

Section 135 of the Mental Health Act

Being taken to a place of safety from a private place

This factsheet looks at section 135 of the Mental Health Act. It explains when and how this section is used. It explains what your rights are on this section. And what could happen after it ends. If you care for someone who is under section 135, you may also find this information helpful.

Key Points.

- Section 135 is used by police and healthcare professionals to go into your home. Even if you don't want them to. They will do this if they are worried about your mental health.
- Mental health professionals will have to ask a magistrate for permission to go into your home.
- The police can keep you at a 'place of safety' or take you there. They can only do this if they think you have a mental illness and need care.
- A place of safety can be your home, a hospital or a police station. The police can move you from one place to another.
- You can be kept on section 135 for up to 36 hours.
- Mental health professionals will assess your mental health to see if you need to be in hospital.
- After your assessment, you may be detained in hospital under a section of the Mental Health Act. Or, you will be free to leave the place of safety.
- Under this section, you have the right to access legal advice. You can ask the police or hospital to tell a solicitor where you are. You also have the right to mental health treatment.
- This section can't be used to remove you from a public place. A section 136 would be used instead.

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A list of professionals we mention in this factsheet

There are different professionals that might be involved in your care while you are detained under the Mental Health Act. We talk about some of these professionals in this factsheet.

Approved Clinician (AC): an AC is a mental health professional who is allowed to use the Mental Health Act. An AC can be a doctor, psychologist, nurse, occupational therapist, or social worker. They are trained to assess your mental health.

Approved mental health professional (AMHP): an AMHP is a mental health professional who is trained to use the Mental Health Act. An AMHP can be a psychologist, nurse, social worker or occupational therapist. They help to decide if you should be detained under the Mental Health Act. The role of the AMHP is to provide a decision that is informed by a social perspective, rather than a medical opinion.¹ Even if they have a medical background. An AMHP can help to bring you to hospital.

Police officer: the police can enter your house if they have a warrant under Section 135. They can get into your property even if you don't want them to.^{2,3} The police will keep you or take you to a place of safety. They should try and do this in an ambulance, but it can be in a police vehicle.⁴

Custody sergeant: they are responsible for the safety of everyone at the police station. They will make sure you understand why you are there and what your rights are. You may be taken to a police station as a place of safety.

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1. What is section 135?

Section 135 (s135) is part of the Mental Health Act. The Mental Health Act is a law. S135 means that police officers and health professionals can legally go into your home. Even if you don't want them to.

The police also have the power to keep you at your home or take you to a 'place of safety.' Even if you don't want to go with them.

Please see [section 4](#) below to see what is meant by 'place of safety'.

You can find more information about '**The Mental Health Act**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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2. When is section 135 used?

S135 may be used if a professional thinks you are not well and need to be in hospital for mental health treatment.

S135 is used in 2 situations. These are explained below.

1. When professionals believe that you have a mental illness and: ⁵

- you are in a private place. Such as where you live,
- you are not able to care for yourself,
- you are being treated badly by someone, or
- you are being neglected by your carer.

2. Or: ⁶

- you are on a private premise, and
- you were detained in hospital or other accommodation under the Mental Health Act. But you have left without permission.

Can I be taken from a public place under Section 135?

You cannot be taken from a public place under S135. The police would need to use Section 136 (S136) of the Mental Health Act instead. S136 is used to take or hold you in a place which is not where you, or somebody else live. Such as a park or the street.

You can find more information about '**Section 136**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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3. How is section 135 is used?

An approved mental health professional (AMHP) will apply to a magistrates' court for a warrant to get access to your home.⁷ They will try to get access to your home if they are worried about your mental health.

The AMHP may ask for a warrant if: ⁸

- you are likely to refuse the health professionals entry to where you live,
- there is a risk that you or other people with you will become violent,

- there is a risk you will run away before your assessment is completed,
- you are likely to harm yourself, or
- there is a risk that your pet, such as your dog, will attack the AMHP.

If an AMHP believes that they will be able to safely assess your mental health without a warrant, they won't apply for one.

What is a warrant?

A warrant gives the police permission to come into your home. The police can also keep you or take you to a place of safety. If you do not allow the police to come into the place you live, they can use force.⁹ For example, they might break your door down.

Please see [section 8](#) below about what you may be able to do if the police use force to enter your home.

The police can stay in your home even if you ask them to leave. They can search the premises to find you.¹⁰

The police can't enter your home without your permission if they don't have a warrant. Ask them to show you the warrant before you let them in.

If your property is entered by force, the officer in charge must make sure your property is secure before they leave, by:

- arranging for the occupier or agent to be present, or
- any other appropriate means.¹¹

This means the police are only likely to secure your home if no one is present before they leave your property.¹²

Section 135(1)

Under section 135 (1), the police must come to your home with an AMHP and a doctor.¹³

The mental health professionals will assess your mental health to decide if you need to go to hospital. If they decide to take you to a different place of safety, they must explain why. The police will take you there.¹⁴

Section 135(2)

Under section 135(2), the police can come to your home on their own. But they should try and bring someone from the local hospital or social services with them.¹⁵

This section can be used if you were detained under the Mental Health Act, but you left hospital without permission. The police have the power to take you back to hospital.¹⁶

What is a place of safety?

A place of safety could be:¹⁷

- the place that you live in,
- the home of someone you know,
- a healthcare setting, such as a hospital ward or accident and emergency (A&E) department, or
- a police station.

A police station should only be used if there is no better option. You may be taken to a police station if you are thought to be too high a risk to people in a healthcare setting.¹⁸

If you are taken to the police station, it doesn't mean that you have done anything wrong. This should be clearly explained to you.¹⁹ The police can arrange for you to be seen by a medical assessor.

The police can move you from one place to another. For example, from the police station to a hospital.

You should be taken from the police station to a more suitable place as soon as possible. Unless it is in your best interests not to move you.²⁰

A police station can't be used as a place of safety if you are under the age of 18.²¹

Can police officers restrain me to take me to a place of safety?^{22,23}

If you are acting violently or at risk of harm to yourself or others, police officers may restrain you. The least restrictive type of restraint should be used.

You should only be restrained if it is absolutely necessary. People with mental illness are at an increased risk of acute behaviour disturbance (ABD) when restrained. ABD is a rare form of severe mania. If you experience ABD whilst you are restrained, you should be considered as a medical emergency and taken to hospital.

It is important officers are aware of any other medical conditions you may have. This is so you are monitored effectively whilst restrained. If you are restrained, a safety officer should be responsible for monitoring your condition. They should protect your airways and support your neck and head.

Officers must make a record of any force they use on you. They must be able to show that the use of force was lawful, proportionate and necessary.

When will a home not be a place of safety?

Your home should not be used as a place of safety if you don't want it to be used.²⁴

If you live in shared accommodation, both you and at least 1 of your housemates need to agree that you can stay there.²⁵

Your friend's or relative's home should not be used as a place of safety if:²⁶

- you don't agree it should be used, or
- someone who lives in the property doesn't agree that it should be used.

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4. How long will I be on section 135?

You can be on this section for up to 24 hours until an approved mental health professional (AMHP) or doctor sees you.²⁷

Under section 135 the doctor may decide that you need to be kept for longer. They can do this if it is not practical to do a mental health assessment within 24 hours because of how you are. They can extend your detention by 12 hours. This will start from the end of the original 24 hours.²⁸

If you are being kept in a police station the doctor needs the permission of a superintendent or above to extend your detention.²⁹

This means that you can be kept in a place of safety for a maximum of 36 hours.

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5. What are my rights if I'm under section 135?

What are my rights if I am in hospital?

If you are in hospital, the hospital managers have to make sure that you:^{30,31}

- understand why you have been detained,
- have information about your detention, and
- are helped to get legal advice if you ask for it.

What are my rights if I am in a police station?

If the police take you to a police station, it doesn't mean that you have done anything wrong. You have the right to:^{32,33}

- be told why you have been detained,
- get the police to tell someone where you are and what's happened,
- get free legal advice from a solicitor, and
- get medical treatment from an appropriate healthcare professional.

Can I be searched?

You can only be searched if the police officer believes that you:³⁴

- may be a danger to yourself or other people, and
- are hiding something on you that could be used to hurt yourself or other people.

Your mouth can be searched.³⁵

If you are searched, you will not be asked to take off your clothes. But you can be asked to take off your:³⁶

- outer coat,
- jacket, and
- gloves.

A police officer can keep anything they find on you. They can do this if they believe that you might use it to cause harm to yourself or other people.³⁷

Can I appeal a section 135?

You do not have the right to appeal to the Mental Health Tribunal if you are under a section 135.³⁸

If you are not happy with being detained under s135 you can complain to the police. You can also seek legal advice.

You can find more about:

- **Complaints about the police,**
- **Legal advice**

at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

Do I have the right to food and drink whilst under s135?

You should be offered at least 2 light meals and 1 main meal within a 24 hour period. You should be provided with drinks at mealtimes and upon reasonable request between meals.

At the custody officer's discretion, you can ask for your meals to be supplied by your family or friends at your expense.³⁹

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6. What happens to my property whilst I'm under section 135?

Your local authority (LA) must protect your possessions if:

- you have support needs and are being cared away from home, and
- you can't arrange your own protection.

For example, if you have to go into hospital or in a care home. Your LA should protect your personal property, such as your furniture and your pets.

Your LA must act if it believes there is a risk of your possessions being lost or damaged if they don't take action.⁴⁰

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7. Can I claim compensation if the police cause damage to my property?⁴¹

Under section 135, the police can enter your property by force if necessary.

Police forces sometimes pay compensation following damage to your property. Whether compensation is appropriate will depend on the circumstance of your case.

You are unlikely to receive compensation if the search was lawful and the police used reasonable and necessary force to gain entry.

Police sometimes pay compensation or ex-gratia payments if damage is caused to your property.

If you feel the police have caused unnecessary damage to your property, you can complain.

If police refuse to pay compensation, you may be able to bring a civil claim against them for the damages. If you wish to bring a civil claim against your local police force, you will need to seek specialist legal advice.

You can find more about:

- **Complaints about the police,**
- **Legal advice**

at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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8. Can my doctor treat me if I don't want it?

You have the right to refuse any treatment you do not want when you are under section 135. In rare circumstances, you may be forced to have treatment that you do not want.⁴²

This can only happen if you are then put under a different section of the Mental Health Act such as section 2, section 3, or section 37.

You can find more information about the '**Mental Health Act**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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9. What might happen after this section?

After the section 135 ends, 1 of the following things will happen.

- The approved mental health professional (AMHP) and 2 doctors decide that you need to be in hospital. You might go into hospital as a voluntary patient. Or you may be detained under a different section of the Mental Health Act.
- The AMHP or medical examiner decide that you don't need to be in hospital. You are free to leave. They may refer you for support from community services, such as the crisis team, community mental health team (CMHT) or your GP. But it is up to you if you accept the help or not.
- In an emergency an AMHP and 1 doctor will be allowed to detain you in hospital. But it is unlikely that an emergency detention would be justified. This is because if there's an urgent need to transfer you to hospital, the power of transfer between places of safety could be used. This is allowed under section 135.⁴³

You can find more information about:

- **NHS Mental Health Teams (MHTs)**
- **Mental Health Act**
- **GP's - What to expect from your doctor.**

at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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¹ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. Paragraph 14.52.

² s135(1), Mental Health Act 1983 c20.

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- ³ s135(2), Mental Health Act 1983 c20
- ⁴ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015, para 17.14-17.15.
- ⁵ s135(1), Mental Health Act 1983 c20.
- ⁶ s135(2), Mental Health Act 1983 c20.
- ⁷ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015, para 16.3.
- ⁸ Metropolitan Police. *Responding to requests from community mental health teams to attend pre-planned mental health assessments*. www.whatdotheyknow.com/request/49936/response/133862/attach/2/Document%203%20number%202.pdf page 3 (Accessed 5th May 2021).
- ⁹ s135(2), Mental Health Act 1983 c20
- ¹⁰ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. para 16.4.
- ¹¹ Home Office. *Police and Criminal Evidence Act 1984 (PACE) Code of Practice*. Norwich: TSO; February 2017. Code B, Paragraph 6.13
- ¹² The Network for Police Monitoring. *What are your rights if the police raid your home?* www.netpol.org/2014/06/12/police-raids/ (accessed 29th June 2021).
- ¹³ s135(4), Mental Health Act 1983 c20
- ¹⁴ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. para 16.4.
- ¹⁵ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. para 16.15.
- ¹⁶ s135(2), Mental Health Act 1983 c20
- ¹⁷ s135(6), Mental Health Act 1983 c20
- ¹⁸ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. para 16.38.
- ¹⁹ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. para 16.43.
- ²⁰ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. para 16.40.
- ²¹ s136A(1), Mental Health Act 1983 c20
- ²² Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015 at para 16.24
- ²³ College of Policing. *Detention and Custody – Control, Restraint and Searches*. www.app.college.police.uk/app-content/detention-and-custody-2/control-restraint-and-searches/#use-of-force (Accessed 11th May 2021).
- ²⁴ s135(7)(a)(i), Mental Health Act 1983 c20
- ²⁵ s135(7)(a)(ii), Mental Health Act 1983 c20
- ²⁶ s135(7)(a)(iii), Mental Health Act 1983 c20
- ²⁷ s135(3ZA), Mental Health Act 1983 c20
- ²⁸ s136B(1), Mental Health Act 1983 c20
- ²⁹ s136B(3), Mental Health Act 1983 c20
- ³⁰ s132, Mental Health Act 1983 c20
- ³¹ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. para 16.69.
- ³² Home Office. *Police and Criminal Evidence Act 1984 (PACE) Code of Practice*. Norwich: TSO; February 2017. Code C, Paragraph 3.1.
- ³³ Home Office. *Police and Criminal Evidence Act 1984 (PACE) Code of Practice*. Norwich: TSO; February 2017. Code C, Paragraph 3.2 (a)(vii).
- ³⁴ s136C(1), Mental Health Act 1983 c20

³⁵ s136C (5)(b), Mental Health Act 1983 c20

³⁶ s136C(5)(a), Mental Health Act 1983 c20

³⁷ s136C(6), Mental Health Act 1983 c20

³⁸ Cumbria, Northumberland, Tyne and Wear NHS trust. *Section 135 – Assessment of a person removed by police under a court warrant.*

www.cntw.nhs.uk/resource-library/section-135-admission-patients-removed-police-court-warrant/ (Accessed 11th May 2021).

³⁹ Home Office. *Police and Criminal Evidence Act 1984 (PACE) Code of Practice*. Norwich: TSO; February 2017. Code C, Paragraph 8.6

⁴⁰ Department of Health. *Care and Support Statutory Guidance*.

www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#contents at para 10.88

⁴¹ House of Commons Library. *Damage to property by police forcing entry.*

<https://commonslibrary.parliament.uk/research-briefings/sn06627/>

(Accessed 11th May 2021),

⁴² Cumbria, Northumberland, Tyne and Wear NHS trust. *Section 135 – Assessment of a person removed by police under a court warrant.*

www.cntw.nhs.uk/resource-library/section-135-admission-patients-removed-police-court-warrant/ (Accessed 11th May 2021).

⁴³ Department of Health. *Code of Practice Mental Health Act 1983*. Norwich: TSO; 2015. Para 16.75

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