

**Inclusion London’s response to the Review of the Operation of Sections 135 and 136 of the Mental Health Act 1983 in England and Wales**

[t](https://www.gov.uk/government/consultations/review-of-the-operation-of-sections-135-and-136-of-the-mental-health-act)

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# 1. Introduction

# Inclusion London

Inclusion London is a London-wide organisation which promotes equality for London’s Deaf and disabled people and provides capacity-building support for Deaf and disabled people’s organisations in London.

**Disabled People**

There are:

* 11.5 million people in the UK who are covered by the disability provisions set out in the Equality Act. This is 19% of the population[[1]](#footnote-1).
* approximately 1.4 million deaf and disabled people in London[[2]](#footnote-2)
* just under 1.3 disabled people aged 16 to 64 years resident in the London[[3]](#footnote-3).

This response was sent via the online form. The unedited questions can be found at: <https://www.gov.uk/government/consultations/review-of-the-operation-of-sections-135-and-136-of-the-mental-health-ac>

***Section 1: Use of powers***

* **Inclusion London response**

We believe that people with mental health problems are best placed to answer the questions in this consultation, therefore we strongly recommend that an on-going consultation body is set up, which involves people with mental health conditions, particularly those that have already been subject to Sections 135 and 136 with a remit to improve the treatment of people that are taken to a ‘place of safety’ and guide the final decisions taken regarding the questions raised in this consultation.

***Section 2: Places of safety***

**Regarding the use of police cells as a place of safety:**

* **Inclusion London response**

Regarding the use of police cells as a place of safety:

As mentioned above we strongly recommend that a consultation group involving people with mental health conditions, particularly those that have been subject to Section 135 and 136 is set up to improve future practice and guide the decision regarding the venue of a place of safety. However, our initial response is to highlight concerns regarding a police cell being used as ‘place of safety’ because police do not have the necessary expertise, training and experience to judge issues concerning people with mental health conditions and the person being taken to a place of safety may have additional medical conditions such as ischaemic heart disease, diabetes or epilepsy that may need urgent attention, which police are not qualified to diagnose or treat.

One of the most serious concerns for those with mental health conditions regarding the involvement of police is the inappropriate use of physical restraint on people with mental health condition either on the way/in custody/a place of safety as the deaths of Leon Briggs, Terry Smith, Seni Lewis, Kinglsey Burrell and many others indicate.[[4]](#footnote-4) These deaths can be compounded by additional concerns regarding inadequate investigation by the police.[[5]](#footnote-5) Yet deaths also occur in healthcare settings as Mind’s report on physical restraint in hospital settings in England, published in June 2013 reveals that ‘there were at least 13 restraint-related deaths of people detained under the Mental Health Act. Eight of these occurred in a single year (2011). Last year alone restraint was used over 3,000 times resulting in almost 1,000 incidents of physical injury’. The report also highlights an unacceptable variation in the use of physical restraint across England: In a single year, ‘one trust reported 38 incidents while another reported over 3,000 incidents’.[[6]](#footnote-6) Practices in healthcare settings also need to be urgently improved: We support Joy Duxbury, Professor of Mental Health Nursing Joy recommendation to involve ‘service users to improve treatment and care’. We also agree that there are problems with restraint regardless of position used and that it should be avoided altogether, instead the ‘promotion positive interpersonal relationships, cultures, attitudes and therapeutic partnerships’ should be developed to prevent the need for the use of physical restraint at all.[[7]](#footnote-7) While these more humane methods are being embedded into healthcare practice we suggest the introduction of Mind’s recommendation to end ‘face down physical restraint in all healthcare settings urgently’ and for ‘Government to establish national standards for the use of physical restraint and accredited training for healthcare staff in England. The principles of this training should be respect-based and endorsed by people who have experienced physical restraint’.[[8]](#footnote-8)

We also recommend the possibility of using Emergency Departments in hospitals as places of safety Health-based places of safety with 24/7 access and staffing should be discussed with a consultation group involving those that have been subject to Section 135 and 136.

*3. The Code of Practice for the Mental Health Act 1983 sets out that a police station should only be used in ‘exceptional’ circumstances, but in some places it is used the majority of the time.*

*How would you address this issue?*

* **Inclusion London response**

We recommend a consultation body is set up, which involves people with mental health conditions, particularly those that have already been subject to Sections 135 and 136 with a remit to improve the treatment of people that are taken to a ‘place of safety’ and guide the final decisions taken on this and other questions raised in this consultation.

***Section 3: Maximum length of detention in a place of safety***

* **Inclusion London’s response**

Regarding the maximum length of detention in a place of safety for person detained under either Section 135 or Section 136 of the Mental Health Act 1983 we recommend that that it should be no longer than those detained under suspicion of a criminal act. We believe that detaining a person with a mental health condition for longer discriminates against those with mental health conditions compared to a person suspected of committing a criminal act and may well contravene the Equality Act 2010. A person should not be detained for a long period because of they are waiting for a professional to conduct an assessment. However, we recommend a consultation group involving people with mental health conditions that have been subject to section 135 or 136 discuss the wider implications of this question and guide the final decision.[[9]](#footnote-9)

***Section 4: Getting a Section 135 warrant***

* **Inclusion London’s response**

We recommend a consultation body is set up, which involves people with mental health conditions, particularly those that have already been subject to Sections 135 and 136 with a remit to improve the treatment of people that are taken to a ‘place of safety’ and guide the final decisions taken on this and other questions raised in this consultation.

***Section 5: Where Section 136 should apply***

* **Inclusion London’s response**

We recommend a consultation body is set up, which involves people with mental health conditions, particularly those that have already been subject to Sections 135 and 136 with a remit to improve the treatment of people that are taken to a ‘place of safety’ and guide the final decisions taken on this and other questions raised in this consultation.

***Section 6: Transporting a person to a place of safety, or between places of safety***

* **Inclusion London’s response**

If family, friends or carers are available we suggest that could be the first option as long as the person is kept safe, if not an unmarked car could be a second option. However, as mentioned previously, we recommend a consultation body is set up which involves people with mental health conditions, particularly those that have already been subject to Sections 135 and 136 with a remit to guide the final decisions regarding this and other questions raised in this consultation.

**SECTION 7: Police powers to act in a mental health emergency**

* **Inclusion London’s response**
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We recommend a consultation body is set up which involves people with mental health conditions, particularly those that have already been subject to Sections 135 and 136 with a remit to discuss the wider implications of this and other questions in this consultation.

**SECTION 8: Powers for health professionals to help a person experiencing a crisis**

* **Inclusion London’s response**

We agree that a medical practitioner, approved mental health professional, or mental health nurse is likely to be more able to make a judgement as to the mental state of the person, compared to a police officer, therefore they should be able to exercise Section 135 and 136 powers, However, we believe people with mental health problems are better placed to answer this question especially those that have been subject to Sections 135 and 136 so we recommend that consultation group involving people with mental health is set up to discuss this question and come to a final conclusion.

**SECTION 9: Diversity and equality**

* **Inclusion London’s response**

As mentioned previously we believe detaining a person under section 135 or 135 of the Mental Health Act for longer than a person detained on suspicion of a criminal act discriminates against people with mental health conditions and may contravene the Equality Act 2010.

**SECTION 10: Other issues relating to Sections 135 and 136**

Inclusion London response

We recommend a consultation body is set up, which involves people with mental health conditions, particularly those that have already been subject to Sections 135 and 136 with a remit to improve the treatment of people that are taken to a ‘place of safety’ and guide the final decisions taken on this and other questions raised in this consultation

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 London Deaf and Disability Organisations CIC

1. Fulfilling Potential: Building Understanding report <http://odi.dwp.gov.uk/fulfilling-potential/index.php> [↑](#footnote-ref-1)
2. <http://www.inclusionlondon.co.uk/all-in-this-together> [↑](#footnote-ref-2)
3. <http://www.london.gov.uk/sites/default/files/assessment_gla_deaf_disabled_equality_2013.pdf> [↑](#footnote-ref-3)
4. http://www.ipcc.gov.uk/news/ipcc-investigate-leon-briggs-information-leak-bedfordshire-police-and-crime-commissioner

   http://inquest.org.uk/media/pr/criminal-investigation-into-death-of-terry-smith-thomas-orchard

   http://inquest.org.uk/media/pr/ipcc-investigation-into-death-of-olaseni-lewis

   http://www.birminghammail.co.uk/news/local-news/inquiries-death-hockley-dad-kingsley-6160602

   <http://www.ipcc.gov.uk/news/four-west-midlands-police-officers-arrested-kingsley-burrell-investigation>

   <http://www.birminghammail.co.uk/news/midlands-news/kingsley-burrell-march-justice-birmingham-7192373> [↑](#footnote-ref-4)
5. <http://www.theguardian.com/uk-news/2014/may/29/metropolitan-police-rigg-pc-resignation-ipcc>

   <http://mentalhealthcop.wordpress.com/2013/11/20/the-dangers-of-restraint/> [↑](#footnote-ref-5)
6. <http://www.mind.org.uk/media/197120/physical_restraint_final_web_version.pdf> [↑](#footnote-ref-6)
7. <http://www.uclan.ac.uk/about_us/case_studies/defence_of_indefensible.php> [↑](#footnote-ref-7)
8. <http://www.mind.org.uk/media/197120/physical_restraint_final_web_version.pdf>

   [↑](#footnote-ref-8)
9. <http://www.equalityhumanrights.com/legal-and-policy/key-legislatures/equality-act-2010> [↑](#footnote-ref-9)