



Force Policy

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This Force policy is suitable for public disclosure under the Freedom of Information Act 2000 and will be published on the external Force website? Yes

1. Introduction

1.1 Research has shown that the re-offending rate for drug users involved in criminal activity is reduced if detainees are targeted by Custody Based Substance Misuse Workers at, or shortly after the time of their arrest to assess them and support them to access treatment for their drug or drug and alcohol problem(s). Similarly people who commit offences motivated by excessive alcohol consumption are less likely to re-offend if they are offered an early intervention and their alcohol issues are addressed.

1.2 Derbyshire Constabulary is committed to reducing crime and the fear of crime and fully supports such schemes.

1.3 These referral schemes are delivered in Derbyshire across both County and City through the relevant NHS Foundation Trust.

2. Purpose

2.1 To establish Force wide policy relative to the operation of criminal justice treatment interventions within the custody suite.

3. Aims

The aims of this policy are: -

- To provide a clear, workable policy in relation to Custody based criminal justice treatment interventions for Police Officers and Substance Misuse Workers.
- To provide information on the Scheme and the professional services available to all detainees irrespective of the circumstances of their offence(s) or presenting condition.
- To encourage those who misuse substances to access drug treatment services and thereby reduce the likelihood of further drug and alcohol misuse and criminal activities.

4. Policy Statement

4.1 Derbyshire Constabulary is committed to reducing the re-offending rate for drug and alcohol users involved in criminal activity and recognises the benefits in the use of Custody Based Substance Misuse Workers.

4.2 Drug Intervention Programmes are established throughout Derbyshire and are fully supported by the Force.

5. Legislative Compliance

5.1 This document has been drafted to comply with the principles of the Human Rights Act. Proportionality has been identified as the key to Human Rights compliance, this means striking a fair balance between the rights of the individual and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

5.2 There is potential to infringe the rights contained within Article 8(1) – Right to family and private life. However, the following derogations provided for under Article 8(2) will apply: -

- In the interests of public safety;
- For the prevention of disorder or crime;
- For the protecting the rights and freedoms of others;
- For the protection of health or morals.

5.3 Equality and Diversity issues have also been considered to ensure compliance with the Equality Act 2010 and meet our legal obligation in relation to the equality duty. In addition, Data Protection, Freedom of Information and Health and Safety Issues have been considered. Adherence to this policy or procedure will therefore ensure compliance with all relevant legislation and internal policies.

5.4 The Data Protection Act 1998 requires that only the minimum amount of personal information required to achieve the purpose be disclosed. Whilst this may be the name, address and offence details in the majority of cases, there may be occasions where it would be appropriate to disclose additional information i.e. details of any perceived risks following the initial risk assessment.

5.5 These details should be disclosed by the Custody Officer to the Substance Misuse Worker at the point of initial referral. However, this will be subject to the consent of the detained person; there may be occasions where the Custody Based Substance Misuse Worker needs to have access to the relevant custody record. On these occasions access must be limited to those parts, which are relevant and necessary.

5.6 In particular the provisions of Section 37 of the Police and Criminal Evidence Act 1984, 'Duties of Custody Officers before charge', will have to be adhered to. Full details of this act can be found within the Police National Legal Database (PNLDB) on the Force Intranet.

Procedures

6. Scheme Organisation

6.1 The combined intervention services of the Derbyshire Drug Intervention Programme and Project Switch employ a number of posts across the county providing both a drug and alcohol service.

6.2 The service is managed by the Criminal Justice lead across the County (excluding the City) who has responsibility for arranging cover for sickness/leave etc.

6.3 The County and City schemes are delivered by Derbyshire Health Care Foundation Trust. The service provider retains overall responsibility for their staff. Whilst the service is delivered across 2 Authority areas, the provider will ensure as far as practical, that clients requiring a service are seen regardless of their place of residence. The workers will refer on to local area treatment services using the DIP SPOC facilities if required.

6.4 Each Custody Based Substance Misuse Worker is and will be subject to police vetting procedures and is at all times in possession of an identification badge.

6.5 The respective custody suite will, where possible, provide the Custody Based Substance Misuse Worker with a desk and necessary equipment i.e. a telephone etc. Wherever possible this will be in a locked office. Access will also be provided to the Custody Programme. This allows the worker to be able to appraise themselves of any identified risks associated with the detainee and also allows for timely and accurate record keeping related to any assessments or other interactions with the detainee.

7. Scheme Operation

7.1 A Health and Safety Risk Assessment has been conducted and is available in the main custody suites.

7.2 The Scheme is prioritised towards but is not exclusively restricted to persons who have committed trigger offences (e.g. acquisitive crime offences) irrespective of whether there is a direct connection between the reason for their arrest and drugs or alcohol.

7.3 Custody staff will offer the 'Scheme' to all detained persons during the initial reception procedure and record any response regarding whether they wish to be referred to a Custody Based Substance Misuse Worker.

7.4 If circumstances exist which make the provision of the initial offer impractical i.e. the detained person is drunk or violent; the offer should be made as soon as is practical.

7.5 Individuals who may require intervention or treatment will be referred to the Custody Based Substance Misuse Worker (no consent is required at this stage).

7.6 Referral and intervention is delivered in consultation with the Criminal Justice Mental Health Liaison and Diversion Team, also based in custody.

7.7 Many individuals will make no comment when informed about the scheme. The Custody Staff or Officer in the case should bring these individuals to the attention of the Custody Based Substance Misuse Worker. A minimum of information should be disclosed to the Substance Misuse Worker at this point. The worker can then

make a decision as to whether they wish to visit the detained person. If the detainee does not wish to participate in the scheme the contact should end and no further information be disclosed.

7.8 As Custody Based Substance Misuse Workers will be operating within the custody suite they will be subject to the control of the Custody Officer and comply with their directions.

7.9 The scheme will operate a flexible rota aiming to provide cover over a 7 day period. The Custody Based Workers are available via the force e-mail and can be contacted via this route.

7.10 Custody Based Substance Misuse Workers will be permitted access to a detained person's custody record to further a referral and assessment. This may include previous records held on the individual. Access must be limited to those parts which are relevant and necessary.

7.11 The ethos of the scheme is that the Custody Based Substance Misuse Worker will be permitted to see any person at any appropriate stage whilst detained in custody.

7.12 Whilst it has been shown that contact prior to an interview can be made without undermining an investigation it is advisable that, in cases of serious crime, consultation should take place with the officer in the case prior to any detained person/criminal justice intervention worker contact and consideration as to the timing of interventions in drink/drug related offences such as excess alcohol.

7.13 Under 18s – The scheme does not target people under 18 years of age but can facilitate a referral to young person's substance misuse services in the community as part of young person's referral pathway.

7.14 The programme is targeted at adults over 18 years. Access to young people is permissible without the presence of a parent, carer or appropriate adult. There is nothing in law that requires the attendance of these people, although their presence during the assessment can often be beneficial to the process. Whilst the programme does not target people under the age of 18, alcohol issues will be offered across the age range. The custody based workers are familiar with Safeguarding and will refer if the need is apparent.

7.15 In the first instance the Custody Based Substance Misuse Worker will ascertain the young person's view on having a parent, carer or guardian informed.

7.16 The parent or carer or guardian may not be present during the assessment but their absence should not stop an assessment from taking place. If attendance is required it will be the responsibility of the Custody Officer to make contact.

7.17 If the young person states that they do not wish for anyone to be informed, their wishes should be respected as far as is possible.

7.18 Prior to any assessment taking place where a parent, carer or appropriate

adult is to be excluded the Custody Officer will assess the young person in line with the principles of Fraser Competence. The essence of this is to make sure, as far as possible that their age, level of understanding is sufficient to enable them to understand their situation and the proposed action to be undertaken. Details of this assessment will be entered into the Custody record as will a record of the subsequent assessment with the intervention worker.

7.19 Consideration to the principles of Safeguarding should be applied if no assessment is possible.

8. Legal Representation

8.1 The detained person's legal representative may also be informed of the assessment with the consent of the detained person. However, this is an act of courtesy and not a legal requirement. If required, it will be the responsibility of the Custody Officer to make contact.

9. Out of Hours Procedure

9.1 Where a detained person indicates that they wish to see a Custody Based Substance Misuse Worker but the worker is either not on duty, or likely to be on duty before that person leaves police custody, local 'out of hours procedure' will be adopted.

9.2 On occasions where such arrangements cannot be made a contact telephone number for the Custody Based Substance Misuse Worker should be given to the detained person who should be encouraged to pursue the contact. This is recorded on the pre-release risk assessment sign posting leaflet.

10. Risk Assessment of Detained Persons

10.1 Prior to offering any person referral to a Custody Based Substance Misuse Worker a risk assessment will be carried out. In practice this will be conducted at the time of the detained person's initial process and subsequently recorded within their custody record.

10.2 It is especially important that Custody Staff inform the Custody Based Substance Misuse Worker of any particular risk posed by an individual entering the Scheme given that the worker will be permitted to see any person at any appropriate stage whilst in custody.

10.3 Where a risk has been identified but, following consultation, both the Custody Officer and Custody Based Substance Misuse Worker agree to an 'initial assessment' taking place it should be conducted within sight of a member of custody staff. Wherever possible custody staff will assist in this process.

10.4 If a significant risk has been identified no 'initial assessment' should take place.

10.5 Details of any discussions concerning risk assessments and the resulting

decisions(s) will be recorded in the custody record including and safeguarding issues identified.

11. Confidentiality of 'Initial Assessments' Conducted on Police Premises

11.1 All 'initial assessments' which take place within police premises will be conducted privately between the worker and the detained person.

11.2 The following rooms have been identified as being suitable (subject to dynamic risk assessment) for the conduct of these assessments: -

- Interview Room
- Solicitors Room
- Cell

11.3 Any assessment conducted in a cell may be covered by audio and visual recordings. No outputs from these assessments are to be monitored or used for any evidential or intelligence gathering purposes.

11.4 The purpose of any interview between the Custody Based Substance Misuse Worker and a detained person is to conduct an initial assessment, not to gather evidence. Consequently the detained person should not be asked for details of any specific offence(s) that they have committed (the Drugs Intervention Record that all criminal justice substance misuse workers are required to complete does ask what offences were committed – this process is followed in both the city and county).

11.5 The content of any assessment(s) conducted on police premises between the Custody Based Substance Misuse Worker and the detained person will remain confidential unless: -

- The detained person consents to its disclosure by signing the Drug Intervention Record.

or

- Non-disclosure will result in serious risk of harm to any person.

11.6 The time and date of any meeting between a drugs worker and a detained person will be recorded in the relevant Custody Record.

11.7 If safeguarding issues are disclosed not specifically in relation to drugs and/or substance abuse then the Substance Misuse Worker will refer to the Custody Officer. This theme will continue in that the Substance Misuse Worker is responsible to the Custody Officer and the Custody Officer has responsibility to the Substance Misuse Worker.

12. Ensuring Consistency

12.1 To ensure that consistency and best practice is adopted there will be regular liaison meetings.

13. Monitoring and Review

13.1 The Head of Department, Criminal Justice is responsible for the monitoring and implementation of this policy.

13.2 The policy will be reviewed on a regular basis and the outcome of this monitoring will inform this review.

14. Appeals Process

14.1 If a member of staff has an issue with the application of this policy they should raise this via the Head of Department, Criminal Justice or their Line Manager.

14.2 Members of the public who take issue with the policy have recourse to the Police Complaints System.