

Section 135 (1) and Multi-Agency (2)

Practice Guidance

Organisations	Central Bedfordshire Council (CBC) Bedford Borough Council (BBC) Luton Borough Council (LBC) East London Foundation Trust (ELFT)		
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Right Care, Right Person Statement:

Right Care, Right Person (RCRP) (DoH, July 2023) sets out a collective national commitment from the Home Office, Department of Health & Social Care, the National Police Chiefs' Council, Association of Police and Crime Commissioners, and NHS England to work to end the inappropriate and avoidable involvement of police in responding to incidents involving people.

EDT and the AMHP Service will signpost and respond to contact's taking into consideration the RCRP principles. Meaning, where possible the right person with the rights skills, training and expertise will respond. Staff will use the escalation process in place if they feel this is required. The police have a legal duty to Keep the Kings peace, respond to imminent threat to life and respond where a crime has been committed. All documents will be reviewed and updated in 2025 to include specific details relating to RCRP.

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1. Introduction

- 1.1 This practice guidance has been developed with the intention of providing multi-agency operational guidance regarding Police powers, Approved Mental Health Professional (AMHP), East London Foundation Trust (ELFT) and East of England Ambulance Service responsibilities under Section 135 (1) and Section 135 (2) of the Mental Health Act (MHA, 1983, as amended 2007). This guidance has been developed to ensure people experiencing mental health crisis and their families receive support and intervention from mental health professionals and emergency services at the right time and in the right place.
- 1.2 This multi-agency practice guidance has been jointly developed and agreed by the following:
- Bedfordshire Police
 - East London Foundation Trust (ELFT)
 - East of England Ambulance Service (EEAST)
 - Central Bedfordshire Council (CBC), who host the Emergency Duty Team (EDT)
 - Bedford Borough Council (BBC)
 - Luton Borough Council (LBC)

2. Section 135 (1) – Definition and Police Powers

- 2.1 Section 135 (1) enables an AMHP to obtain a warrant authorising a Police Constable to enter premises for the purpose of removing the occupant to a place of safety “with a view to the making of an application in respect of him/ her under this Act, or of other arrangements for his/ her treatment or care”.
- 2.2 The application for a warrant has to be made by an AMHP to a Justice of the Peace (i.e. Magistrate), on the grounds that there is reasonable cause to suspect that a person believed to be suffering from mental disorder (a) has been, or is being, ill-treated, neglected or kept otherwise than under proper control, in any place within the jurisdiction of the justice; or (b) being unable to care for himself, is living alone in any such place. The Justice may issue a warrant authorising any Constable to enter - if need be by force - any premises specified in the warrant in which that person is believed to be and, if thought fit, to remove the person to a place of safety.
- 2.3 Once at the place of safety a Constable, or person authorised by either the Constable or AMHP, can transfer the person to one or more places of safety during the 24-hour detention period. The Mental Health Act provides information about the range of possible places of safety under section 135(6) of the Mental Health Act.

Note: Following the amendments to the Mental Health Act contained in the Policing & Crime Act 2017, s135 now has a new clause which states that:

“If the premises specified in the warrant are a place of safety, the Constable executing the warrant may, instead of removing the person to another place of safety, keep the person at those premises for the purpose [of making an application in respect of him under Part II of this Act, or of other arrangements for his treatment or care].” [s135(1A)]

3. Definition of Suitable Place of Safety in s135

3.1 The definition within the Mental Health Act has been amended to now read:-

A “place of safety” means residential accommodation provided by a local social services authority under Part 1 of the Care Act 2014 or Part 4 of the Social Services and Wellbeing (Wales) Act 2014, a hospital as defined by this Act, a police station, an independent hospital or care home for mentally disordered persons or any other suitable place.

3.2 However, the Act has been further amended to confirm that:

“A house, flat or room where a person is living may not be regarded as a suitable place unless:

- i. the person believed to be suffering from a mental disorder is the sole occupier of the place, that person agrees to the use of the place as a place of safety;
- ii. the person believed to be suffering from a mental disorder is an occupier of the place but not the sole occupier, both that person and one of the other occupiers agree to the use of the place as a place of safety;
- iii. the person believed to be suffering from a mental disorder is not an occupier of the place, both that person and the occupier (or, if more than one, one of the occupiers) agree to the use of the place as a place of safety. [s135(7)(a) MHA]

4. Permitted Period of Detention Under s135

4.1 The amended Act now removes the previous 72-hour time limit within which a person may be detained at a place of safety and states that they may be detained for “the permitted period of detention”.

4.2 New section 135(3ZA) of the Mental Health Act states that “the permitted period of detention” means:

- a. the period of 24 hours beginning with:
 - i. in a case where the person is removed to a place of safety, the time when the person arrives at that place;
 - ii. in a case where the person is kept at a place of safety, the time when the constable decides to keep the person at that place; or
- b. where an authorisation is given [to extend the detention] ...under section 136B, that period of 24 hours and such further period as is specified in the authorisation.” An extended period of detention can be put in place for up to another 12 hours, this must be authorised by a Responsible Medical Practitioner (Doctor) on clinical grounds only.

4.3 This wording is also mirrored in a new s136 (2A).

5. Undertaking to pay

- 5.1 Local Authorities pay for the s.135 warrants, on all requests AMHPs will be expected to complete an undertaking to pay.
- 5.2 The AMHP will ensure all relevant information is forwarded to the correct Local Authority and the single point of contact. Details can be obtained from the Daytime AMHP Service Administrator or EDT Team Administrator

6. AMHPs Responsibilities when Accessing a Warrant Under s135(1) Mental Health Act during working hours

Process of accessing a warrant under section 135(1) Mental Health Act during working hours.

- 6.1 The procedure for the obtaining of warrants under the Mental Health Act in the SE Region of HM Courts & Tribunals Service was introduced in late 2016.
- 6.2 The procedure involves AMHPs, Police Officers and other agencies making their applications by telephone and paperwork being received and dispatched by secure email.
- 6.3 The scheme uses a web-based booking system (with AMHPs and Police Officers and other agencies will be using a web-based calendar to book in their applications on a date and time convenient to them). The detail of this process is set out below.

Applications for Warrants where the Application is to be made during Working hours 10.00 am - 4.30pm

- a) Making a booking: Book in your application using the web-based Team Up calendar. Bookings can be made at any time as the calendar is available 24 hours a day, 7 days a week.
- b) The Team up Calendar can be accessed by pasting the following link into your internet browser: <https://teamup.com/ks6690746618bf280f>
- c) **When you can book a hearing:** Officers and other authorised applicants can choose the date and time of their application hearing from the available time slots on the calendar. There is additional guidance for multiple applications. Bookings can be made on the day you wish the application to be heard (if there is space available) and the time slot has not passed. It is feasible, therefore, that an application can be made on the same day as the application is to be heard - if there is hearing time available in the calendar.
- d) Officers and staff are encouraged (where practicable) to book in advance, thus helping the Court to effectively manage applications and incorporate urgent applications at short notice. To ensure that the correct slot duration is booked, when booking applicants, you will need to amend the booking time to 15 mins. If this is not amended, a one-hour slot will automatically be booked (which blocks the slots for other prospective applicants).
- e) Using the guidance, obtain your booking code and ensure this is recorded on the calendar at the time your booking is made. The date within the booking code is the date the application is to be heard, for example, MH01.12.151Blue. Do not include any personal details about the warrant on the Team Up calendar as the calendar is not on a secure website. It is also best

practice not to include any information which could identify that this is a Police and Agency calendar (e.g. station or police name / collar number or that it is a warrant application).

- f) **Submitting applications:** All relevant paperwork must be submitted at the time the booking is made to the secure email address below. The correct applications and warrants are attached to this Practice Guidance. Please name your documents to include the booking reference - and not the address of the premises.

SouthEastSearchWar@hmcts.gsi.gov.uk

An automated response will be sent from the above email address when an email has been successfully received. If you do not receive this automated response, your email has not been received – therefore, please check the address for errors.

Bookings for which no relevant paperwork is submitted will not be accommodated by the court.

- g) **Multiple Warrants:** Applicants should specifically note the guidance on booking multiple warrants as contained in the Team Up Guidance.
- h) Submit the application and draft warrant to the secure HMCTS email address. For Mental Health Act applications, you must provide proof of payment of the fee (currently, the fee is £75) or Undertaking to Pay form (Appendix 5, attached to this Practice Guidance) - and a scan of your authorisation badge/lanyard.

The application and warrant must be sent in Word format as the warrant will be endorsed electronically by the Magistrate / Legal Adviser. Please remember all documents submitted need to have the booking reference in the name.

- i. Check that the correct booking code has been used on all paperwork and that you have supplied your contact telephone number. This is the telephone number on which the Court will contact you at the time of the application hearing.
- ii. Check that the paperwork has been submitted from a secure email address. This is the email address that the court will return your electronically signed warrant if granted and/or reasons for the grant / refusal of the application.
- iii. If the applicant is submitting the application on behalf of another person, their email address must be included on the application and cc'd in when the application is sent to the inbox.

Both email addresses must be secure email addresses.

- iv. Check that only the booking code appears in the subject heading of the email. For example, MH01.12.151Blue. Please do not include any other information in the subject header other than the booking code.

The secure email address is: SouthEastSearchWar@hmcts.gsi.gov.uk

Only Legal Advisers approved to support the regional duty search warrant scheme by their Justices' Clerks will have access to the secure email box.

Where paperwork or information is missing, including the booking code, the Duty Legal Adviser will contact you at the earliest opportunity and no later than the

application hearing time. They will contact you by telephone or email. You will be advised to re-book your application and re-submit the paperwork.

Whilst every effort will be made to give the applicant as much notice as possible that their application will not be considered due to a paperwork error, it is the responsibility of Police Officer and other authorised applicants to ensure that their paperwork complies with the requirements of the scheme by submitting the correctly headed documents and in Word format.

- i) Making the application: At the designated application hearing time you will be contacted by the Court and asked to verify your identity. You should be able to provide:
- Booking code
 - Name of Force/Agency applying
 - Details of the authorising Inspector (if a Police application)
 - Details of the authorisation badge / lanyard (if Mental Health / Civil application)
- j) If the court is satisfied that they are speaking to the applicant, you will be asked to take the oath / affirm and make your application. You will need to provide your own holy book, should you wish to use one. You must be ready with the oath / affirmation at the time of your booking.
- k) It is important that applicants are at an appropriate secure location to receive the Court's call as it will not be possible to delay the application in order to facilitate the applicant moving to another location. This ensures that the information they will provide cannot be overheard.
- l) Applications should then be considered in the normal way as if you, the applicant, were present in the room.
- m) Please note the time limit on mental health warrants is 3 months; these warrants can only be used for a single occasion.
- n) Receiving the authorised warrant: Once considered, the warrant will be electronically signed by the JP, where granted. Supporting reasons for grant/refusal will be endorsed on the relevant paperwork and returned to the applicant electronically as a locked document or pdf (to prevent any subsequent amendments). Paperwork will only be dispatched to the email address from which the paperwork was received or, if the paperwork was sent on behalf of another person, the email address must have been cc'd into the original email. This email address must match the email address identified in the application supplied. Only one copy of the warrant will be supplied. This can be printed as many times as is necessary by the applicant.
- o) Executed / non-executed warrant handling: After the warrant has been executed (or is no longer required) a copy should be scanned and uploaded with MHAA report. The original must then be sent to Mental Health Law Department – mhlo.bedford@nhs.net or mhlo.luton@nhs.net. They will return executed warrants to the Court and also keep a record of warrant applications and outcomes. When doing so, clearly indicate whether you obtained the warrant at Court or via the on-line booking system and whether it was executed (and, if so, when).

- p) For urgent applications in working hours, please follow the normal Team Up booking procedure or contact the emergency administrator number (01245 313594) if there are no available time slots available to meet the time requirements of your application.

The full guidance is attached to this Practice Guidance (Appendix 6)

Note: The Justice of Peace will consider any application within the context of Article 5 ECHR. Entry to a person's home must therefore, in all the circumstances of the situation, be a proportionate measure within the context of this legislation. Where possible applications for a warrant should only be applied for within normal court hours. Applications out of hours should only be made if the application is urgent and it is intended to execute the warrant out of normal court hours.

The warrant issued will specify the name of the person sought (if known), the date of issue and the address of the premises. Once issued the Warrant is valid for month. However, can only be used once irrespective of whether person was at home or not and ideally should be used as soon as practically possible to conduct MHA.

7. AMHPs Responsibilities when Accessing a Warrant Under s135(1) Mental Health Act out of hours.

- 7.1 Application for s.135(1) warrants out of hours are managed via telephone conferencing. AMHPs will need to contact the Clerk of the Court via telephone, there is no central email address as the Clerk is managed on a rota system.
- 7.2 AMHPs need to contact the Clerk of the Court on 0203 334 3333. The Clerk will e-mail the relevant documents for completion, templates can also be found in the appendix to this Practice Guidance.
- 7.3 The AMHP is expected to complete the Mental Health info form (Appendix 7), s.135(1) template (Appendix 8) and the undertaking to pay court fees (Appendix 5).
- 7.4 The completed documents will be returned to the Clerk via e-mail using an address specified. The AMHP will also provide a contact number to participate in the teleconference with the Magistrate and Clerk.
- 7.5 Once completed any authorised Warrant will be returned to the AMHP via an agreed e-mail address. The AMHP is then responsible for facilitating the execution of the Warrant.

8. Executing Section 135(1) Warrants

- 8.1 Due to the complexity of executing a warrant adequate planning is required, AMHPs will balance the risks and ensure organisations are provided with adequate time to support.
- 8.2 Once the warrant is issued, the AMHP should email the Police via the Force Control Room email address – force.control@bedfordshire.pnn.police.uk - using the jointly agreed template (Appendix 1). AMHPs will ensure the proposed time for enforcing the Warrant is made clear within the email, unless there are overriding operational reason Bedfordshire Police must work towards the proposed time.

- 8.3 Force Control will reply to the Warrant Request within an hour of receipt including the CAD number, to confirm if the Warrant execution can go ahead at the proposed time or if an alternative time is more suitable.
- 8.4 AMHPs must not progress or attend the property unless they have received confirmation from Force Control. If Force Control do not respond within an hour or Officers do not attend the agreed Warrant execution time the AMHP will make contact with Force Control on 101, quoting the CAD number. Should AMHPs not receive an adequate response they will escalate their concerns to operational leads.
- 8.5 The AMHP may need to also contact the respective Local Authority should additional services (e.g. locksmith; cattery / kennels) be required. The AMHP and Police should jointly risk assess the situation exploring all sources of risk knowledge available. All agencies involved will enquire into the background of the person (as known to his / her agency) and exchange relevant information.
- 8.6 The AMHP is also responsible for contacting the ELFT Duty Senior Nurse (DSN) on **07930 445215** to book a bed prior to the execution of the warrant and use of the Section 136 Suite as a designated Place of Safety to conduct assessment, if required. (Please note: The Section 136 Suite should only be used for assessment if the level of risk indicates, or relevant permissions are not granted to conduct the assessment in the person's place of usual residence).
- 8.7 If the Section 136 Suite is going to be used, the AMHP must liaise with the DSN at the earliest opportunity to ensure staff are available to support the detained person following assessment, whilst they are waiting for a bed. If the Section 136 Suite is in use and assessment cannot be conducted in the person's home, if possible, arrangements should be made with Ward where a bed has been identified to conduct assessment there.
- 8.8 The AMHP is responsible for booking an ambulance for conveyance of the detained person (see Section 8.0 for further guidance regarding conveyance). It is the responsibility of the AMHP to manage the planning and co-ordination of all relevant parties to attend the address at the same time; to ensure the Section 135(1) warrant is executed in a coordinated manner, with minimal delay. This includes arranging for Section 12 doctor's attendance as part of the assessing team.
- 8.9 Bedfordshire Police and the AMHP should agree a location for initial discussions prior to executing the warrant. During the briefing each party should define his / her individual roles and how they intend to carry them out. On executing the warrant, the Constable shall:
- Have responsibility for managing the safety of all parties at scene
 - Identify himself / herself to all parties
 - Produce the warrant to the occupant and then complete the relevant Police information on the 135(1) (MH70 Form)
 - Supply the person with a copy of the warrant
 - Use reasonable force, if required, and ensure entry is gained safely
- 8.10 If the occupier of the premises is not present but another person who appears (to the Constable) to be in charge of the premises is, the above procedure will be followed in

respect of that other person. If there is no person present who appears (to the Constable) to be in charge of the premises, the Constable - having completed their part of the warrant - will leave a copy in a prominent place on the premises. As the Police executed the warrant, they are responsible for ensuring the premise is secure before leaving the scene in liaison any relevant supporting parties.

- 8.11 Once the warrant is executed, the attending Police Constable is responsible for completing a Section 135 investigation record on Athena (Police IT System) and any other relevant Police documentation (e.g. Use of Force Form). See Appendix 2 (attached to this Practice Guidance) for the Joint Section 135 (1) pathway.

For further information, please see Code of Practice Chapter 16.

9. Section 135(2) Definition and Police Powers

- 9.1 Section 135(2) Mental Health Act enables a Police Constable or “other person who is authorised by or under the Mental Health Act” to lay information before the Justice of the Peace, similar to section 135 (1) Mental Health Act, to be issued a warrant for the police to gain entry into a person’s premises and take a person to any place, or to take into custody or retake a person who is liable under the Mental Health Act.

Note: s.135 (3) now makes it clear that a person who is removed to a place of safety in the execution of a warrant issued under subsection 135(1), or who is kept at the premises specified in the warrant under subsection 135(1A), may only be detained there for a period not exceeding “the permitted period of detention” (see above).

- 9.2 An application for such a warrant needs to be supported by evidence that there is reasonable cause to believe that the person is to be found on premises within the jurisdiction of the justice; and that admission to the premises has been refused - or that a refusal of such admission is apprehended. The warrant authorises any constable to enter the premises, if need be by force, and remove the person (or keep them there if already a place of safety).
- 9.3 The circumstances where an AMHP or other authorised person may need to obtain a warrant under section 135(2) may vary but includes: -
- where an application to admit has been made but before the person can be conveyed to hospital, they abscond but are later traced to premises and refuse the ambulance or Police service entry to convey them to hospital under section 6(1) Mental Health Act; or,
 - where a person has been admitted to hospital under the Mental Health Act (1983) and has absconded from the ward and declined to return. See Appendix 3 (attached to this Practice Guidance) for Section 135 (2) flow chart.

10. Conveyance

- 10.1 Conveyance under s.135 of the Mental Health Act falls within the East of England Ambulance Service Trust (EEAST) commissioned contract. An EEAST vehicle cannot be pre-booked by the AMHP to be available for when the warrant is executed. The Police will

respond to the request to execute the warrant without a pre-booked ambulance and in accordance with the guidance set out in this document.

- 10.2 The AMHP will make the request for conveyance to EEAST once entry has been gained and it is clear that the person will need to be conveyed to a place of safety for assessment - or once they are liable for detention under the Mental Health Act and require admission to hospital. This action will result in two options around requesting an ambulance for conveyance.

- **Option One** - The person needs to be conveyed to a place of safety for assessment:

This will default to a “Red” response in line with the Traffic Light Risk Categorisation System outlined within EEAST “Requesting conveyance for persons detained under the Mental Health Act”

See Appendix 4 attached to this Practice Guidance.

EEAST will grade the call as a C2 response initially; this should ensure a 30-minute response time. If the person is being actively restrained by Police Officer(s) the call may be upgraded to a C1 (if required) following a clinical review of the person’s presentation and clinical need. EEAST staff will, where appropriate, undertake a physical health assessment. This will ensure that the chosen destination is the most suitable to meet the holistic needs of the person.

- **Option Two** - The assessment has been completed on scene and the person detained is liable for detention under the Mental Health Act and requires admission to hospital.

The AMHP/ doctor will need to identify and request an appropriate vehicle conveyance response time in line with the Traffic Light Risk Categorisation System outlined within EEAST “Requesting conveyance for persons detained under the Mental Health Act” (Appendix 4, attached to this Practice Guidance).

This should consider the presenting clinical need and risk to the person detained and others.

- 10.3 It should be noted that at any time throughout the process (regardless of option outlined above) if concerns are made regarding the physical health presentation of the detained person the AMHP / Doctors / Police Officer(s) on scene should contact EEAST direct (999 call) to allow the medical presentation to be further triaged by an EEAST Emergency Operations Centre.
- 10.4 Where it is necessary to safely manage a risk of violence or to prevent escape, a Police escort may be required. Where such risks are identified in advance the AMHP should discuss this with the Police Control room supervisor during the planning/strategy stage. These identified risks and resulting actions should be shared with EEAST staff at the earliest opportunity.
- 10.5 EEAST are not contracted to provide secure transportation within their current contract. Alternate providers should be sourced to provide secure transfers to a designated place of safety. This criterion also applies to persons being conveyed outside of the county.

Alternate providers should be sourced for such eventualities as out of area transportation sits outside the current agreed contract with EEAST.

Where the applicant is not travelling in the same vehicle as the detained person, the application form and medical recommendations should be given to the person delegated to transport the person, with instruction for them to be presented to the member of hospital staff receiving the detained person (CoP 17.21).

- 10.6 For warrants executed under s135(2) the managers of the hospital or place of residence from which the detained person is absent are responsible for making sure that any necessary transport arrangements are put in place for the person's return. The use of Police vehicles to return a detained person to hospital following a section 135 (2) warrant will not normally be appropriate.
- 10.7 People detained under Section 135 should only be transported in police vehicles in exceptional circumstances. In all cases the Police must seek authorisation from the duty inspector. The exceptional circumstances include if:
- i. The degree of violence being displayed would expose all parties to an excessive level of risk within an ambulance environment
 - or**
 - ii. In the instance that an excessive delay in an ambulance attending is deemed to be detrimental to the person's wellbeing.

11. Escalation Pathway

- 11.1 Should a disagreement occur between partners at any stage of the Section 135 process that cannot be resolved by the relevant Operational Managers, the overarching multi-agency Escalation Practice Guidance should be used.

12. Appendices

- Appendix 1 Section 135 (1 or 2) Warrant Information Form – Bedfordshire Police
- Appendix 2 Pathway for Warrant applications
- Appendix 3 Requesting conveyance for persons detained under the Mental Health Act (police service & mental health providers)
- Appendix 4 Undertaking to Pay form
- Appendix 5 Mental Health Warrants during Court hours – South East Region
- Appendix 6 Mental Health Warrant Information Template
- Appendix 7 Mental Health Warrant Template