Right Care Right Person Policy (1235/2024)

Abstract

This policy and subsequent procedures detail how Sussex Police will ensure the most appropriately trained / equipped agency will respond to ‘concern for safety’ / ‘welfare check’. This policy also covers general walk outs from health care facilities.

Policy

1. Introduction

1.1 The overarching objective of this policy and subsequent procedures are to ensure that through partnership working we ensure that individuals can access the right care by the right person.

2. Scope

2.1 The procedures accompanying this policy provide information for police officers, Special Constables, and police staff regarding:

• Requests to undertake ‘welfare checks’, ‘safe and well checks’, ‘medical condition' and ‘concern for safety checks’ on members of the public.

• Accident & Emergency (A&E) ‘walkouts’ and individuals who are Absent Without Leave (AWOLs) from psychiatric units.

2.2 The following scenarios are not currently covered by this policy:

• Missing person reports either in or out of Force (refer to Missing Persons Policy (558)).

• ‘Safe and well’ checks requested by Interpol via the Force Intelligence Bureau (FIB) as part of a Child Abduction response.

3. Policy statement

3.1 The Police and Crime Commissioner (PCC) and Chief Constable are committed to protecting vulnerable people within our communities and ensuring that persons who need help get the best possible care from the most appropriate service. Sussex Police will seek to agree effective partnership working arrangements with both statutory and non-statutory partners, where possible in order to help achieve this aim.

Procedure

1. Right Care Right Person General Principles

1.1 Right Care Right Person (RCRP) is an approach designed to ensure that people of all ages, who have health and/or social care needs, are responded to by the right person,

with the right skills, training, and experience to best meet their needs. Though the approach can be applied more broadly than cases relating to mental health, this document is focused on the interface between policing and mental health services, as one step towards implementing RCRP.

1.2 At the centre of the RCRP approach is a threshold to assist police in making decisions about when it is appropriate for them to respond to incidents, including those which relate to people with mental health needs. The threshold for a police response to a mental health-related incident is:

• to investigate a crime that has occurred or is occurring; or

• to protect people, when there is a real and immediate risk to the life of a person, or of a person being subject to or at risk of serious harm.

1.3 The approach involves consistent use of the RCRP threshold to determine whether the police are the appropriate agency to respond at the point at which the public or other professionals report a mental health-related or social care related incident (e.g., via a call or email made to the police). The RCRP toolkit (How do I? Right Care Right Person - RCRP Toolkit) should be used when determining if deployment is required.

1.4 The responsibility of the police to investigate crime is generally well understood. However, the duty to attend health and social care incidents has not been as well defined. RCRP sets out a series of principles, underpinned by legal advice, that support jointly developed local partnership arrangements between health, social care, and the police.

1.5 The approach does not affect the police duty to respond where a crime has occurred, or when police are required to assist in managing threat, risk, or conflict. RCRP does not alter necessary conditions and requirements for police to exercising their statutory powers under the Mental Health Act 1983.

1.6 RCRP must always be used in conjunction with Threat, Harm, Risk, Investigation, Vulnerability and Engagement (THRIVE) and the National Decision Model (NDM).

2. Legal overview

2.1 Advice has been obtained by the National Police Chiefs' Council (NPCC) to provide the legal basis for the national framework for Right Care, Right Person (RCRP). Redacted text.

2.2 It is important to identify circumstances in which the police are under a legal duty to act. In general terms, legal duties to act arise in any of the following circumstances:

a) Where there is a real and immediate threat to life, under Article 2 of the European Convention of Human Rights (ECHR).

b) Where there is a real and immediate risk of significant harm amounting to 'inhuman or degrading treatment' or torture under Article 3 ECHR.

c) Common law duties of care.

d) Specific statutory duties.

Article 2 duties arise under the following circumstances,

1) Duty on the state not to take life.

2) A duty to protect against a specific threat to life.

3) The duty to put in place systems and procedures to protect life.

2.3 The duty not to take life is outside of the scope of this policy. The positive Article 2 duty also applies when police take someone into their care or control in response to a call. Redacted text.

2.4 Redacted text.

2.5 Redacted text.

2.6 Threats or risks that do not qualify under Article 2 may still qualify under Article 3. A duty may arise under Article 3 where there is a threat of serious injury, inhumane or degrading treatment. For example, a serious sexual assault would qualify as conduct breaching Article 3, even if no physical injury resulted from the attack. The 'minimum threshold for severity' under Article 3 is continuously expanding but generally speaking the more serious the conduct, the more likely it is that it will apply. For the purpose of RCRP the police are likely to be required to respond to any 'real and immediate risk' of a person suffering significant harm, inhumane and degrading treatment at the hands of a third party.

2.7 Where Articles 2 and 3 do not apply, the police do not generally owe a duty of care under common law to protect individuals from harm – either harm caused by themselves or others. Where the police do not act, it is unlikely that they will be held to have breached a duty of care. The police may owe a duty of care to protect persons from harm where they have either: assumed responsibility for them or created (directly or indirectly) the risk of harm.

2.8 Redacted text.

2.9 Whilst the Standards of Professional Behaviour do not create a legal duty to act, there may be occasions (such as missing persons) on which an officer is expected to act in accordance with their duties. No duty of care arises from a failure of the officer to act but it can, on occasion, give rise to a disciplinary breach.

2.10 Hospitals owe a duty of care in common law and under the ECHR, towards persons under their care and control. These duties do not end when a person absconds from the care of the hospital. The duty to take reasonable steps to protect that person remains, even after they have left the hospital. One of the steps that the hospital may wish to take is to contact and engage to the police to assist. That does not, of itself, discharge the hospital's duty.

2.11 Where there is evidence of 'wilful' and 'gross' neglect of this duty, especially in instances where a person having absconded has died or come to serious harm, officers should consider whether a criminal investigation under neglect is applicable. Advice from a Detective Inspector should be sought in these instances. Relevant offences are wilful neglect by care worker or care provider (Section 20 / 21 Criminal Justice and Courts Act

2015) as well as neglect or ill-treatment of patients receiving mental health treatments (Section 127 Mental Health Act 1983 or Section 44 Mental Capacity Act 2005).

2.12 In the event of any harm following police contact, the standard Death, or Serious Injury (DSI) Standard Operating Procedures (SOP) should be followed. (see Post Incident Management Policy (Surrey and Sussex) (1067)). This policy provides guidance and direction for officers on how to deal with incidents of DSI following contact with police (direct or indirect).

2.13 In general terms (and subject to the below) RCRP will apply to children in the same way it applies to adults, where there is a real and immediate risk to life (Article 2), or a real and immediate risk of torture, or inhuman or degrading treatment or punishment by another (Article 3).

2.14 In relation to Children, the definition of 'harm' under Section 31 (9) of the Children Act 1989 should be used namely: 'ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another'. This is the definition of harm which should be used when considering whether there is a real and immediate risk of Article 3 serious harm, and whether core policing duties apply, in relation to children.

2.15 The 'RCRP' policy treats children as vulnerable. This vulnerability should form part of the assessment of any real and immediate risk under Articles 2 and 3 of the ECHR. When children are involved, there is also an additional obligation to consider the best interests of the child when making decisions about whether to act and how to act. This may not make any difference to the overall decision made, but it is important that the interests are taken into account. The best interests test may require police action where it would not be required for an adult. This will depend upon the facts of any particular case. In every decision involving children, it should be recorded that the best interests of the child have been considered, as well as detailing any specific factors considered in that process.

2.16 As a general rule, Sussex Police will always deploy to instances of contact when a person (adult or other child) is expressing suicidal thoughts or displaying poor mental health AND there are children present. Police will try and establish this by asking the caller as well as checking police systems. The police role will be to safeguard and minimise risk of harm to children.

2.17 All calls relating to children, even if from a partner agency (Except Children's Services) require that a Child To Notice (CTN) form is completed and shared with the Multi-Agency Safeguarding Hub (MASH) where the child lives. If the child lives out of force, the CTN form is to be shared with the local MASH who will in turn pass it to the local area where the child lives.

3. 'Welfare check' or 'medical concern' request

3.1 Where a 'welfare check or 'medical concern' request is made and there is no assumption of responsibility and there is a real and immediate risk to life under Article 2 ECHR or serious injury, inhumane or degrading treatment at the hand of a third party under Article 3 ECHR the police **WILL** respond unless they are,

1) **SURE** that another agency is attending AND;

2) There is **NO BENEFIT** within the scope of police powers in attendance AND;

3) There is **NO C.O.R.E** policing duty (see 3.2).

For further information please refer to Concerns for Welfare Procedure.

3.2 Police will always provide a response where there is a C.O.R.E policing purpose, for example (C) where a crime is suspected or committed, (O) where there is an apparent risk to other agencies, (R) where there is significant risk of harm to a child or (E) where there are environmental issues or factors.

3.3 Incidents involving vulnerable individuals in the community and children must be treated with extra care.

3.4 Where the police have created a duty of care through the assumption of responsibility (directly or indirectly), the police will be required to act. (see 2.8 above).

4. Absent Without Leave (AWOL) and Walk Out from Health Care Facilities

4.1 There are distinct differences between AWOLs and patients who have walked out of a health care facility. AWOL relate to patients detained under a specific Mental Health Act power who have left facilities or failed to return after within an authorised period of leave. They are persons unlawfully at large.

4.2 General walk outs from health care facilities may include general hospitals, emergency departments, General Practitioner (GP) surgeries, community services and mental health services, when not held detained under a statutory power for physical or mental health-related issues.

4.3 In relation to either, the Force will attend where there a real and immediate risk to life under Article 2 ECHR or serious injury, inhumane or degrading treatment at the hand of a third party under Article 3 ECHR the police WILL respond unless they are,

1) **SURE** that another agency is attending AND;

2) There is **NO BENEFIT** within the scope of police powers in attendance AND;

3) There is **NO C.O.R.E** policing duty.

4.4 Additionally, officers and staff should note that these types of calls relate to people whose location is usually unknown as opposed to concern for welfare calls, where the location of a person is usually known or could easily be established. Missing persons are covered specifically under Missing Persons Policy (558) and are outside the scope of RCRP principles. For further information please refer to Absent Without Leave (AWOL) patients and Walkouts from Health Care Facilities Procedure.

5. Resolving disputes and escalation

5.1 Where a dispute occurs relating to which agency or organisation is most suitable to take on duty of care for an incident, this process is in place to assist in swiftly resolving such disputes, whether they are with members of public or representatives from partner agencies or external organisations.

5.2 When a call or online submission is received by Sussex Police and the RCRP toolkit indicates that the circumstances do not meet the threshold for police deployment, the informant will be told of the decision, this will be clearly explained in such a way that does not diminish their trust and confidence in Sussex Police. Should they insist that they believe Sussex Police attend, the member of the public will be advised that the report is being referred to a supervisor for review for a final decision to be made, they must be informed of this decision at the earliest opportunity and will be advised to call back should the circumstances escalate.

5.3 The contact supervisor or sergeant will receive the incident by transferring to their queue and they **MUST** be notified **IMMEDIATELY** of the dispute and escalation. They will retain control of that incident until its conclusion. They will either ratify the decision not to deploy and incident will be closed with a full rationale or should it be considered necessary for police to attend it will be transferred to the relevant radio queue for resourcing. In any event, the informant **MUST** be told of the decision by the reviewing Supervisor.

5.4 If a partner agency or external organisation has called to pass an incident to Sussex police for attendance and through use of the RCRP toolkit it is indicated that police are not the most appropriate agency and/or the threshold for police deployment has not been met, they should be informed of this at the earliest opportunity.

5.5 If they insist upon police attendance, the escalation process will be utilised in order to swiftly resolve the dispute. They will need to provide telephone details for their supervisor who will be called back by a sergeant or supervisor from the Force contact centre in a timely manner to discuss the request in more detail. If following this professional discussion, the dispute has not been resolved then this can be escalated up another level to Police Force Incident Manager (FIM) and the agencies equivalent manager for further discussion. For example, for South East Coast Ambulance (SECAmb) this would be their Emergency Operations Centre Manager (EOCM) or for the local authority (Adult Social Care or Children's Services) this will be their Head of Service (HoS).

5.6 Where all other avenues have been exhausted further escalation to "Silver / Tactical" and "Gold / Strategic" equivalents of the services may be required. For example, with SECAmb, it would be their "Duty Technical" (Silver) or "Duty Strategic" (Gold). For any other agencies or organisation, it would be their equivalent of top-level executive manager (Assistant Director or Director).

5.7 These disputes should not be sent to radio for Divisional supervision to review as the action of sending to radio itself may be problematic in indicating an intention to resource and an acceptance of duty of care. At any step in the process, if a resolution is made, a rationale should be added to the cad prior to closure or sending to radio for resourcing.

5.8 These disputes may offer opportunities for organisational learning, where concerns are raised by either party involved. A debrief can be held to learn the lessons and take any necessary learning actions forward.

6. Redacted text.