Policing and Crime Bill

About the BMA
The British Medical Association (BMA) is a professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 170,000, which continues to grow each year.

Executive Summary
The BMA welcomes the aim of the Policing and Crime Bill to better support and meet the needs of vulnerable people in times of mental health crisis. In particular we support the Bill’s aims to stop police cells being used as ‘places of safety’ for children, which echoes recommendations in our report, Young lives behind bars. The BMA also welcomes measures contained within the Bill to introduce limits on the use of police cells as ‘places of safety’ for adults and to reduce the time someone can be held prior to a mental health assessment to 24 hours.

The BMA recognises the commitments which government has made for increasing support for mental health, but believes there is still more to be done to achieve true parity of esteem. To promote this aim the BMA is calling for additional amendments to the Bill to further protect the needs of vulnerable people experiencing mental health crisis; these include:

- Enshrining within the Bill the principle of parity of esteem for those in custody.
- A requirement for Government to report annually on places of safety for under 18s; demographics and numbers of those detained in 136 Suites and the availability of street triage teams.
- Introducing a right for patients to access acute psychiatric care beds within four hours and introducing statutory guidance so that Clinical Commissioning Groups and NHS England need to take account of the Mental Health Act (MHA) Code of Practice.
- Including a definition of a mental health assessment for those detained either within the Bill or within the subsequent supporting guidance.
- Defining the start of the 24 hour period of detention as the time the decision is made to keep someone at a place of safety not the point at which they arrive there.

Reporting
BMA believes that reporting is a crucial element in understanding the needs of vulnerable people, and that it is only by collecting and sharing information about how people are currently detained, their experience in custody and the frequency of detentions, that we can properly understand how to best meet the needs of these people and shape services in the most effective way. BMA is therefore calling for the following reporting elements to be incorporated into the Bill:

A new amendment to the Bill which would create a provision requiring the Secretary of State to report annually to Parliament the numbers of health based places of safety available for under 18s, broken down by their locality and the nature of the facility. Such an amendment would facilitate better understanding of service gaps and requirements.

A requirement for police forces to report annually on the number of detentions in places of safety, including the age of the detainee and the location and duration of the detention.

BMA supports the Royal College of Psychiatrists’ call for government to publish statistics on how often the police are able to consult street triage teams before using section 136 of the MHA.

Police intervention, places of safety and sections 135 and 136

It is crucial that those who are involved in the detention of vulnerable people are adequately equipped to meet their needs. Particularly where it is not possible because of ongoing shortages to place someone in an appropriate healthcare setting, and they subsequently remain in police cells, they should benefit from the same principle of parity of esteem which was recently recognised by Government as applying to those in the secure estate. To better meet the needs of those in mental health crisis in custody the BMA is calling for:

- Enshrining within the Bill the same principle of parity of esteem for those in custody, which was recently recognised by Government as applying to those in the secure estate. More widely the BMA is also calling for Government to reaffirm its commitment to transfer responsibility for commissioning these services for those in detention from the Home Office’s jurisdiction to the Department of Health.
- Introducing a requirement for mental health awareness training for all officers and those coming into contact with people detained who are experiencing mental health crisis.
- Requiring that where possible, unless a threat of violence exists, people in mental health crisis should always be referred to an appropriate healthcare setting, including Section 136 Suites.

The BMA also supports, in principle, proposals by Paul Beresford MP to extend police powers under Section 136 to include a person’s place of residency, as we believe that this will facilitate a quicker support mechanism for people in mental health crisis. However we have concerns regarding safeguarding for how such a power would be implemented. We therefore believe that should this power be included as an amendment to the Bill, further consultation would be needed on its implementation and careful thought given to importance of detailed guidance included in the code of practice. We would also suggest further reporting around the circumstances in which this new power was used.

Resource for mental health support

A key factor in meeting the needs of people in mental health crisis, is ensuring that adequate health support is available. The BMA would like to raise the following points in this regard:

- The BMA is supporting calls for street triage teams to be resourced to meet patient need, these are important services which often prevent detention in inappropriate settings. It is crucial that these teams have the appropriate support from a registered psychiatrist to allow them to offer the highest level of provision.
- The BMA is greatly concerned by reports that even where 136 Suites are available there is insufficient qualified staff to ensure they are operational. It was brought to our attention that one facility which could accommodate two people was only ever used for one, if a second person required support they would then be transferred approximately 50 miles to the next nearest provision. Such instances are of course wasteful and potentially damaging to patients impacted by unnecessary delay to treatment. BMA urges government to invest sufficient resource to properly meet the mental health needs of the country’s population.
• The BMA supports the Royal College of Psychiatrists calls to introduce a right for patients to access acute psychiatric care beds within four hours in the same way that they can acute beds for psychical health conditions: And to introduce statutory guidance so that CCGs and NHS England need to take account of the Mental Health Act Code of Practice to bring them into line with local authorities.

The assessment process
The mental health assessment process is a crucial element in ensuring that a vulnerable individual receives the necessary support to facilitate a recover. It is therefore imperative that the Bill adequately considers and safeguards this process. The BMA recommends:

• That the definition of a mental health assessment should be contained either within the Bill or within the subsequent supporting guidance. This should include a definition of who is a qualified assessor (S12 (2) approved doctor acting together with an AMHP) and definition of what constitutes the commencement of an assessment.

• The guidance should also include clarification as to whether the assessment should be completed within the designated time, currently the Bill makes provision for 24 hours, or merely commenced within that timeframe. We consider it desirable for assessors to see the person early enough within that period to complete the assessment, in most cases, within 24 hours, but recognise in more complex cases that this may not always be possible.

• The BMA supports calls by Mind for the Bill to ensure the start of a period of detention is recorded from the time the decision is made to keep someone at a place of safety not the point at which they arrive there. This will ensure that there are incentives in place to ensure treatment is provided at the earliest possible opportunity, and that unnecessary time is not spent in transit.

Young people
In the BMA’s report, Young lives behind bars, we set out several areas which require attention from policy makers to ensure that we are providing the best possible care for children in detention. The BMA believes that in addition to the legislative provision made by the Bill the following should be undertaken to improve the overall support offered to young people who come into contact with the criminal justice system and those experiencing mental health crisis:

• Up to 81% of children and young people in contact with the criminal justice system suffer from mental health problems. We believe that this is a situation which should be recognised and addressed with urgency by Government and consider that removing police cells as a place of safety for under 18s is one positive step in tackling this worrying trend.

• An in-depth review of the youth secure estate should be carried out and further research conducted into welfare-based alternatives, enabling more young people experiencing mental health problems to be supported in appropriate settings, better facilitating recovery and prevent future crisis.

Concluding comments
The BMA considers that in order for the new provisions within the Policing and Crime Bill to achieve their aim, the Government must solidify its commitments, through investment in services and reporting of progress to ensure appropriate mental health settings are available as places of safety. This should include ongoing funding for expansion of Section 136 Suites, and investment in approved MHA assessors, namely S12 (2) approved doctors and AMHPs, to ensure they can meet the increased demand arising from the reduction in holding time from 72 to 24 hours. The BMA believes that the Policing and Crime Bill presents a key opportunity to address some but not all of these issues.

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