

Anti-Violence Collaborative Wales

Guidance for Police



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Anti-Violence Collaborative Wales

Anti-Violence Collaborative Wales (AVC)

Guidance for Police

For full guidance please refer to the AVC agreement 'Obligatory Responses to Violence in Healthcare' (ORV).

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No Excuse for Abuse

Guide for Police Investigators when NHS staff report an incident.

For full guidance please refer to Anti-Violence Collaborative (AVC) document 'Obligatory Responses to Violence in Healthcare' (ORV).

N

NHS staff reports incident to police service.
Incident graded on information provided by caller.

H

Have contact with NHS staff victim, take positive action, consider powers of arrest and the Assaults on Emergency Worker (Offences) Act 2018.

S

Staff working for NHS Wales shouldn't be discouraged from reporting an incident carried out by a person that may have mental health condition and/or learning disability. Mental capacity is not a barrier to investigation.

R

Request statements from witnesses and take statements as soon as possible. Where the suspect is in custody, key statements should be available within a reasonable time frame.

E

Evidence gathering e.g. CCTV, medical evidence.

S

Suspect's mental health and/or learning disability. Information can be provided by NHS staff if the suspect is a patient. Mental Health Initial Guidance Form G can be used.

P

Provide updates and agree a means and frequency of contact with the victim.

O

Once the suspect is interviewed, bail conditions considered.

N

Next steps - consider evidential position and where relevant refer to CPS.

D

Do provide information on victim support to NHS staff.



2. Guidance for NHS staff on Completing Mental Health Initial Guidance Form G

When a criminal complaint is made to the police, for example an assault, NHS staff should be aware that the police may ask for an opinion as to the mental state of the offender at the time the incident occurred.

Health professionals are able to do this simply and effectively by completing the form known as **Mental Health Initial Guidance Form G** which is contained within the Anti-Violence Collaborative (AVC) agreement **Obligatory Responses to Violence in Healthcare** (ORV), Part 2, Annex D.

NHS staff have been provided with the following information on 'Form G', in terms of what it is and how to complete it.

Why are the police asking me about the mental state of the offending person?

When a complaint is made to the police about an offence, e.g. an assault, the role of the police is to gather evidence about what happened. The police will consider the evidence and where relevant refer it to the Crown Prosecution Service (CPS). The CPS will assess the material and determine if there is sufficient evidence and a public interest to commence a prosecution.

While gathering evidence the police may wish to know if the offending person had an understanding of what they were doing and whether they had any control over their actions at the time of the incident. **The reason they ask this is because the information is key to the CPS when they assess the file of evidence the police provide.**

What is Form G?

Form G is a form devised by the CPS Cymru-Wales, the Police and NHS bodies across Wales to help NHS staff when making a criminal complaint to the police. Form G is Annex D to a larger policy document called the **Obligatory Responses to Violence in Healthcare** (ORV) Part 2, which is an agreement signed by NHS bodies, Police Forces and CPS Cymru-Wales. This agreement governs the responses organisations should consider when dealing with violence against staff.

Who completes the form?

Registered health professionals can complete the form. The person completing the form ideally should have been present, but not the victim of the incident. However, if the victim was on their own, then they could complete the form. The reason for this is to try to keep some impartiality in the process.

How do I complete the form?

This is a short form, which requires basic information about the incident and those involved. The information is to be completed in the sections provided. It then asks four short questions where a 'Yes' or 'No' is requested, along with any supporting information the person completing wishes to provide. **This is not a full report on the mental health of the individual concerned.** The form is only to indicate, in the opinion of the person completing, whether the person had an understanding of what they were doing and control over their actions **at the time of the incident**

What is the purpose of the form?

The form is not a medical report, however it is a useful document to help with decisions on how to proceed with the case. Further information may be required and this could include a full medical report to be provided at a later stage.

What do I do with the completed form?

The original form should be given to the police.

Where do I find a copy of the form?

A copy of Form G, can be found in **Obligatory Responses to Violence in Healthcare (ORV)**, Part 2, in Annex D.

Appendices

Appendix A – Provides an example of a completed Form G.

3. Appendix A

Example Mental Health Initial Guidance form (FORM G)

Mental Health Initial Guidance Form G is within the 'Obligatory Responses to Violence in Healthcare' (ORV) agreement, Part 2, Annex D.

Police Investigation: guidance where the mental health condition of the suspect should be assessed.

To be provided to the police by appropriate NHS staff member.

HS Incident Reference No/Datix: <i>ABHB1234</i>	Alleged Offence: <i>Physical Assault</i>
Incident Date: 01.01.24	Incident Time: 01:35
Victim Name(s): <i>Jane Miggins</i>	
Location of Incident: <i>C Bay, Ward B, Hospital</i>	
Details of Incident: <i>Patient Joe Bloggs assaulted Jane Miggins by pulling their hair and punching them in the face with their right fist witnessed by two members of staff.</i>	
Name(s) of witnesses: <i>Marie Jones and Faith Olugwe</i>	
Does victim consent to contact from NHS Wales V&A Case Manager or equivalent staff member: <i>Yes / No</i> If yes, provide contact no: <i>07123456789</i>	

HEALTHCARE PROFESSIONAL COMPLETING THE FORM

Name: Paul abcd	Job title: Ward Manager
Contact No: 01633 123123	Email address: paul.abcd@wales.nhs.uk

SERVICE USER DETAILS

Name: Joe Bloggs	Date of Birth: 01/01/1987
Service User No: 124 432 123	
Address if not in-patient: 123 High St, Town, NP80 1AB	

Detained under Mental Health Act 1983?

Tick yes no	Yes	No x
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If Yes, Section 2 or Section 3 etc:

Strictly Confidential— incident medical report

This part of the form is for use by the police/CPS in making initial investigation/prosecution decisions and is not intended to replace the need for witness statements and reports should the matter proceed to court. This completed form has the potential to be disclosed to a court.

Service User's Mental State: please use your professional judgement and opinion to answer the questions below related to the service user above. This form can be completed by a Registered Nurse or Doctor.

Would you consider the service user at the time of the alleged offence was capable of understanding their actions?

Tick yes or no and give opinion/example why:	Yes x	No
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Comment:
e.g. 'Before the incident patient told nurse he was going to hit them and leave the ward and the police won't do anything, he said: 'I'll deny it because I can!'

Would you consider the service user at the time of the alleged offence was capable of controlling their actions?

Tick yes or no and give opinion/example why:	Yes x	No
--	----------	----

Comment:
e.g. 'Patient was calm during the shift, had taken XXX medication and was saying he wanted to go home.'

Would you consider the service user is capable of understanding the legal process if a prosecution is sought (such as what they are being accused of and giving a lawyer instructions should the matter be referred to court?)

Tick yes or no and give opinion/example why:	Yes x	No
--	----------	----

Comment:
e.g. 'Patient has the ability to understand what is being said to them because....'

Would you consider that a prosecution of the service user would be detrimental to their care plan?

Tick yes or no and give opinion/example why	Yes	No x
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Comment:
e.g. 'Prosecution of the patient wouldn't affect their care plan because.....'

Signed: P.abcd

Print Name: Paul Abcd

Job Title: Nurse xyz

Date: 02/01/24

Attending Police Officer Details -		
Name: <i>Jones</i>	Collar Number: <i>PC 234</i>	
Name: <i>Evans</i>	Collar Number: <i>PC 4321</i>	
Police Event / Reference Number:		
e.g. log no. 123 of 01/01/24 and/or incident no. 24000056789		
NHS Wales Case Manager details or equivalent staff		
Mobile:	Desk:	Email:

Please ensure a copy is provided to the police.

4. Explanatory Notes for Mentally Vulnerable Offenders Form

1. These notes outline why the police are requesting the information overleaf and how this information is relevant to the consideration of whether to arrest and/or prosecute a mentally vulnerable offender.
2. Whether or not a formal diagnosis has been reached is relevant to determining whether a prosecution occurs. If the CPS lawyer knows that a formal diagnosis has been reached, which may satisfy the criteria for various sections of Part III of the Mental Health Act 1983 then they may consider those Part III outcomes in considering the benefits of a prosecution. This may not be possible if the diagnosis was unclear.
3. The opinion of the Physician or Psychologist is vital, not only because legal decisions to prosecute should include consideration of the impact of a prosecution on the offender's mental health, but also because it may be relevant to consider their opinion on:
 - The context of the offence
 - Impact on the ward/hospital
 - Impact on other patients
 - Relevance of previous non-prosecution based attempts to manage behaviour
 - Relevance of any previous similar incidents
 - Any escalation in seriousness of behaviour
 - Whether or not the Physician or Psychologist views the offending as related to or caused by the mental disorder or co-incidental to it
 - The presence of any clinical barrier to criminal prosecution; e.g. medication. (Any clinical barriers to prosecution are matters for the relevant psychiatrist (i.e. high levels of medication that would affect the ability to foresee consequences of actions or particularly acute psychotic states that would affect the ability to prove mens rea.)
4. A prosecution decision is the careful balancing of many potentially complex factors. This must by law, include consideration of whether it is in the public interest to prosecute. The public interest test is affected by the psychiatric management plan for that offender and any alternatives to prosecution that may be available at that time.
5. If an offender is being investigated now for assaulting staff having previously done so (whether or not reported/prosecuted), such information is directly relevant to the prosecution decision. If for example, it has occurred before it is easier to demonstrate that a prosecution is required to prevent further offending and risk to staff and patient.
6. Whether or not a patient is attempting to comply with their management plan and co-operating with professionals is relevant. If they are absenting themselves (repeatedly) from hospital, the confidence with which a non-formal sanction would be sought is diminished.

5. Mentally Vulnerable Offenders Form

This form can be found within the 'Obligatory Responses to Violence in Healthcare' (ORV) agreement, Part 2, Annex E.

Police request for information from the health service.

In order to make a full assessment of whether an individual accused of offending should be arrested, charged or diverted from the criminal justice system, the following information is sought by the police where available from the NHS (or other healthcare provider).

Insert details of alleged offender and incident:

Investigating Officers should delete, if not appropriate to the investigation:

- What is the Physician's or Psychologist's opinion on prosecution? Are there any clinical barriers to it? Provide an outline of the care management plan should a prosecution not occur.
- Any known previously unreported offending, relevant to the current investigation.
- Any previous history of absconding from psychiatric care.
- Any known failure to return from s17 MHA leave.
- Any known relevant failure to comply with care plans, including any medication programme.
- Information concerning any intended criminal offending.
- Information concerning any continued threats to the health and safety of any person.
- What is the person's legal status under the Mental Health Act 1983?

This information is requested in furtherance of a criminal investigation into an offence of **[please state]**. This information is directly relevant to whether or not criminal charges are brought and/or whether bail is appropriate; decisions which are required of **[insert name of police force]** by the Police and Criminal Evidence Act 1984. **Provide any additional relevant information/reasons, including confirmation of why disclosure is required now:**

Reference No (custody/crime):

Officer's signature.....

Further notes in support of the request (Investigating officer)

Reference No (custody/crime):

Officer's signature.....

Notes from Physician or Psychologist in response to the request:

Signature:.....Time/date:.....

Name:.....

Professional Position:.....