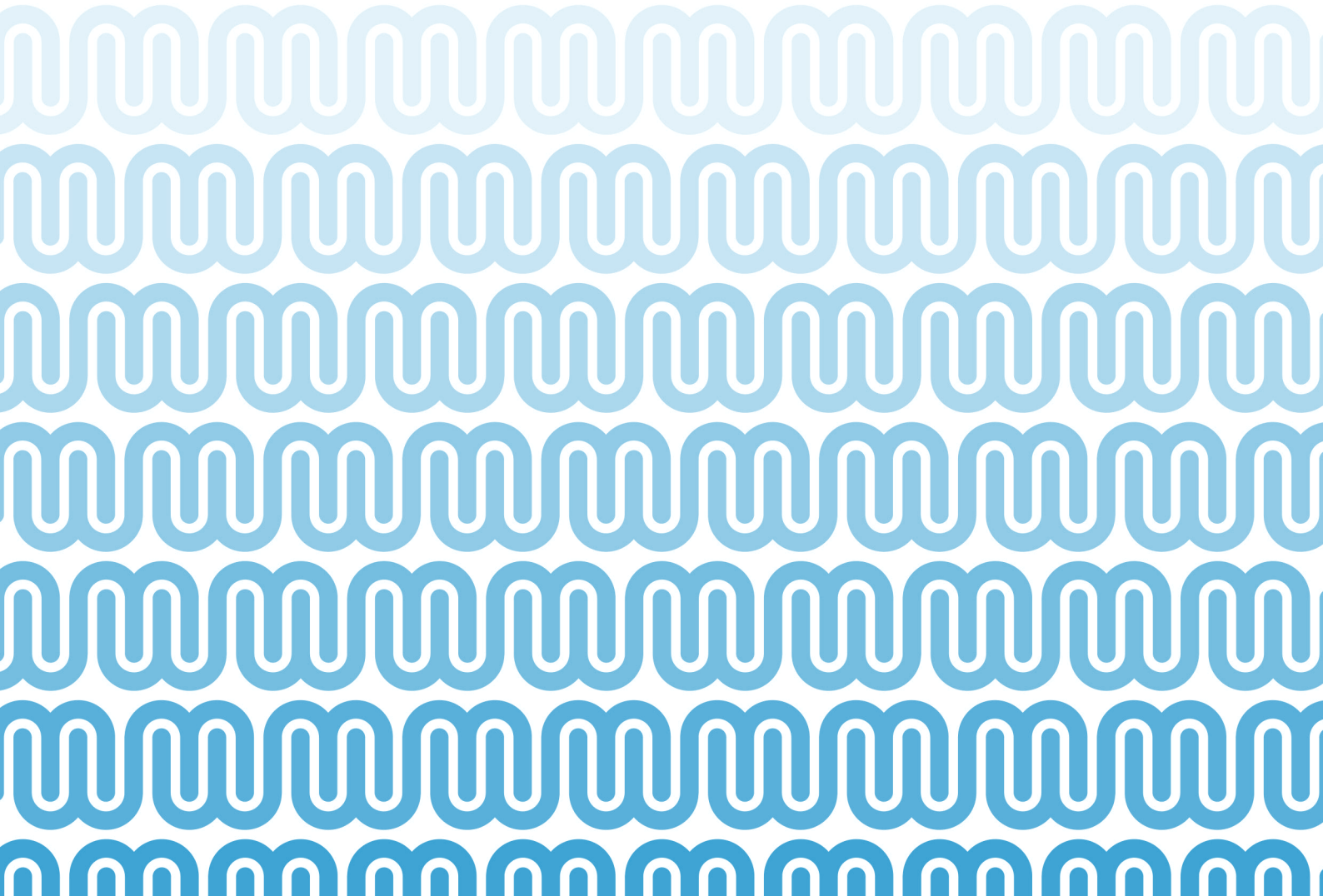
mental welfare commission for scotland

The role of police officers in mental health support

A review of repeated uses of police place of safety powers under the Mental Health Act

November 2023



Our mission and purpose

Our Mission

To be a leading and independent voice in promoting a society where people with mental illness, learning disabilities, dementia and related conditions are treated fairly, have their rights respected, and have appropriate support to live the life of their choice.

Our Purpose

We protect and promote the human rights of people with mental illness, learning disabilities, dementia and related conditions.

Our Priorities

To achieve our mission and purpose over the next three years we have identified four strategic priorities.

- To challenge and to promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

Our Activity

- Influencing and empowering
- Visiting individuals
- Monitoring the law
- Investigations and casework
- Information and advice

Placement scheme for higher trainees in psychiatry

The Mental Welfare Commission hosts a training placement scheme for higher trainees in psychiatry, in their final year of training before being eligible for consultant psychiatrist roles. As part of their placement trainees are encouraged to work on a project of their interest that aligns with the priorities of the Commission. This report arises from the work of a trainee on placement, supported by Commission staff.

Contents

Executive summary

During the Commission's statutory duties to monitor the operation of the Mental Health (Care and Treatment) (Scotland) Act 2003, we noted that some people can be repeatedly brought to the attention of mental health services by police services, using the police powers under s297 (place of safety) of the Mental Health Act. We wanted to understand more about this and the group of patients who were subject to multiple detentions under place of safety powers. We wanted to explore whether these patients had care plans that addressed the repeated involvement of the police. By focussing our attention on a group of patients that had been subjected to four or more detentions under these powers in any given reporting year, we hope to make recommendations that might improve practice and outcomes for this group.

Key findings

1. There is considerable variation in the number of patients being subjected to repeated place of safety detention (four or more occasions per year) by health board area.
2. More than 90% of cases where people are repeatedly detained using the place of safety power are related to suicidality.
3. In a reversal from s297 detention data, where males form the majority, approximately 75% of patients repeatedly detained are female.
4. Rates of conversion from all s297 detentions to emergency or short-term detention are about 15%. This is about three times higher than the rate among those being repeatedly detained under s297 which is at 5.34%.
5. A considerable proportion (approximately 35%) of people being repeatedly detained under s297 had no care plan recorded.
6. Where care plans were recorded for these patients, only a minority mentioned the repeated police contact (approximately 37%), and only a minority (approximately 43%) recorded that police had been invited to participate in care planning.
7. Of the 15 cases where police input was sought in care planning, they were involved in at least 12 (80%) of these.

Recommendations

1. Mental health services should have mechanisms to ensure that all people who are subject to repeated s297 detention have a trauma-informed, person-centred care plan that includes a crisis plan. Police Scotland should be invited to participate in the development of these plans for relevant individuals*.
2. Police Scotland should review its Mental Health and Place of Safety Standard Operating Procedure to:
    a. ensure that patients are not being subjected to unnecessary detention when they are willing and able to be assessed on a voluntary basis,
    b. promote consistency across police divisions in the reporting of the use of s297 powers, and
    c. consider in the review of psychiatric emergency plans whether there may be opportunities to ensure notification to Health and Social Care Partnership (HSCP) and health board colleagues where patients are being repeatedly detained under s297, so that care planning may be facilitated (if this is not already in place).
3. Health boards should ensure that their psychiatric emergency plans do not create an inadvertent expectation that patients be detained by police services in order to access an urgent mental health assessment*.

*These recommendations should be considered at the next review of the health board psychiatric emergency plans.

Why we produced this report

The Commission has previously reported on the use of place of safety powers in 2016 and 2018, and reviewed psychiatric emergency plans in this context in 2020.

The Commission receives statutory reports from Police Scotland and British Transport Police detailing the use of their powers under s297 of the Mental Health Act. Police officers may use this power when they find someone in a public place who they believe may have a mental disorder and in immediate need of care and treatment. The individual can be removed to, and detained in, a place of safety for up to 24 hours in order to be assessed by a medical practitioner, and for any necessary arrangements to be made for their care and treatment.

Police officers have a statutory duty to notify the Commission of any person held under this power within 14 days and provide:

- details of the date and time of the removal from a public place,
- the circumstances giving rise to this,
- the address of the place of safety and,
- if the removal was to a police station, why this was done.

They also have a duty to inform the local authority and nearest relative, if possible.

During our monitoring of this data, the Commission has noted that some people are being removed to places of safety on multiple occasions using this power. We have a duty to monitor the operation of the Mental Health Act and promote best practice in relation to the application of its principles. One of the Commission's priorities is to focus on the most vulnerable and we were concerned that there may be issues with the practical application of the Mental Health Act's principles for any patient who was being repeatedly detained. We were concerned that repeated detention does not reduce stigma, it suggests a potential lack of reciprocity and benefit, and may not be the least restrictive option.

Aside from our previous reports, little has been published in relation to the use of the place of safety power in Scotland. We were able to identify two papers from NHS Highland. The first, published in The Psychiatrist in 2011, was a prospective audit of all place of safety detentions over the period of one year (2007-8). This found that only between 74% and 89% of such detentions were reported to the Commission (Macaskill, et al., 2011). This may contribute to concerns that the Commission has about unexpectedly wide local variations in reported place of safety detentions. The second paper, published in the British Journal of Psychiatry (BJPsych) Bulletin in 2020, was a retrospective review of case records and place of safety forms completed by police officers between April 2016 and March 2017. This found a very high referral rate by population for places of safety in Inverness (of 248 per 100,000) in comparison to other areas of Scotland and the UK. However, we note, even in that year, the highest actual number of such detentions was in the NHS Grampian area. The admission rate for referrals from police officers was broadly the same as from other sources. 33% of patients presenting were admitted and 15% of the total were detained (Simpson & Eze, 2020).

Chapter 9.3.7 of the recently concluded Scottish Mental Health Law Review (September 2022) made recommendations related to emergencies and "reducing the impact of crises." It

considered s297 and noted and further interpreted concerns already raised by the Commission that this system "does not always work well" and that our *Place of Safety monitoring report, 2018* highlighted that most patients taken to a place of safety did not go on to be further detained under the Act. It noted that large amounts of police time are often used in managing mental health cases and that there were frequent complaints of a lack of local co-ordination leading to much of the delay. The review noted our finding that there was significant local variation in the use of the power. The review heard evidence that "mental unrest and emotional pain" was being 'medicalised' to some people's detriment. The review found agreement that "a holistic, multi-agency response to acute distress" was needed and noted that it heard evidence that "existing frameworks such as the care programme approach (CPA) could be helpful." Recommendation 9.32 was for the development of "person-centred safety planning, including joint crisis-planning" (Scott, et al., 2022).

What we did

We looked at the information that we had received from Police Scotland about the use of their power under section 297 over the past three reporting years, 2019-2022. (Reporting years run April to April.)

In order to manageably explore this issue in more depth we decided to look at a subset of these individuals – those who had been subject to s297 detention on four or more occasions in any of the past three reporting years.

We analysed the demographics of this cohort and the number of them who were detained under emergency or short-term detention within 24 hours, and then wrote to all affected health boards to ask for the following information.

- Does/did the patient have a care plan?
- If yes:
    - Does the care plan include a crisis plan related to their repeated removal under section 297?
    - What form does/did this take? e.g. CPA or another format
    - When was this last updated?
    - Were the police invited to care planning discussions? Did they participate?

What we found

We identified that 388 individuals were detained on more than one occasion under section 297 in the preceding three reporting years. 68 individuals were detained under s297 on four or more occasions in any single reporting year. They were subject to 506 episodes of detention in total. These 506 episodes constituted 14.37% of the 3522 episodes of s297 detention during the three-year period.

Number of detentions per individual ranged from 4 to 28. The mean number of detentions in this cohort was 7.44, however the mode was 4 and the median 6, which suggests that the mean value has been increased by some outlying individuals with higher numbers of detentions.[1]

Gender

The gender ratio was different in the frequently detained subset. 75.89% of the detentions in the subset were of females, and 24.11% of males. This ratio was reversed in the cohort as a whole, where 51.68% of episodes related to males and only 48.32% to females.

Age

The age profile also differed. The mean age in the most-frequently-detained subset was 29.86 years with a median age of 26. This was younger than those detained under s297 during the same period as a whole. The average age in this group was 34.55 with a median age of 32. For reference, the median age of the Scottish population in 2019 was 42 years.

The interaction between age and gender is also worthy of comment. There was a relatively normal distribution of age in both genders for the cohort of patients detained under s297 as a whole. In those males detained on four or more occasions however, the average age was older. The median for males was 40, and for females 24. The average age of the frequently detained group appears to be reduced, primarily by younger females who make up the majority of this group.

Ethnicity

Unfortunately, the Commission only held data on the ethnicity of 42 of the 68 patients (61.76%). Of those 42, 39 (92.85%) were White. 32 of the 39 (82.05%) were White Scottish. The remainder were White (Other British) or White (Other). The remaining 3 patients (7.14%) were from either the African; Caribbean or Black and Asian ethnicities.

[1] Mean: the total value of a set of numbers divided by the number of numbers in the collection – the simple mathematical average.
Mode: the most commonly occurring value in a set of data.
Median: the "middle" value in a data set - i.e. the value separating the higher half of a data sample from the lower half

Location

As found in previous reports by the Commission about place of safety detention as whole, there was considerable variation in the number of patients being subjected to repeated detention under s297 by location. Table 1 shows numbers by health board. Health boards not listed had no patients who met our selection criteria. Numbers less than three have been suppressed to prevent disclosure.

Table 1: number of patients detained four or more times in any of 2019-20, 2020-21 and 2021-22, by health board

Health Board	Number of patients
Dumfries and Galloway	3
Fife	7
Forth Valley	Less than 3
Greater Glasgow and Clyde	4
Grampian	40
Highland	8
Lothian	Less than 3
Tayside	Less than 3
Total	**68**

In line with our previous reports relating to all s297 detentions, the numbers of patients being detained by police under their place of safety powers on four or more occasions in any of the past three reporting years appears to be notably higher in Grampian than in other health boards.

Some patients were detained across multiple health boards. Patients have been allocated according to the location where they had the most detentions, but information was sought from all of the health boards where each patient was assessed.

Reason for use of s297

We looked at the reasons given by police officers for their use of s297 powers in this sample. There are clear limitations to this data as it relies on varying levels of information provided and on the judgement of professionals who are not specialists in mental health. Broadly, however, two themes emerged as resulting in police concern and the perception of a need to remove a person to a place of safety: suicidality and unusual behaviour.

In 55 of 68 cases (80.88%) only suicidality is described. In 6 of 68 cases (8.82%) only unusual behaviour is described. In 7 of 68 cases (10.29%) both suicidality and unusual behaviour are described. Suicidality is therefore noted in 91.17% of these cases of repeated detention under s297.

Further detention under the Mental Health Act

Across all s297 detentions the conversion rate to emergency or short-term detention is around 15%. This is consistent with the previously referenced findings in NHS Highland and also with findings in England (Durcan, 2014). In our subset of repeatedly detained patients however, the rate of further detention was only 5.34%.

Care planning

All relevant health boards were asked to provide information about care planning for these patients. No return was received from NHS Lothian or NHS Tayside and only a partial return (relating to one patient) was received from NHS Greater Glasgow and Clyde. Other health boards had some difficulty in identifying patients - some of whom had left their area.

Information was therefore received in respect of 54 out of 68 patients (79.41%). Of those 54 patients, 35 had care plans recorded and 19 did not (64.81% vs 35.19%).

Table 2: number of care plans recorded since 2019

Year of most recent care plan update	**Frequency**
2019	1 (2.86%)
2020	1 (2.86%)
2022	21 (60%)
2023 (to May 2023)	6 (17.14%)
Currently under review	2 (5.71%)
Not recorded	4 (11.43%)
Total number of care plans	**35**

The repeated police contact was noted in only a minority of the care plans. 13 out of 35 care plans (37.14%) made reference to this and 21 (60%) did not make reference, with one "don't know."

In terms of direct police involvement in care planning, it was recorded that police involvement was sought for 15 out of 35 (42.85%) care plans. On two occasions (5.71%) it was not recorded whether police had been invited to participate and on 18 occasions (51.43%) it was documented that police input had not been requested.

Where police input was sought this was recorded as having been received on 12 occasions (80%), on the remaining 3 (20%) occasions it is not recorded whether the police gave input into the process.

Of the health boards that gave full returns, the presence of care plans ranged from 61.11% in NHS Grampian to 85.71% in NHS Highland. References to police in these care plans ranged from 0% in NHS Dumfries and Galloway, to 100% in Fife. These health boards had many fewer cases than NHS Grampian, however. NHS Grampian only had a record of police involvement in 27.27% of the identified care plans. NHS Highland, which had the second highest number of cases, identified references to police involvement in 66.67% of its care plans.

What does this mean and what steps have already been taken

The Commission remains concerned about the repeated use of s297. There is a very marked gender disparity, with females appearing to be twice as likely as males to be subjected to repeated s297 detention. It appears that the vast majority of patients subject to repeated detention by the police in Scotland are either having suicidal thoughts or engaging in suicidal actions. One health board has a particularly high number of repeated detentions, which suggests some form of local variation in practice.

We had conversations with officers from Police Scotland and with mental health practitioners in several health boards. We heard concerns that the Police Scotland Standard Operating Procedure for Mental Health and Place of Safety was not clear and consistent enough about the ability of officers to convey patients to hospital informally and without recourse to their s297 power. We heard concerns that in some areas there is a perception that it is not possible for officers to refer patients for an urgent mental health assessment unless they are detained under the s297 power. The Commission believes that no patient should be denied access to an urgent mental health assessment, where this is indicated, on the grounds of the Mental Health Act status alone. The Commission is concerned that this may put pressure on police officers to detain patients when this is neither necessary nor in keeping with the principles of the Mental Health Act.

We heard professionals recognise, as shown by our data, that the vast majority of repeated place of safety presentations are for people who are experiencing thoughts of suicide. They expressed concerns that there appears to be nowhere else except for statutory places of safety – which tend to be hospitals – for people to go in these circumstances. Our data demonstrates that most are not then detained in hospital, and we are aware that many are not admitted to hospital at all. This may be entirely appropriate, given that admission to any hospital carries risks and benefits, and recalling the concerns expressed previously about the inappropriate medicalisation of "mental unrest and emotional pain." However, this sometimes leaves police officers to manage a person who is extremely distressed who has nowhere else to go.

Our enquiries with police officers covering the health board with a very high proportion of the repeated s297 detentions indicated that the local Risk and Concern Hub may be requesting all of the data required for a s297 submission in all cases where patients are conveyed to a place of safety, and then submitting this to the Commission as s297 place of safety detentions whether or not the patient has actually been detained under s297. The Commission's primary objective here is to monitor the operation of the Mental Health Act. In order to undertake this objective, we require accurate data, and our advice would be that we would not expect a return of data in respect of patients who police officers have taken to hospital on a voluntary or informal basis.

We noted that where care planning has been undertaken by health boards and HSCPs this has largely been kept updated with the vast majority of care plans being reviewed within the preceding calendar year and there being evidence of ongoing reviews. This is encouraging. Care plans are living documents which should be used and updated frequently to take account

of the change in patients' circumstances and conditions, and to identify areas for improvement in the patient and the team around them.

It was concerning, however, that around a third of patients who had been repeatedly detained under s297 – who should arguably be some of the most complex patients – had no care plan recorded in any format. We would strongly encourage that all patients repeatedly detained by the police should have some form of care plan and we would note that the health board with the highest number of these detentions also has the highest proportion of patients without such a care plan identified. There may be difficulties for health and social care providers in identifying such patients, as s297 detentions are processed differently from other forms of detention – directly by the police. A majority of patients with documented care plans also had no reference to their repeated police contacts in the care plan which calls into question how tailored such plans would be to their specific needs.

Similarly, where police involvement was requested in care planning it appears to have been provided. This is very positive, but the majority of the time it appears the police input is not actively sought. Health boards and HSCPs should be empowered by our findings to ask police if they wish to be involved in care planning in such cases.

Our view is that police involvement in care planning could help to reduce unnecessary detention and provide further support for the provision of alternative, less restrictive, and potentially more beneficial approaches for patients.

Recommendations

1. Mental health services should have mechanisms to ensure that all people who are subject to repeated s297 detention have a trauma-informed, person-centred care plan that includes a crisis plan. Police Scotland should be invited to participate in the development of these plans for relevant individuals*.
2. Police Scotland should review its Mental Health and Place of Safety Standard Operating Procedure to:
    a. ensure that patients are not being subjected to unnecessary detention when they are willing and able to be assessed on a voluntary basis,
    b. promote consistency across police divisions in the reporting of the use of s297 powers, and
    c. consider in the review of psychiatric emergency plans whether there may be opportunities to ensure notification to HSCP and health board colleagues where patients are being repeatedly detained under s297, so that care planning may be facilitated (if this is not already in place).
3. Health boards should ensure that their psychiatric emergency plans do not create an inadvertent expectation that patients be detained by police services in order to access an urgent mental health assessment*.

*These recommendations should be considered at the next review of the health board psychiatric emergency plans.

Acknowledgements

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