

Feedback form for consultation Authorised Professional Practice (APP)– Mental health (11 November – 1st January 2016)

<https://www.app.college.police.uk/consultation/mental-health-consultation/introduction-and-strategic-considerations-consultation/>

Please complete electronically using MS Word and return by **1st January 2016**

Notes on Use: Add any comment or suggested change in the appropriate box – note the box will increase in size to hold several lines of text if necessary. Please note this is a draft document and during electronic transmission, formatting anomalies may occur. This will be addressed prior to final publication. In view of this, comment or suggested change should be restricted to areas that will have policy, procedural or other specific content impact. **Note: learning disability and autism are not mental health conditions, and the heading 'mental health' is therefore misleading and, potentially, unhelpful. Unfortunately this 'conflation' is not unusual – it would be of considerable benefit if the College of Policing, like The Bradley Report, referred to both mental health and learning disabilities in the title.**

Whilst reviewing this draft Practitioners should consider:

- Is the length and content appropriate? **The content is comprehensive, which makes it very long.**
- Is it easy to understand? **Yes; but I wonder if more practice based content might be of greater benefit to the user; for example, in addition to learning about what should be done and why, it would be helpful for the reader to know how they might go about it, who can help, and to read about some examples. No doubt this will be explored when the APP is 'road-tested' in focus groups with operational staff.**
- Is there any information missing or should anything be removed? **See above.**
- Is there any unnecessary repetition? **Repetition on an online 'document' is not, in my view, problematic.**

We are particularly interested in responses to the specific questions provided at the start of each template.

The template is intended to help you to structure your comments. You may provide as much, or as little, feedback as you wish. There is no requirement to complete every section. Please provide your answer in the comment box under the relevant section/sub-section.

When finished please, email completed document to: mental.health.project@college.pnn.police.uk

If you have any questions regarding the completion of this form, please e-mail contactus@college.pnn.police.uk

Reviewer's Name:	<i>Jenny Talbot</i>
Position Held:	<i>Director, Care not Custody</i>
Organisation:	<i>Prison Reform Trust</i>
Completion date:	<i>21 December 2015</i>

1. Introduction and strategic considerations

The purpose of the Introduction and strategic considerations page of APP is to provide an overview of the national and international legal context and principles that govern the police response to Mental illness and vulnerability in England and Wales. The primary audience for this page is strategic leaders and champions for MH within forces.

It is our intention that this page will equip new mental health strategic and tactical police leaders with

- an understanding of their responsibilities;
- the requirement for robust and relevant MHA 1983 Code of Practice protocols;
- a structure for proactive management of multi-agency agreements and working practices;
- enough information to support these MH champions to challenge partner agencies and their own forces to improve their response to MH issues.

This page currently provides guidance on the following topics:

- Definitions

- Multi-agency arrangements and MHA protocols
- Information sharing (in the context of MH response)
- Training

Question 1

Focusing on the definitions provided for :

- 1) Patient
 - 2) Mental ill health
 - 3) Mentally vulnerable
 - 4) Learning disabilities and difficulties, and neuro-disabilities
- Are there any other key definitions that you would consider useful here? **Yes: autism, especially given the requirements of the Autism Act. Text refers to both learning disabilities and intellectual disabilities and the reader should be made aware that these terms refer to the same condition and are not two separate conditions. It would be helpful to briefly describe the difference between learning difficulty and learning disability, and to note that it is unhelpful to use these terms interchangeably – although many people do. The point should be made at an early stage that many individuals experience more than one condition; for example a person might have autism, a learning disability, be dyslexic and have a mental health problem.**

Question 2

Looking at Multi-agency working and information sharing (5-5.1):

- Is there enough information here to support and improve multi-agency agreements and the development of effective protocols? **It may be useful to start this section by acknowledging the operational difficulties often faced by health and justice staff when it comes to information sharing, both within and across services – meaning the frequent misunderstanding about when information may or may not be shared, proportionately, with others, either with or without the consent of the individual concerned. Practical guidance about when paper and electronic data may or may not be shared would be helpful.**

If not, what is missing? **An operational perspective, which may be dealt with by the request, below, for case study examples.**

- Are you able to provide any case study examples that may support this section of the guidance? **Yes, if needed; the example would relate to NHS England liaison and diversion services.**

This can be anonymised if necessary and might focus on an example of a time that medical information has been shared appropriately (as proportionate and necessary) and this has resulted in a positive outcome for the service user.

Looking at the 'Media and Communication strategy' paragraph (6.3) – **I accessed the APP via my ipad and there didn't seem to be a paragraph 6.3; paragraph 6 is Training.**

- Are you able to provide any good practice examples/case studies here that may help us demonstrate how the release of information to the media and public (as relates to any MH incident/AWOL patient/other response) can be handled in a sensitive and appropriate way?

Comment or suggested change:

1 International and national legal frameworks

1.1 Mental health law

2 Equality

2.1 Disability discrimination

Practical examples of reasonable adjustments, such as 'easy read', where to get further information and who can help would be invaluable. See above, 'Whilst reviewing this draft Practitioners should consider:'

2.2 Disability Equality Duty

In addition to having 'due regard' (end of first paragraph), the need to anticipate and prevent discrimination of people with a disability should be clearly stated in this section; it would be useful to suggest how many people may require reasonable adjustments (Equality Act) to ensure the reader appreciates the high numbers of individuals who pass through police custody who might need support. The addition of practical examples would be helpful.

2.3 Equal access to justice

It is not only necessary to establish accessible ways for people with learning disabilities to report incidents, but also to ensure that suspects and detainees with learning disabilities are able to enjoy equal access to justice, and this should be reflected in the text.

3 Definitions and terminology

Patient: healthcare staff working in police custody may refer to a detainee or suspect with mental health problems as a patient. It may be worth clarifying this definition with healthcare to ensure a common understanding. See above for comments on learning disability, intellectual disability and learning difficulty.

4 Strategic oversight and management

Further guidance to support police responses should be included in relation to people with learning disabilities and autism – guidance does exist.

4.1 Responses by the most appropriate agency

Liaison and diversion services should be included here.

5 Multi-agency working

It would be useful to list the types of agencies that should be involved in multi-agency working; for example, Appropriate Adult schemes, liaison and diversion services, safeguarding adults' boards. There are services that can assist and support the police in identifying and managing detainees with, or who are suspected of having, mental health problems, learning disabilities, autism or other support needs, and these should be highlighted in this section.

5.1 Information sharing

See question 2, above.

5.1.1 'Need to know' information

The point should be made that an individual may not be aware that they are 'vulnerable' or have a particular condition, and that individuals who are aware may try to 'cloak' their disability or condition for fear of a more punitive response.

5.2 Legal roles and responsibilities

Is there an example of a local protocol that can be include here?

5.3 Mental Health Act 1983 codes of practice protocols

5.4 Command and control of police incident response resources

5.5 Requests for police assistance from healthcare partners

6 Training

Conflation of learning disability within mental health – see initial point, above. It is good practice to include people with mental health problems and/or learning disabilities in awareness training about these conditions. The importance of effective communication and, for the detainee, comprehension should be integral to all training, as police custody is a largely verbally mediated environment.

2. Mental vulnerability, capacity and illness

Main topic areas covered under this page are:

- 1) Decision making
- 2) Communication skills/techniques
- 3) Assessing threat and risk and developing a working strategy
- 4) Signs of victimisation, hate crime and exploitation
- 5) Mental capacity

Operational police decisions should be guided by all available information and intelligence. Access to relevant medical record information that is held by NHS partners (MH response teams/units/GPs/Community nurses) has been recognised as a key benefit of 'Street triage' response models.

Question 1

- What works where you are? Do you have any examples of the efficient and effective mechanisms for improving communication between partners that may be useful as a case study here?

Question 2

This APP has been developed on the basis that it is not the role of the police service to clinically diagnose illness, rather the APP is designed to support the service to recognise behaviours and indicators of concern so that appropriate medical support can be sought. No detailed information pertaining to specific illnesses and symptoms has been included within this guidance. However, the College is aware that some police forces have chosen to provide specific training for certain conditions.

- Do you agree with our approach? If not or if you have any requests for additional guidance please indicate what areas you believe are necessary and why. I agree 'that it is not the role of the police service to clinically diagnose illness'; however, basic awareness training on particular conditions is useful in order to place 'behaviours and indicators of concern' in context – meaning that recipients of training can appreciate the impact of certain behaviours and indicators on an individual's daily life. At the heart of police engagement with members of the public is effective communication, and this is especially important when dealing with individuals who experience difficulties with speech, language and communication skills. For example, many people with learning disabilities, autism, low IQ or certain mental health conditions will experience difficulties with communication and comprehension and, given that police procedures are largely verbally mediated, the significance of effective communication comes to the fore.
- If your Police force or organisation currently uses any existing guidance or training materials for the identification of vulnerability (or specific conditions such as Autism) could you please list them so that we may consider whether they should be included within the guidance or development of associated training?
- Do you consider the list of 'indicators of general concern' to be a useful tool for practitioners? Yes; I suggest adding the following under 'appearance and behavioural indicators': avoids eye contact or gives too much eye contact; takes longer than

most people to answer a question or follow an instruction. I suggest adding the following under 'aspects of communication': difficulty telling the time using an analogue clock; inability to adequately explain, in their own words, information they have been told or given; provides far more detail than is required or seems unable or unwilling to move on from a certain aspect of that detail.

Question 3

Understanding and using the mental capacity act to protect vulnerable people is covered within the final section of the Mental vulnerability, capacity and illness page.

- Do you consider this to be an appropriate place for this information? Logically would you expect to find it here or within an alternative area of APP? I think understanding and using the mental capacity act could come, quite logically, in more than one place. The important point is to ensure the reader understands its importance and where to find it. I suggest it might be useful to include, as a preamble to this section, some text on capacity (Mental Capacity Act) and reasonable adjustments (Equality Act) that set the scene for the importance of what follows. For me, that would include ensuring an individual has the necessary support to ensure his or her fair access to justice.
- Are there any gaps in the information presented within this section, if so please tell us what additional information you would expect to be covered here? I would like to see more practical guidance to help illuminate and 'ground' the information in operational terms.
- Do you have any useful reference documents/training materials in your force or organisation that has may support officers when they need to assess capacity and/or deal with life-threatening situations? The successful web resource, www.mhldcc.org.uk was developed with and for members of the judiciary and court staff. The Prison Reform Trust is interested in developing a similar resurce for police personnel.

Comment or suggested change

1 Decision making

1.1 Gather information and intelligence

1.1.1 Sources of information

Suggest adding local authority children's services and adult social care services.

1.1.2 The individual as an information source

The information correctly states that 'crisis cards' are sometimes carried – it is important to reinforce that the absence of such a card does not mean that the individual does not have a particular disability or support need. It is important to recognize that individuals may not know that they have a disability or support need; and that some individuals will be reluctant to volunteer information or will actively try to hide their disability or support need for fear of a more punitive response.

1.1.3 Information from parents, carers, family and associates

1.1.4 Police information systems

1.1.5 Other agencies

It would be useful to note that while many people will be known to services, there are many who will not be known; not being known to services does not mean that an individual does not have a disability or support need.

1.1.6 Medical records

1.1.7 Contact information

Suggest adding Appropriate Adult services to the examples of key agencies.

2 Communication

Help in facilitating communication may also come from a learning disability nurse or other relevant professional; note: mental health professionals may not have learning disability or autism expertise, and such expertise should not be assumed.

2.1 Attitude, patience and empathy

I suggest changing the title of this heading, 'Attitude, patience and empathy', to 'Effective communication'. In the link, 'How can communication style be improved', I strongly suggest including some practical guidance for improving communication, and good examples do exist. The need for patience and empathy can be added as text.

2.1.1 De-escalation

2.1.2 Providing reassurance

2.1.3 Terminology and avoiding offence

2.1.4 Autism

The question, 'Do you have any difficulties that I may not be aware of?' should be asked of everyone, and should not only appear under the heading on autism.

2.1.5 Language

3 Assess threat and risk, and develop a working strategy

3.1 Behaviour

The text in the link 'Multiple needs' doesn't seem to relate to 'multiple needs'.

Rights and entitlements in easy read should be included in the link 'The need for appropriate adjustments...'

3.2 Signs of mental ill health or learning disabilities

3.2.1 Indicators of general concern

This should be prefaced with a note to the reader that the list is not exhaustive (as for risk indicators, below).

3.2.2 Risk indicators

Suggest adding to the list: being withdrawn.

3.2.3 The consequences of missing mental ill health or learning disabilities

Suggest the first sentence is revised, thus: 'A failure to recognise when a person might have mental ill health, learning disabilities or autism...'

3.3 Medical emergency

3.4 Alcohol and drug intoxication

3.5 Psychiatric crisis

4 Signs of victimization, disability hate crime and exploitation

4.1 Exploitation

Examples of exploitation also exist whereby an individual is duped into committing or aiding a crime for the benefit of others. This is not uncommon for individuals with a learning disability, and a number of examples exist that may be useful to illuminate the point. This type of exploitation, and possible mitigation, should be included in this section.

5 Mental capacity

5.1 The principles

5.2 Mental Capacity Act 2005

5.3 Police role applying the Mental Capacity Act 2005

5.4 When is police intervention appropriate?

5.1 Restraint and use of force

5.1.1 Section 4b – removal

5.2 Assessing capacity

It would be extremely helpful to include a sample list of questions that officers might ask to help establish capacity, where capacity is in doubt. An illustrative study reflecting each of the five principles in practice (and linked to 5.1 above) would be beneficial. This would be especially helpful/relevant for when a police officer comes to record a rationale for their decision.

5.2.1 Questions to ask

Capacity isn't only relevant in relation to injury – see 5.2 above.

5.3 Suicidal intent and mental capacity

3. Mental health – detention

The Mental Health - detention page of APP will provide a basis for the Legal knowledge that is appropriate for Operational response officers when considering relevant powers and options for dealing with mentally vulnerable people.

It covers legal provisions for:

- 1) admission
- 2) detention
- 3) restraint
- 4) searching
- 5) assessment
- 6) conveyance

Question 1

Looking down the list of legal provisions described within the Mental health – Detention page, are there any police response scenarios (that occur relatively frequently) that you think have not been explained within the legal context.

- Do you consider there to be adequate detail?
- What additional guidance would you consider useful?
- Does your force or organisation use any reference documents/tools/aides memoire to support practitioners/officers with accessing this knowledge, or to support their decision making? If so could this be shared with us?

Question 2

- What level/rank of officer and which Police staff do you think should have a working knowledge of these legal provisions?
- To what degree should this knowledge be a requirement for: patrol response officers/Sergeants/ Inspectors/ MH Specialist resources /control room or enquiry office staff?

Question 3

- What would you consider to be the most effective way of training this legal knowledge? And how often would you need to revisit and refresh this knowledge?
- Should this knowledge be assessed?

Comment or suggested change

1 Mental Health Act 1983 hospital admission provisions

1.1 Section 2 – Admittance to hospital for assessment

1.2 Section 3 – Admission for treatment

1.3 Section 4 – Emergency admission to hospital when only one doctor is available

1.4 Section 6 – Delegated power to detain and convey

2 Powers to enter and detain

2.1 Section 18 of the Mental Health Act 1983 – power to re-detain an AWOL patient

2.2 Section 17 of the Police and Criminal Evidence Act 1984 – saving life or limb

2.3 Section 135(1) – Warrant to enter and remove to a place of safety

2.4 Section 135(2) – Warrant to enter and remove an absent patient

2.5 Section 136 – Urgent detention in a public place

2.5.1 Explanation of detention (avoid the use of ‘arrest’ terminology)

2.5.2 Children and the use of Section 136 of the Mental Health Act 1983

2.5.3 Calculating the period of detention

2.6 Attending a health-based place of safety as a result of section 136 detention

2.7 Alcohol and drug intoxication

2.8 Lack of space or hospital beds

3 Mental health applications from police custody

3.1 Legal framework

3.2 Options when there is no legal authority to hold a vulnerable detainee that requires further support

4 Restraint

4.1 Police powers to intervene in a hospital or medical facility

4.1.1 Administering medicines

4.1.2 Hospital patients presenting healthcare management problems

4.1.3 Restraint in a hospital setting

5 Assessment

5.1 Agreement for assessment

5.2 The outcome of the assessment

6 Transporting people for assessment and supervision

6.1 Transfer between places of safety

6.2 Requests from external agencies

4.3 Sibling abuse

4. Missing and AWOL patients

Topics covered within the Missing and AWOL Patients page include:

- Powers and the role of the police
- Multi-agency protocols
- Appropriate responses to a range of different scenarios
- Safe and well checks
- Holding Powers
- Other MHA provisions

Question 1

- Do you consider this page to be a logical home for this guidance? Or would you expect to find this MH Patient specific guidance within APP on Missing persons?

Question 2

The most appropriate operational response to a report of an AWOL MH Patient will necessarily vary according to local force arrangements and protocols between healthcare services, hospitals, MH Trust facilities, and the police. As such, this guidance focuses on interpretation of the law and the role of the police service.

- Despite this limitation, do you consider this to be a potentially valuable resource?

Question 3

- Are you able to offer any case studies from your force that illustrate an effective or model response to an AWOL Patient case/incident report?

Comment or suggested change

1 Definition of 'absent without leave'

2 When will the police get involved?

2.1 Powers to re-detain an AWOL patient

2.2 Re-detention of absconded patients

3 Multi-agency protocols on missing or AWOL patients

3.1 Police involvement in transporting AWOL patients

3.1.1 AWOL patient protocol

3.1.2 Voluntary patients

3.2 Patients who fail to return after a period of leave from medical facilities

3.2.1 Powers and responsibilities

4 Safe and well checks

4.1 When a patient is found at their home address

5 Holding powers

5.1 Cross-border absconding

6 Other legal provisions under the Mental Health Act 1983

6.1 Section 42

5. Crime and criminal justice

This page of APP is focused on supporting the police service to take appropriate and legal decisions to tackle offending behaviour by and against people who are mentally vulnerable.

Areas covered include:

- Prosecution decisions
- Concept of capacity
- Powers and protection orders available via criminal courts
- Liaison and Diversion services
- Inpatient offending

Question 1

What (if any) additional guidance topics would you consider relevant and useful within this area of APP?

Including 'Vulnerable suspects' (4.2) under the heading 'Victims of crime on the basis of disability' (4) seems, to me, rather odd – they may or may not also be victims. My suggestion would be for 'Vulnerable suspects' to have its own heading, with a link to the relevant sections of the Detention and Custody APP; attention could perhaps be drawn to the most relevant sections – such as Appropriate Adults. The requirement for reasonable adjustments while a vulnerable person is in police custody, such as accessible information and communication support, should be highlighted in this section, with practical examples. A hyperlink to the easy read version of 'rights and entitlements' should be made.

Question 2

- Does your force or organisation currently have and use any guidance material that supports the function of Liaison and Diversion teams? Could this be shared? NHS England has published some useful guidance documents, which would be relevant for forces to see.

Comment or suggested change

1 Mental health and the criminal justice system

This section should include text and cite research in relation to people with learning disabilities or autism and the criminal justice system – see for example, www.prisonreformtrust.org.uk/nok (PRT can assist further if needed). The heading should be changed to include learning disability and autism, or separate sections for these conditions should be added.

In highlighting the need for referrals to appropriate services for vulnerable people, it would be helpful to cite liaison and diversion services.

It would be helpful, under this heading (or at the start of this section), to restate the principles of fair access to justice: where appropriate, an individual is held to account for alleged offending behaviour, with the necessary support (reasonable adjustments) to ensure they are able to participate fully in criminal justice proceedings and can defend them self in a court of law.

2 Preventing and investigating crime and tackling offending behaviour

2.1 Is there enough evidence to support a criminal prosecution?

2.2 Is there a threshold?

2.3 Mental capacity concerns

It seems odd to refer to the individual as a patient under this section? There should be a hyperlink to Mental Capacity in Section 2.

2.4 When prosecution is appropriate

2.5 Offences within psychiatric inpatient units

3 Liaison and diversion services

It is of particular importance to include an update on NHS England commissioned liaison and diversion services, current population coverage and roll out by 2017, subject to business case approval by HM Treasury. Important, because it will demonstrate relevant support for police officers now, and in the future. The situation is slightly different in Wales, and an update on Welsh provision (Criminal Justice Liaison Services) should be included.

4 Victims of crime on the basis of disability

4.1 Special provisions for vulnerable victims and witnesses

Necessary reasonable adjustments should be made available for all vulnerable persons in contact with the police, as a matter of routine. It would be helpful to include illustrative studies especially in relation to reasonable adjustments made to support effective communication, comprehension and accessible written information.

4.2 Vulnerable suspects

See above about the placing of this section.

See 4.1, above, concerning reasonable adjustments; note: while the provision of an intermediary may not be available for a suspect under 'special provisions', an intermediary during police interview may be a necessary reasonable adjustment under the Equality Act.

General comments about Mental Health APP

The Prison Reform Trust welcomes the opportunity to comment on this important piece of work. The APP provides valuable information and guidance to support police forces in their daily contact with people who are, or may be, vulnerable due to mental health problems, learning disabilities, autism and other needs. It is hoped that the title of the APP will be changed to properly reflect a wider range of vulnerabilities, and to help focus attention on people with learning disabilities or autism, alongside those with mental health problems.

The inclusion of illustrative studies and practical guidance would help to support officers in their daily contact with vulnerable people.

For further information, or to clarify points contained in this response, please contact Jenny Talbot, jenny.talbot@prisonreformtrust.org.uk

Diversity Impact Assessment – Is there any content in the draft document which you consider would have a negative impact on any diverse group?

Section No.	Comment

