transfers						
A third country is a non EU Member State, and in these circumstances there are limits to when you can share personal data. Certain conditions must be met.						
<ul style="list-style-type: none"> If you will be making transfers, how will you ensure that the data is adequately protected? Will we share data with a third party processor based outside the EU? 						
Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk
5.10 Human Rights						
The European Convention on Human Rights sets out numerous rights and freedoms. Limiting or restricting any of these rights is likely to be a significant impact and result in a residual high risk so the justification for any restriction, as well as mitigations, must be fully outlined. If your actions will interfere with any of the rights listed below then you must clearly outline why it is necessary and proportionate.						
You must first consider: Article 8: Right to respect for private and family life – Will the proposal adversely impact an individual’s right to respect for privacy in terms of their private and family life subject to certain qualifications?						
You must also consider the following:						
<ul style="list-style-type: none"> Article 2: Right to Life Article 3: Prohibition of Torture Article 4: Prohibition of Slavery or Forced Labour Article 5: Right to Liberty and Security Article 6: Right to a Fair Trial Article 7: Right to no punishment without law Article 9: Right to Freedom of Thought, Conscience & Religion Article 10: Right to free Expression Article 11: Right to Freedom of Assembly and Association Article 12: Right to Marry Article 14: Right to Freedom from Discrimination 						
Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk
5.11 Additional Risk Factors						
Describe any further risks, ensuring that any risks not already identified are included.						
Additional risks may for example include:						
<ul style="list-style-type: none"> Internal data sharing - With which parts of A&SC is the information shared, what information is shared and for what purpose? 						

• If you are processing special categories of data then what risks have you identified?						
Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk

Section 6 – Operational Data Risks - Additional Risks Relevant to Operational Data Only

This section is only applicable to proposals involving operational data. **If you are solely processing administrative data then move to Section 7.**

6.1 Data Logging

Where data is processed electronically then logs must be kept for certain actions. This is to enable effective audit of processing systems, data sharing, and to verify ongoing lawfulness of processing.

If the data is processed electronically then will a log be retained of the following actions:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Collection • Alteration • Consultation • Disclosure • Combination • Erasure | <input type="checkbox"/> Yes
<input type="checkbox"/> No (risk must be recorded)
<input type="checkbox"/> Not applicable |
|--|---|

If you answered “no” then you must record this as a risk below.

Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk

6.2 Data Categorisation

When processing data for law enforcement purposes, you must **provide where relevant and as far as possible** a clear distinction between categories of data subject.

Will there be a clear distinction between different categories of personal data suspects, for example subjects who are:

<ul style="list-style-type: none"> • Suspected of having committed, or are about to commit, a criminal offence • Convicted of a criminal offence, • Victims of a criminal offence, • Witnesses to a criminal offence. 	<input type="checkbox"/> Yes <input type="checkbox"/> No (risk must be recorded) <input type="checkbox"/> Not applicable
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If you answered “no” then you must record this as a risk below.

Describe the source of risk and the nature of potential impact on individuals.	Likelihood of harm	Severity of harm	Initial Risk	Mitigation/ Solution	Result	Residual Risk

Section 7 – Outcome, Review and Sign Off

Item	Name	Date	Notes
Public Inquires – confirmation that UCPI and ICCSA considerations have been made.			
Data Analytics – ALGOCARE Assessment considered. Template at end of DPIA.			
IGG – Governance Sign off – monitoring to compliance issues / Quality Assurance.			
Residual risks and full content approved by – Information Asset Owner – Accountable party			

Review

A DPIA is a process that should be reviewed throughout the lifecycle of the processing – it does not end at go live. Please outline the review process that you will undertake to ensure that the risk mitigations have been successful and that no new risk factors have emerged.

Outline:

- Who will be responsible for reviewing the processing
- The frequency of review
- The date of the next review

[Click here to enter text.](#)

ALGO CARE Assessment

<p>Algorithms in Policing – Take ALGO-CARE™ A proposed decision-making framework for the deployment of algorithmic assessment tools in the policing context</p>		<p>Brief explanatory notes and additional considerations The Algorithms in Policing – Take ALGO-CARE™ framework is intended to provide guidance for the use of risk-assessment, predictive, forecasting, classification, decision-making and assistive policing tools which incorporate algorithmic machine learning methods and which may impact individuals on a micro or macro level</p>	<p>Avon and Somerset Police - Comments</p>	
<p>A</p>	<p>Advisory</p>	<p>Is the assessment made by the algorithm used in an advisory capacity? Does a human officer retain decision-making discretion? What other decision-making by human officers will add objectivity to the decisions (partly) based on the algorithm?</p>	<p>Care should be taken to ensure that an algorithm is not inappropriately fettering an officer’s discretion, as natural justice and procedural fairness claims may well arise. Consider if supposedly advisory algorithmic assessments are in practice having undue influence. If it is proposed that an algorithmic decision be automated and determinative, is this justified by the factors below? Data protection rights in regard to automated decisions may then apply.</p>	
<p>L</p>	<p>Lawful</p>	<p>On a case-by-case basis, what is the policing purpose justifying the use of algorithm, both its means and ends? Is the potential interference with the privacy of individuals necessary and proportionate for legitimate policing purposes? In what way will the tool improve the current system and is this demonstrable? Are the data processed by the algorithm lawfully obtained, processed and retained, according to a genuine necessity with a rational</p>	<p>The algorithm’s proposed functions, application, individual effect and use of datasets (police-held data and third party data) should be considered against necessity, proportionality and data minimisation principles, in order to inform a ‘go/no-go’ decision. In relation to tools that may inform criminal justice disposals, regard should be given to the duty to give reasons.</p>	

		connection to a policing aim? Is the operation of the tool compliant with national guidance?		
G	Granularity	Does the algorithm make suggestions at the right level of detail/granularity, given the purpose of the algorithm and the nature of the data processed? Do the benefits outweigh any technological or data quality uncertainties or gaps? Is the provenance and quality of the data sufficiently sound? Consider how often the data should be refreshed. If the tool takes a precautionary approach towards false negatives, consider the justifications for this.	Consideration should be given to common problems in data analysis, such as those relating to the meaning of data, compatibility of data from disparate sources, missing data and inferencing. Do forces know how much averaging or blurring has already been applied to inputs (e.g. postcode area averages)?	
O	Ownership	Who owns the algorithm and the data analysed? Does the force need rights to access, use and amend the source code and data analysed? How will the tool be maintained and updated? Are there any contractual or other restrictions which might limit accountability or evaluation? How is the operation of the algorithm kept secure?	Consider intellectual property ownership, maintenance of the tool and whether open source algorithms should be the default. When drafting procurement contracts with third party software suppliers (commercial or academic), require disclosure of the algorithmic workings in a way that would facilitate investigation by a third party in an adversarial context if necessary. Ensure the force has appropriate rights to use, amend and disclose the tool and any third party data. Require the supplier to provide an 'expert' witness/evidence of the tool's operation if required by the force.	
C	Challengeable	What are the post-implementation oversight and audit mechanisms e.g. to identify any bias? Where an algorithmic tool informs criminal justice disposals, how are individuals notified of its use (as	The results of the analysis should be applied in the context of appropriate professional codes and regulations. Consider whether the application of the algorithm requires information to be given to the individual and/or legal advisor. Regular validation and recalibration of the system should be based on	

		appropriate in the context of the tool's operation and purpose)?	publicly observable (unless non-disclosable for policing/national security reasons) scoring rules.	
A	Accuracy	Does the specification match the policing aim and decision procedure? Can the stated accuracy of the algorithm be validated reasonably periodically? Can the percentage of false positives/negatives be justified? How was this method chosen as opposed to other available methods? What are the consequences of inaccurate forecasts? Does this represent an acceptable risk (in terms of both likelihood and impact)? Is the algorithmic tool deployed by those with appropriate expertise?	How are results checked for accuracy, and how is historic accuracy fed back into the algorithm for the future? Can forces understand how inaccurate or out-of-date input data affects the result?	
R	Responsible	Would the operation of the algorithm be considered fair? Is the use of the algorithm transparent (taking account of the context of its use), accountable and placed under review alongside other IT developments in policing? Would it be considered to be for the public interest and ethical?	It is recommended that ethical considerations, such as consideration of the public good and moral principles (so spanning wider concerns than legal compliance) are factored into the deployment decision-making process. Administrative arrangements such as an ethical review committee incorporating independent members could be established for such a purpose. Avon and Somerset Police ethics committee could be consulted for higher risks products.	
E	Explainable	Is appropriate information available about the decision-making rule(s) and the impact that each factor has on the final score or outcome (in a similar way to a gravity matrix)? Is the force able to access and deploy a data science expert	The latest methods of interpretable and accountable machine learning systems should be considered and incorporated into the specification as appropriate. This is particularly important if considering deployment of 'black box' algorithms, where inputs and outputs are viewable but internal workings are opaque (the rule emerges from the data analysis	

	to explain and justify the algorithmic tool (in a similar way to an expert forensic pathologist)?	undertaken). Has the relevant Policing & Crime Commissioner been briefed appropriately?	
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Appendix C Process Flow Chart for Reviewing Procedures

