

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.



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 or take you to a 'place of safety'. 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 this section 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 will be free to leave the place of safety or you may be detained in hospital under a section of the Mental Health Act.
- You have rights under this section. You can get legal advice, ask the police or hospital to tell someone where you are. And get 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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1. What professionals will I meet?

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 give a social, 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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2. 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.

3. When is section 135 used?

S135 may be used if someone 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 your home,
- 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 in a private place, 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 can't 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 your home or someone else's home. Such as a park or 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.

4. 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 your home,
- 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 your home they can use force.⁹ For example, they might break your door down. 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.

Section 135(1)

Under section 135 (1), the police must come to your home with an AMHP and a doctor.¹¹

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.¹²

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.¹³

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.¹⁴

What is a place of safety?

A place of safety could be:¹⁵

- your home,
- 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.¹⁶

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.¹⁷ 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.¹⁸

A police station can't be used as a place of safety if you are under the age of 18.¹⁹

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.²⁰

If you live in shared accommodation, both you and at least 1 of your housemates need to agree that you can stay there.²¹

Your friend's or relative's home should not be used as a place of safety if:²²

- 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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5. How long will I be on this section?

You can be on this section for up to 24 hours until an approved mental health professional (AMHP) or doctor sees you.²³

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.²⁴

If you are being kept in a police station the doctor needs the permission of a superintendent or above to extend your detention.²⁵

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

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6. What are my rights?

If you are in hospital, the hospital managers have to make sure that you:^{26,27}

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

If the police take you to a police station, it doesn't mean that you have done anything wrong. You have the right to:^{28,29}

- 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:³⁰

- 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.³¹

If you are searched, you will not be asked to take off your clothes. But you can be asked to take off your:³²

- 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.³³

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

You can't be forced to take medication or have any other treatment while under section 135.³⁴

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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8. 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 you 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.³⁵

You can find more information about:

- Community mental health team (CMHT)
- Crisis Team
- 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.

³ As note 2 (MHA 1983), s135(2).

⁴ As note 1, para 17.14-17.15.

⁵ As note 2 (MHA 1983), s135(1).

⁶ As note 2 (MHA 1983), s135(2).

⁷ As note 1, 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 12th July 2018).

⁹ As note 2 (MHA 1983), s135(2).

¹⁰ As note 1, para 16.4.

¹¹ As note 2 (MHA 1983), s135(4).

¹² As note 1, para 16.4.

¹³ As note 1, para 16.15.

¹⁴ As note 2 (MHA 1983), s135(2).

¹⁵ As note 2 (MHA 1983), s135(6).

¹⁶ As note 1, para 16.38.

¹⁷ As note 1, para 16.43.

¹⁸ As note 1, para 16.40.

¹⁹ As note 2 (MHA 1983), s136A(1).

²⁰ As note 2 (MHA 1983), s135(7)(a)(i).

²¹ As note 2 (MHA 1983), s135(7)(a)(ii).

²² As note 2 (MHA 1983), s135(7)(a)(iii).

²³ As note 2 (MHA 1983), s135(3ZA).

²⁴ As note 2 (MHA 1983), s136B(1).

²⁵ As note 2 (MHA 1983), s136B(3).

²⁶ As note 2 (MHA 1983), s132.

²⁷ As note 1, para 16.69.

²⁸ Home Office. *Police and Criminal Evidence Act 1984 (PACE) Code of Practice*. Norwich: TSO; February 2017. Code C, Paragraph 3.1.

²⁹ As note 'PACE Code C' Paragraph 3.2 (a)(vii).

³⁰ As note 2 (MHA 1983), s136C(3).

³¹ As note 2 (MHA 1983), s136C (5)(b).

³² As note 2 (MHA 1983), s136C(5)(a).

³³ As note 2 (MHA 1983), s136C(6).

³⁴ As note 2 (MHA 1983), s56(3)(b).

³⁵ As note 'Code of Practice', para16.75

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