

HYWEL DDA UNIVERSITY HEALTH BOARD



Section 135 - Warrant to search for and remove patients Inter-Agency Procedure



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HM Courts & Tribunals Service



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Brief Summary of Document:	Procedure for the use of section 135 – Warrant to search for and remove patients. Outlines the process for obtaining a warrant from a magistrate's court. Includes practical information for police officers and staff. Welsh Government Section 135/6 form is also included.
Scope	The procedure covers all areas of the HDUHB. It applies to police officers involved in implementing a section 135 and all nursing staff, Doctors and Approved Mental Health Professionals involved in section 135

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Section 135 Procedure

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To be read in conjunction with:	395 - Section 136 procedure 731 - Section 17 leave policy 625 - CTO policy 597 - Section 5(2) Doctors Holding power policy
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Owning committee	Mental Health Legislation Committee – Mrs Judith Hardisty (Chair)
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Reviews and updates		
Version no:	Summary of Amendments:	Date Approved:
1	New Procedure	14/05/2019
2	Three year review- updated guidelines	

Glossary of terms

Term	Definition
AMHP	Approved Mental Health Professional – a professional with training in the use of the Mental Health Act, approved by a local authority to carry out a number of functions under the Act
RC	Responsible Clinician – the approved clinician with overall responsibility for the patient’s care
COP	Mental Health Act 1983, Code of Practice for Wales, Revised 2016
PACE	Police and Criminal Evidence Act
AWOL	Absent without leave – when a patient absconds from legal custody
Section 12 Doctor	A doctor who has been approved by the Welsh Ministers (or the Secretary of State) under the Act as having special experience in the diagnosis or treatment of mental disorder.
RMP	A registered medical practitioner (Doctor) approved by the General Medical Council

Key words: Section 135, Section 136, Mental Health Act, Mentally disordered persons

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1. INTRODUCTION

The Mental Health Act Code of Practice for Wales requires Local Social Services Authorities, the NHS and the local Police Authority to establish a clear procedure for the use of the power to remove a person to a place of safety under section 135 of the Mental Health Act (MHA).

This procedure reflects the requirements of:

- Dyfed Powys Police
- Local Social Services Departments of Carmarthenshire, Ceredigion and Pembrokeshire
- Hywel Dda University Health Board
- Welsh Ambulance Services NHS Trust

2. AIM

This joint procedure outlines the roles and responsibilities of each of the organisations that are agreeing to it and provides guidance for police officers and related staff, medical and/or other healthcare practitioners and Approved Mental Health Professionals (AMHPs) on how to obtain a warrant from a Magistrates Court and how to implement it. Ensuring sec 135 of Act is implemented in a consistent and efficient manner.

3. OBJECTIVES

A person experiencing a mental health crisis should receive the best possible care at the earliest possible point.

The aim is achieved by:

- ensuring assessments under sec 135 meet the requirements of the Mental Health Act Code of Practice for Wales 2016 and the Police and Criminal Evidence Act 1984 (Code 'C'). Policing and Crime Act 2017.
- Maintaining the professional expertise of police officers, Approved Mental Health Professionals (AMHPs), Registered Medical Practitioners and authorised persons in ensuring the proper assessment of people detained under sec 135.
- Obtaining and monitoring information on reasons for individuals being removed and detained under sec 135 and by improving service delivery.
- Whilst the person is detained under legal framework of MHA the agencies will protect and promote human rights also enhancing the underlying principles of the MHA code of practice which are treating people with dignity and respect, least restrictive option and maximising independence, fairness, equality and equity, empowerment and involvement, keeping people safe and effectiveness and efficiency.

4. SCOPE

This procedure relates to all staff responsible for and/or working with persons who may be detained under sec 135 of the Act, including those in support functions. It also informs staff from other agencies involved in the detention of individuals under sec 135.

5. PLACE OF SAFETY

The Policing and Crime Act 2017 defines a place of safety as:

- A hospital
- An independent hospital or care home for mentally disordered persons
- A police station (for those over 18 years of age only)
- Residential accommodation provided by a local social services authority
- Any other suitable place (with the consent of a person managing or residing at that place)

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A police station may only be used as a place of safety for a person aged 18 and over in the specific circumstances set out in the MHA 1983 places of safety regulations, namely, where:

- The behaviour of the person poses an imminent risk of serious injury or death to themselves or another person
- because of that risk, no other place of safety in the relevant police area can reasonably be expected to detain them, and
- so far as reasonably practicable, a healthcare professional will be present at the police station and available to the police.

The authority of an officer of at least the rank of inspector must be given for the use of a police station in such circumstances – unless the person making the decision is themselves of such a rank or higher.

A place that is not specifically named in the legislation as a place of safety can be a “suitable place” (and thus a place of safety) if it is suitable, and with the agreement of relevant parties. In the case of a private home this is the agreement of the person believed to be suffering from a mental disorder and, unless the detained person lives alone at the property, one person residing there. Where the place is not a private home, the agreement of the person who appears to manage that place is required.

Where it is contemplated to use a private dwelling (house, flat or room where a person is living) as a place of safety, sec 135 requires that the person believed to be suffering from a mental disorder and, if they are not the sole occupier of the premises, at least one of the occupiers of that dwelling, agree to that place being used as a place of safety.

This is set out in summary form below:

Scenario	Consent Required
If 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
If 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 other of the other occupiers agree to the use of the place as a place of safety
If 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

The legislation continues to provide for a range of locations to be used as a place of safety, which allows for local flexibility to respond to different situations. A person in mental health crisis should be taken to or kept at a place of safety that best meets their needs.

6. SECTION 135(1) WARRANT

The purpose of a sec 135(1) warrant is to provide police officers with a power of entry to private premises, for the purposes of removing the person to a place of safety for a mental health assessment or

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for other arrangements to be made for their treatment or care. The warrant must be applied for by an AMHP and can be granted by a magistrate when the person is believed to be:

- suffering from a mental disorder and is being ill-treated, neglected or kept otherwise than under proper control or
- is living alone and unable to care for themselves

The warrant gives police the right to enter the premises, by force if necessary. The police officer may remain even if asked to leave, and may also search the premises of the person believed to be suffering from a mental disorder.

When acting on the warrant, the officer must be accompanied by an AMHP and a doctor. It may be helpful if the doctor who accompanies the police officer is approved for the purposes of sec 12(2) of the Act. The person should be told the reasons for the removal before they are removed. The police officer may remove the person to a place of safety, where they can be detained for up to 24 hours from the time of their arrival, or if they are kept at the premises specified in the warrant at the time the constable first entered the premises to execute the warrant.

Where it is reasonably practicable, the intended place of safety should be identified, and the necessary arrangements made, before a warrant is applied for under sec 135(1). Proper planning should ensure that it is not necessary to use a police station as a place of safety other than in the exceptional circumstances described at point 5.

7. PRE-ASSESSMENT UNDER SECTION 135(1)

Having established that the grounds for an application are met and that an application is justified in terms of the Human Rights Act, the AMHP will contact the police to forewarn about the process and discuss any actions needed. The police will require as much notice as possible (minimum 24 hours unless an emergency) in order to research and risk assess cases.

The AMHP will ensure information on risk and presenting factors is shared with police to develop a risk management plan for the execution of the warrant by ringing 101 and requesting to speak to the Police MH Triage team or the Duty Inspector if MH Triage is not available. Upon receiving the request the police will create a log on their STORM system which generates a unique reference number.

All agencies involved will enquire into the background of the patient and exchange relevant information, for example:

- The time and place of the proposed assessment
- The identity of the person to be assessed and any background information including risks of violence, possession of weapons any physical conditions and if person has animals to be taken care of.
- If there is a key holder or arrangements needed to secure property
- The premises to be entered and its location
- The nature of the application including the statutory provision and brief facts
- The identity of the professionals involved
- The name and telephone contact number of the AMHP responsible for organising the assessment and the subsequent conveyance of the patient

The AMHP will provide information to support the need for a warrant to the Justice of Peace by telephone (details from the risk assessment may be relevant).

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The decision to grant a warrant to a constable or to an AMHP by a court is usually in a process that is 'ex parte' – without giving notice to the person affected. The court will therefore need to be assured that, in accordance with Articles 5 and 6 of the European Convention of Human Rights, it is absolutely necessary that such an urgent and serious procedure is required in order to achieve the safety or protection of the person concerned.

In order for a Justice of the Peace to be satisfied that it is appropriate to issue a warrant they are likely to ask AMHPs:

- Why they are applying for a warrant, i.e. there is reason to suspect the person is suffering from a mental disorder, there are significant risks to the persons health and safety, and/or the safety of other persons
- Whether reasonable attempts to enter without a warrant have been made i.e. details of what has been tried and by whom, and
- If not, why not.

Although it is not necessary for permission to enter to have been refused in order for a sec 135 (1) warrant to be granted, applicants should provide documented reasons for seeking a warrant if they have not already tried to gain access.

Reliance upon sec 135 (1) to gain entry in an emergency situation may be inappropriate due to the time it can take to obtain the necessary warrant. The police may use their power of entry under section 17(1)(e) of the Police and Criminal Evidence Act, 1984 (PACE) for the purposes of saving life or limb or preventing serious damage to property, however this does not confer on the police any power to remove the person to a place of safety or to detain them.

Entry to the premises must take place within 3 calendar months of the date of issue of the warrant. Police and Criminal Evidence Act 1984 S16 (3)

A sec 135(1) warrant can only be executed once. Procedures must be put into place as detailed above in respect to returning the warrants to the Magistrates Court once executed or expired.

The original warrant must be returned to the Clerk to the Justices by the AMHP as soon as possible after it expires, whether used or not.

8. EXECUTION OF THE WARRANT

A pre-meet should be arranged prior to the executed of the warrant; this would be at a mutually agreed safe location, where the plan would be formulated.

Warrants will only be executed by the constable if, in the event, entry to the premises can only be achieved by the use of the warrant. To that extent the level of police intervention and force must be proportionate to the assessed level of risk at the premises. The process involves effective co-ordination and communication for the AMHP, they must:

- Share information on risk and presenting factors with police to develop a risk management plan for the execution of the warrant; this may involve the Mental Health Triage Team if they are available or they will support and guide their colleagues and also the persons family and/or carers and other relevant individuals should, where appropriate, be involved in assessing any risks posed.
- Discuss with police all available information, so they can decide the level of resource in undertaking this.

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- Ensure sec 12 approved Doctor is available to attend the address, it may be the person's regular doctor if known to services and available.
- Liaise with Health Board staff to agree booking of suitable transport to transfer the person to an identified place of safety. If still on S135 (1) there would be an expectation for police to remain with the individual until taken to place of safety and assessed.

On arrival at the premises the AMHP must request entry. If entry is refused the police will be asked to execute the warrant. In this respect the constable shall:

- Identify themselves
- Produce the warrant to the occupier of the premises
- Supply the occupier with a copy of the warrant
- If the subject of the warrant is NOT present but another person is present and apparently "in charge" of those premises, then the procedure described shall be followed
- If, upon entry, no one is found to be present then a copy of the warrant must be left in a "prominent" place on the premises

Local authorities have a duty to ensure the temporary protection of property for persons admitted to hospital or accommodation provided under the Social Services and Well-being Act 2014 and safeguard their property and personal effects including pets if the individual is detained under MHA 1983 has no one else to take responsibility of their pets, property or belongings.

If damage has been caused to the premises whilst effecting entry and there is a need to secure the property, the AMHP should ensure this is done. The local authority must ensure information is available during working hours of locksmiths, and approved maintenance services that can be used. Outside of working hours, the police can, at their request, access a suitable service, which will be charged to the relevant authority. The police will remain at the premises until the property has been secured.

Following entry under sec 135(1), the AMHP and the doctor may convene a mental health assessment in the person's home if it is safe and appropriate to do so and the person consents, to this (see point 5 above). In taking this decision, consideration should be given as to who else is present, particularly if a person might be distressed by the assessment taking place in these circumstances.

If it is jointly identified that the person will be removed to a place of safety then it then it is the responsibility of those involved to ensure arrangements are in place for the person to be received at a place of safety and obtain agreement with those responsible for those premises for its use.

Police have a vital role to play during the medical examination/assessment – to prevent a breach of the peace and ensure the safety of the person being assessed, those carrying out the assessment and any other persons present. By attending to these considerations police will enable the mental health professionals to concentrate on the assessment process. While the AMHP has overall responsibility for the conduct of the assessment it may be necessary for police to take control in the event of a violent incident.

Where a person is violent or threatens to use violence, the police officer should, if time constraints allow and deemed appropriate, consult with the health care professionals to determine the most appropriate method of restraint.

If the person being assessed leaves the premises before the assessment process is complete they can be retaken within the time period.

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9. TRANSFERS BETWEEN PLACES OF SAFETY

A person removed to a place of safety under sec 135(1) may be moved to a different place of safety within the maximum 24 hour period for which they may be detained. Transfers should take place only when it is in the person's best interests. The maximum period of detention begins from the time of the person's arrival at the first place of safety to which they are taken and cannot be extended if the person is transferred to another place of safety unless in circumstances outlined below at Point 10.

The person may be taken to the second or subsequent place of safety by transport arranged by a police officer, the AMHP or a person authorised by either a police officer or the AMHP.

A person may be transferred before their assessment has begun while it is in progress, or after it is completed and they are waiting for any necessary arrangements for their care or treatment to be put in place. If it is unavoidable, or it is in the person's interests, an assessment begun by one AMHP or doctor may be taken over and completed by another, either in the same location or at another place to which the person is transferred.

If a person subject to sec 135 is taken first to an A&E Department for treatment of an illness or injury (before being removed to another place of safety) the detention period begins at the point when the person arrived at the A&E Department (because a hospital is a place of safety).

Any delays resulting from transferring the person cannot result in an overall period of detention which exceeds 24 hours, unless the extension is authorised by the Responsible Medical Practitioner. This is most likely to be one of the doctors involved in the MHA assessment who decides that the criteria are met to authorise an extension of up to 12 hours.

A person should not be moved from one place of safety to another unless it has been confirmed that the new place of safety is willing and able to accept them.

10. TIME EXTENSIONS

There is provision for the Responsible Medical Practitioner responsible for the examination of the person detained under sec 135(1) to authorise a further period of detention to commence at the end of the 24 hours, not exceeding a further 12 hours. The grounds are that the, "condition of the detained person is such that it would not be practicable for the assessment of the person..... to be carried out **before** the end of the period of 24 hours".

The authorisation to extend the time should state:

- The time the authorisation is granted
- The reason for the authorisation
- The new end date and time for the sec 135(1)
- The doctor's name and status

The decision to extend the time period of up to a further 12 hours must be made within the 24 hour period and recorded by the Responsible Medical Practitioner on the patient's electronic record (Care Partner). In addition the section 135 monitoring form must be completed also recording the details of the extension. The monitoring form should be sent to the MHA administration team who will upload it to care partner.

The clinical grounds to delay an assessment being carried out are:

- The person is too intoxicated with alcohol or drugs to be assessed
- The person is too physically unwell and has been transferred to A&E for treatment
- The person needs to be transferred between places of safety

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- The person requires an interpreter including sign language
- The person has a specific need and the assessing team agree that it is appropriate to delay the assessment until the professional with relevant experience can be present/consulted

Assessors should ensure that any reasonable adjustments are made for people with an impairment that constitutes a disability under the Equality Act, 2010.

A delay in attendance by an AMHP or medical practitioner is not a valid reason for extending detention.

If the time period of 24 hours is breached and no extension has been made a Datix incident form must be submitted which provides details of the reason this has occurred and the steps that have been taken to avoid any such breach, or in the case of the LA an IR1 incident form to be completed. The person must be informed and an appropriate plan made to care for the person.

If the person is being held at a police station, and it is intended for the assessment to take place at a police station, the authorisation to extend the maximum detention period must also be approved by a police officer of the rank of superintendent or higher (since it is expected that it would be unusual for a person to continue to meet the criteria to be held at a police station for up to 36 hours).

11. WHEN DOES SEC 135 (1) END?

The power to detain a person under sec 135(1) ceases once an application for further detention has been made under the Act, other arrangements have been made for their treatment or care, or it has been decided that no further action is to be taken in respect of the person

12. SEC 135 (2) - DEFINITION AND PURPOSE

The purpose of a sec 135(2) warrant is to provide police officers with a power of entry to private premises search for, and remove the person so they can be taken to, or returned to, where they ought to be. (MHA CoP 16.16 – 16.21) The warrant will be granted by a Magistrate.

The situations it would likely be used are:

- Community Treatment Order (CTO) recall of a person in private premises not allowing or likely not to allow entry
- A detained person is Absent Without Leave (AWOL) from a ward and is known to be inside the property, but refusing access or likely to do so
- Following a duly completed application for detention whereby there is a refusal to obtain entry to the patient's home to allow conveyance to hospital.

13. SECTION 18 OF THE MHA

Sec 18 is the legal power to return persons who are absent without leave (AWOL) to their ward and it is not a power directed solely or even firstly at police officers. Where a person who has been granted leave fails to return to hospital upon its completion, or where they fail to return if recalled from such leave when it is revoked, then they become AWOL, under the MHA.

This then entitles anyone on the staff of the hospital, an AMHP, a constable or anyone else authorised by the managers of the hospital, to take the patient into detention under sec 18 and return them to the hospital. There is no power of entry in respect of this authority. Hence the need for a sec 135(2) warrant.

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14. PROCESS

Once it has been established a sec 135(2) warrant is necessary and attempts to contact and all attempts to gain access have been evidenced and the criteria for the warrant is satisfied, hospital staff should contact the police informing them that a warrant is required and Hywel Dda are starting the process to obtain one. Staff should provide an approximate time to the police for them to attend for the purposes of execution of the warrant.

The clinical team must decide who will co-ordinate the process on behalf of Hywel Dda to obtain the warrant. There is an expectation that ward staff will normally be responsible for the return of persons who are absent without leave from the hospital and staff who know the patient from the MDT will be responsible when a Community Treatment Order patient is requiring recall i.e. whoever is best placed with the most relevant clinical information should attend.

There should not be a delay because there is a dispute between professionals over who is the appropriate authorised person to apply for a warrant. Should this happen advice will be sought from an On Call Manager (if out of hours), or to make a decision and avoid any delay which may increase risk to the person (in hours).

Hywel Dda mental health staff have a warrant application procedure in place which outlines the details about information to be prepared prior to contacting the Court – see Appendix C.

15. EXECUTION OF 135 (2) WARRANT

- Ensure information on risk and presenting factors is shared with police to develop a risk management plan for the execution of the warrant by contacting the police control room upon telephone contact 101 and requesting to speak to the Police MH Triage team or the Duty Inspector if MH Triage is not available.
- Discuss with police all available information, so they can decide the level of resource in undertaking the warrant safely.
- Identify appropriate transport to transfer the person to the ward they are being taken or admitted to.
- A pre-meet should occur prior to the execution of the warrant; this would be at a mutually agreed location, where the plan would be formulated together.
- Once everyone is present at the address that is required (Police, Hywel Dda staff supporting and transport for conveyance) the warrant can then be executed.
- If necessary, entry can be forced, with the warrant if required, and the property made safe. Making arrangements for repairs to a property or to secure property can be made by emailing the local authority Mental Health service manager who will contact their respective LA repairs department to undertake the repairs for health staff if needed. They will then recharge Hywel Dda for any costs incurred (Additional Information at Appendix A). Outside of working hours, the police can, at their request, access a suitable service, which will be re-charged to the Health Board. Police to remain in attendance while property maintenance staff are at the property.
- Staff would enter and speak to the person, explaining what is occurring and why. The person will be given a copy of the warrant once the police have completed the warrant to evidence it has been used, and the name of the officers involved.
- Police vehicles should only be used where there is extreme urgency, or where there is an immediate risk of violence.

**** Sections 9, 10 and 11 above also apply to sec 135(2)**

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16. RETAKING A PERSON WHO ESCAPES – SEC 138

Sec 138 deals with powers to retake a person subject to sec 135 who escapes from custody.

(i) Escape during removal to a place of safety

Where a person escapes in the course of being removed to a place of safety under sec 135 they may not be retaken under this provision after a period of 24 hours has expired from the time of that escape.

(ii) Escape from a place of safety

Where a person escapes after arrival at a place of safety, they may not be retaken under this provision after the maximum time that they could have been detained in that place. In most cases that will be a total period of 24 hours but account also needs to be taken of any extension to that period (up to a maximum of 12 hours), where this has already been authorised by the medical practitioner, at the point of any escape.

17. TREATMENT

Sec 135 does not give authority for treatment and consent must be sought for any treatment. If the individual lacks capacity to consent, treatment could be considered under the Mental Capacity Act and also common law may be an option in an emergency. Treatment of under 16s who are not competent to decide about treatment could be given via parental consent. The reasons for treatment and the legal basis need to be documented on Care Partner electronic record system.

18. MONITORING THE USE OF SEC 135

The Mental Health Legislation Committee (MHLC) monitors the use of sec 135. The, Crisis Care Concordat Forum as well as the Section 135/6 Review Group also serve as groups responsible for examining the processes in place for multi-agency tasks. Quarterly returns on the use of sec 135/6 are sent quarterly to Welsh Government who also monitors its use across Wales.

To that effect the police officer and the nurse in charge of the unit must complete the sec 135 monitoring form at Appendix A of this document and scan it at the earliest opportunity to Admin.mentalhealthact.HDD@wales.nhs.uk

19. RESPONSIBILITIES

19.1 The Chief Executives of the Health Board and Local Authorities and Chief Constable

Are responsible for ensuring that responsibility for management of the legal and appropriate admission and care of persons is delegated to appropriate staff and are assuring this procedure is implemented across Carmarthenshire, Ceredigion and Pembrokeshire

19.2 Mental Health & Learning Disability Lead Executive and Lead Executives for three local authorities

Are the Executive Directors who have overall responsibility for the effective delivery of MHA and related legislation and policies, ensuring that there are appropriate quality assurance mechanisms in place in relation to the guidance in this procedure.

19.3 Service Managers for three local authorities and Hywel Dda & Custody Inspectors

Have responsibility ensuring that teams implement MHA legislation and guidance observing the MHA Code of Practice. They are also responsible for ensuring systems are in place and monitoring of implementation within their area of responsibility, ensuring that all regulatory authority inspector reports are action planned and acted upon.

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19.4 Team Leaders / Ward Managers / Custody Sergeants

Are responsible for ensuring all staff are conversant with the MHA Code of Practice, this policy and related policies. They must be aware of and ensure implementation of the processes and actions that are required to be taken in relation to persons in their service area. They must ensure that all employees in posts in the Health Boards clinical services are aware of their responsibilities in relation to the Act and attend appropriate training commensurate with their role.

19.5 Medical Staff / Section 12(2) Approved Doctors / Approved Clinicians

Hold a key role in the assessment processes that are required to be taken in relation to detention of patients under sec 135. They are responsible for ensuring their registration for the role they carry out is up-to-date.

19.6 Registered healthcare professionals

Are accountable for their own practice and must be aware of legal and professional responsibilities relating to their competence, observe legislation and guidance as detailed above and work within the Code of Practice of their professional body.

19.7 Health Board employees working in roles to provide healthcare in direct clinical contact with patients

Are responsible for carrying out procedures in line with the standards detailed in the Health Board's Polices and maintaining their individual competence in the practice of the Act and attending training as required by their roles

19.8 Approved Mental Health Professionals

Hold a key role in the assessment processes that are required to be taken in relation to detention of patients under sec 135(1). They are accountable for their own practice and must be aware of legal and professional responsibilities relating to their competence, observe legislation and guidance as detailed above and work within the Code of Practice of their professional body.

19.9 Dyfed-Powys Police officers

Sec 135 of the MHA provides for a magistrate to issue a warrant authorising a constable to enter the premises, using force if necessary, for the purpose of removing a mentally disordered person to a place of safety for a period not exceeding 24 hours. It is the primary responsibility of the police officer to execute the warrant. Their officers will also undertake regular joint training.

19.10 Ambulance Service

When requested by either the police officer or the AMHP the ambulance service have a responsibility to provide transport to convey the person to a place of safety sec 135 (1) or hospital sec 135 (2).

20. References

Mental Health Act 1983 and all relevant amendments
Mental Health Act Code of Practice for Wales 2016
Mental Capacity Act 2005: Code of Practice (2007)
Mental Capacity Act: Deprivation of Liberty Safeguards Code of Practice (2008)
Mental Health Act, 1983 (Place of Safety) Regulations 2017
Police and Criminal Evidence Act 1984 (as amended)
Police and Criminal Evidence Act 1984: Code of Practice (C) (2014)
Human Rights Act 1998
General Data Protection Regulations

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Equality Act 2010

The Royal College of Psychiatrists Standards on the use of Section 136 of the Mental Health Act 1983
(England and Wales) July 2011

Section 135 Procedure

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HYWEL DDA UNIVERSITY HEALTH BOARD

21. APPENDIX A - CONTACT DETAILS FOR MAINTENANCE TEAMS VIA LOCAL AUTHORITIES (SEC 135(2))

Carmarthenshire

Contact numbers for normal working hours 08:00 to 16:30 Monday – Friday
Carmarthenshire/Ammanford Area – Catrin Thomas-Fane 01267 225825
Llanelli Area – Stuart Jeremiah 01554 784601

Shared mailbox for both – Property Handyvan Service
PropertyHandyCanService@carmarthenshire.gov.uk

Contact numbers 16:30 – 18:00 Monday – Friday 01267 234567
CEContactCentre@carmarthenshire.gov.uk

Contact number out of hours (Delta Wellbeing) 0300 333 2222 contactus@deltawellbeing.org.uk
Contact Centre and Delta Wellbeing will have access to the Duty Standby Officer (Property)

Pembrokeshire

Contact numbers during normal working hours 08:00 to 16:30 Monday – Friday
Jane Hitchings 01437 775086 or Linda Jones 01437 775306

Contact the emergency duty team (outside normal working hours)

Ceredigion

Contact numbers during normal working hours 08:00 to 16:30 Monday – Friday
Donna Pritchard 01545 574146

Contact the emergency duty team (outside normal working hours)
Tel: 0300 4563554

Invoices for Hywel Dda UHB to :

Karen Amner
Directorate Support Manager
Mental Health & Learning Disabilities Services
Hywel Dda University Health Board
Ty Gwili
1 Bronwydd Road
Carmarthen
SA31 2AJ

Tel: 01267 674130
Email: karen.amner@wales.nhs.uk

Section 135 Procedure

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22. APPENDIX B – section 135 monitoring form

[743 - S135 Monitoring Form](#)

Section 135 Procedure

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HYWEL DDA UNIVERSITY HEALTH BOARD

23. APPENDIX C – Section 135(2) Guidance for Health Staff

Section 135 Procedure

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HYWEL DDA UNIVERSITY HEALTH BOARD

Section 135(2) Warrants procedure for Hywel Dda MH&LD staff

Sec 135 (2) - Definition and Purpose

The purpose of a sec 135(2) warrant is to provide police officers with a power of entry to private premises search for, and remove the person so they can be taken to, or returned to, where they ought to be. (MHA CoP 16.16 – 16.21) The warrant will be granted by a Magistrate.

The situations it would likely be used are:

- Community Treatment Order (CTO) recall of a person in private premises not allowing or likely not to allow entry
- A detained person is Absent Without Leave (AWOL) from a ward and is known to be inside the property, but refusing access or likely to do so

Process

Once it has been established a sec 135(2) warrant is necessary and attempts to contact and all attempts to gain access have been evidenced and the criteria for the warrant is satisfied, contact the police informing them that a warrant is required and Hywel Dda are starting the process to obtain one. Provide an approximate time to the police for them to attend for the purposes of execution of the warrant

The Clinical team must decide who will co-ordinate the process and who will be attending the court to give evidence on behalf of Hywel Dda Health Board to obtain the warrant. There is an expectation that ward staff will normally be responsible for the return of persons who are absent without leave from the hospital and staff who know the patient from the MDT will be responsible when a Community Treatment Order patient is requiring recall i.e. whoever is best placed with the most relevant clinical information should attend.

There should not be a delay because there is a dispute between professionals over who is the appropriate authorised person to attend the Magistrate Court to seek a warrant. Should this happen advice will be sought from an On Call Manager (if out of hours), or to make a decision and avoid any delay which may increase risk to the person (in hours).

Appendices A&B outline the process on obtaining a Sec 135 (2) warrant.

The staff member will need to complete an Information statement (Statutory Form MH70) and a Warrant form. Blank copies of both forms are available at CMHTs, Acute Adult Wards and from the MHA administration team office, 2nd Floor, Hafan Derwen, St David's Park, Carmarthen (Email: Admin.MentalHealthAct.HDD@wales.nhs.uk). Tel: 01267 239626

Additionally, a written report must be prepared briefly outlining the grounds met and which provides 'relevant and sufficient' evidence for the issue of a warrant. This should be completed in 'Word format' as the warrant will be endorsed electronically by the Magistrate.

~~Wherever possible applications for a warrant should only be applied for within normal Court hours. (09.00am to 5.00pm Monday to Friday) and are obtained via an on line~~
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Section 135 Procedure

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