



Section 135 Mental Health Act Procedure

Supporting Documents

- [College of Policing Risk Principles](#)
- [College of Policing Mental health APP](#)
- [Surrey and Borders Partnership NHS Foundation Trust \(sabp.nhs.uk\)](https://www.sabp.nhs.uk)

Policy

[SABP Countrywide Multi-Agency S135 S136 Policy](#)

Procedure

1.1 Surrey Police will comply with the [Mental Health Act 1983](#) (MHA) and any subsequent amendments, this includes the Mental Health Act 1983 Places of Safety Regulations 2017. Surrey Police will also work in accordance with, [College of Policing Approved Professional Practice for Mental Health](#) when using the power of S135 of the MHA. The below should be read in conjunction with these documents.

[S135\(1\) of the MHA 1983](#) relates to entering a premises to search for people who are to be assessed under MHA 1983 for potential admission to hospital.

2. Use of S135(1)

2.1 A [S135\(1\)](#) warrant is issued by a magistrate following an application to the court from an Approved Mental Health Professional (AMHP). An AMHP can submit a warrant application if they have reason to suspect an individual believed to have a mental disorder is or has been ill-treated, neglected, or otherwise that is of detriment to them, or if they live alone and are unable to care of themselves.

2.2 Under [s135\(1\)](#), a constable has the power to enter the specified premises and use force if deemed necessary (s135(4)). The constable must be with an AMHP and a s12 Doctor at the time of carrying out the warrant. The warrant must be executed at the point of arrival of the person is present.

2.3 The attending constable(s) are required to assist the AMHP and s12 Doctor in execution of the warrant, and to ensure the safety of all those present.

The warrant allows the constable to:

- Use force to gain entry to the property to locate the individual named on the warrant.

- To remain at the specified property, even if asked to leave by the individual.
- To conduct a search of the premises to locate the individual.
- Use force to remove the individual from the specified premises to a place of safety for further assessment by mental health professionals.

2.4 [s135\(1\)](#) does not require police to use force to remove an individual from a private premises on every occasion. There is provision under s135(1) for an assessment to take place within the specified premises should the named individual agree to this and if mental health professionals who are present deem this appropriate.

2.5 Whilst the police are required to assist the AMHP and s12 Doctor in the execution of a [s135 \(1\)](#) warrant, police are not responsible for planning for transportation of the individual to a place of safety, or for making arrangements for the ongoing care of the person.

3. Use of S135(2)

3.1 [s135\(2\) of the MHA 1983](#) allows a constable, an AMHP, or someone who has been authorised to do so by hospital managers, to make an application to the magistrate for a warrant to re-detain an individual. This power is used if it the person was deemed 'liable to be detained' or if the person was 'absent without leave' ([MHA 1983 s17](#)).

3.2 A constable does not require the attendance of an AMHP and/or s12 Doctor to carry out a s135(2) warrant at the specified premises. The AMHP and/or s12 Doctor can attend to re-detain a patient under [s135\(4\)](#).

3.3 [s135\(2\)](#) allows a constable to use force to enter the specified premises and to conduct a search for the individual named under two conditions:

- There is reasonable cause to believe the individual is within the specified premises on the warrant.
- An attempt must have been made to gain access to the property, and this be unsuccessful, or, that there must be a reasonable belief that access would be denied.

3.4 As with [s135\(1\)](#), a warrant under [s135\(2\)](#) provides a constable with the power to utilise force to remove the named individual to a suitable hospital in line with their care needs.

3.5 Police are not responsible for transporting the individual. An ambulance, or hospital transport, must be used to return them to where they ought to be.

4. Warrants for recall of a patient to hospital

4.1 Under [s42 of the MHA 1983](#), an individual who has previously been involved, or is currently going through, the criminal justice process can be discharged into the community with certain restrictions in place.

4.2 Whilst under s42, the individual can be recalled back to the hospital if ordered to do so by the secretary of state. This would be under a warrant issued under the [MHA1983 s42\(3\)](#). It is important to note that this is not a warrant for arrest in relation to PACE s17. Police will typically have involvement in the recall process under s42(3) due to the nature of the person having previously been thought to pose a serious risk of harm to the public.

4.3 If a constable is required to use force to obtain entry in relation to utilising [s42](#), there is a condition for a warrant under [s135\(2\)](#) of the MHA in order to do so, unless there are grounds present under PACE.

5. Planning to execute S135

5.1 When a s135 request is made, the AMHP service will call 101 to notify police of the need for a S135 warrant, and to make enquiries relevant to their risk assessment such as police warning markers. This information must be passed on to the relevant policing team to allow for resourcing enquiries to be made.

5.2 The AMHP will inform police of the arranged time of the warrant and will aim to ensure that this is planned around police shift patterns, where possible. The time stated will be dependent on when they are able to arrange the relevant agency support including a s12 Doctor, an Ambulance, and a Locksmith (if required). If police are no longer able to attend to execute a s135 warrant due to resourcing demand, the AMHP must be notified of this change as soon as reasonably practicable.