

Version:1 FOI Status: Public	Approved Mental Health Professionals (AMHP) Applying for Warrants under Sections 135(1) & 135(2) of the Mental Health Act 1983 Practice Guidance. Derbyshire County Council - Adult Social Care and Health	Originally Issued: May 2022 Issued: May 2022 Review Due: May 2024 Author: James Russell
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**Approved Mental Health Professionals (AMHP) Applying for  
Warrants under Sections 135(1) & 135(2) of the Mental Health  
Act 1983 Practice Guidance  
Derbyshire County Council - Adult Social Care and Health**

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If you would like to make any comments, amendments, additions etc please email  
[ASCH.adultcare.policy@derbyshire.gov.uk](mailto:ASCH.adultcare.policy@derbyshire.gov.uk)

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## 1. Introduction

It should be noted that the multi-agency joint policy documents for the [Operation of Section 135 and S136 of the Mental Health Act \(MHA\) 1983](#) have been recently updated to incorporate the legislative changes brought about by the [Policing and Crime Act 2017](#). This practice guidance is specifically for approved mental health professionals (AMHPs) with the intention of guiding them through the process of obtaining and executing S135(1) and S135(2) warrants.

AMHPs are expected to work in all kinds of situations when coordinating Mental Health Act (MHA) assessments and work to the guiding principles outlined in the MHA Code of Practice - including the “least restrictive principle” ([MHA Code of Practice](#) 2015).

All efforts to engage a person in an MHA assessment should be made prior to obtaining a warrant but this should be balanced with the level of risk and immediacy of response required.

## 2. Types of Warrants

AMHPs mainly apply for S135(1) warrants, the criteria being for an individual that is suffering from a mental disorder, is being, or has been, ill-treated neglected or kept otherwise under proper control.

The purpose of a S135(2) warrant is to take or retake into custody a patient who is liable under the MHA, that there is reasonable cause to believe that the named person is to be found on the premises identified in the warrant application, and that access to the premises is being refused.

On most occasions, unless AMHPs need to obtain a S135(2) warrant to re-enter the property this warrant will be obtained by health colleagues, typically when someone is refusing to return from Section 17 leave or a Community Treatment Order (CTO) patient objecting to being recalled to hospital.

If in doubt, please refer to the multi-agency [Joint Policy for the Operation of Section 135 MHA 1983](#).

## 3. When to Consider Applying for a S135 (1) Warrant

In terms of applying for warrants chapter 16 sets out the guidance in the Code of Practice under the Mental Health Act for applying for warrants. Chapter 7 of the reference guide provides guidance on what constitutes a place of safety, powers of entry and police powers. The guidance below is not exhaustive in terms of references to the code and guide, so it is important you still consult with both in situations relating to law and governing practice with regards to warrants and the Mental Health Act 1983.

It should be noted that the Code of Practice does offer some guidance in section [14.55](#) and assessing patients in an appropriate manner. It notes unless people are at serious risk and direct access is not possible then AMHPs should not consider assessing patients

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through a closed window or door. It goes on to say where there is no immediate risk of physical danger to the person or anyone else AMHPs should consider applying for a warrant allowing police entry and face to face assessment.

This indicates that the code would prefer (by use of language such as consider and should) wherever possible for AMHPs to use the powers set out in S135.1 unless grounds for Police and Criminal Evidence Act 1984 (PACE) and police forcible entry are met in the case of a mental health crisis and emergency application to hospital is indicated due to ill mental health and associated risks. Arguably the code is asking that wherever possible we undertake thorough face to face assessments with patients via use of a warrant and this is a more suitable manner of assessment than situations which reduce face to face contact and restrict dialog due to concerns over risk, or applications made based on immediate risk of harm without thorough assessment to establish the link with mental disorder. 16.13 of the Code of Practice highlights that in emergency situations PACE should be considered due to the time it takes to acquire a warrant.

In consideration of when it is appropriate to request a warrant for access to search and/or remove a patient for assessment this should be tailored to the individual situation and the known concerns and risks relating to the patient and the risks the patient may pose to other people.

Generally, attempts should be made to engage someone in assessment without breaching respect for their article 8 rights, however in certain situations it may be clear from information that the patient will likely abscond, be prone to violence or require a controlled assessment with support of police and others due to the severity of reported mental health symptoms.

Any rationale to proceed directly to applying for a warrant should ideally be explored with the responsible clinician and care team as well as nearest relative and gaining broad consent before proceeding. This will help any AMHP to provide the required evidence before a magistrate that their actions are appropriate and meet the requirements for the magistrate to issue the requested warrant as per [16.11 of the Code of Practice](#).

Section 16.11 highlights that magistrates are likely to challenge a request for a warrant and the evidence for why less intrusive attempts to gain access have not been made. In planning for applying for the warrant, AMHPs should collate as much information from care records, risk assessments and those involved in the persons care as is reasonably possible and be able to present a considered and evidenced argument to the magistrate if required.

Section 16.3 of the code sets out the requirements to make an application, in which it **MUST BE AN AMHP** who applies for the warrant to a magistrate for S135(1) warrants.

Section 7.5 of the reference guide notes the application should be made to a magistrate for the area where the premise is located, i.e., Derby Court for Erewash patients.

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**The criteria are as follows:**

**The person is believed to be suffering from mental disorder and has been or is being ill-treated** – this could include situations where:

- the person is the alleged victim in a police investigation or safeguarding concern
  - there has been, for example, a history of domestic violence or other controlling behaviour which is of concern i.e., preventing the person attending appointments or groups that support their wellbeing
  - preventing them from taking a prescribed treatment, either by stealing, hiding, or otherwise disposing of medication/appointment letter
- whilst undertaking investigations into whether someone meets the criteria for a S135(1) warrant, it may become evident that a S42 safeguarding concern may also need to be raised - there needs to be link to a possible mental disorder as defined in Part One of the [Mental Health Act 1983](#)

Please see Social Care Institute for Excellence's (SCIE) categories and guidance on identifying [signs of abuse and neglect](#).

**The person is being neglected** – again this could be evidenced from safeguarding concerns as this falls into established categories of adult safeguarding.

This could be from a statutory or voluntary sector agency as well as informal networks such as family or friends. The care needs need to be linked to a possible mental disorder as defined in part one of the Mental Health Act 1983.

**Or kept otherwise than under proper control** – the language of the act here is arguably dated but in terms of considering what may constitute 'kept otherwise than under proper control' we could consider issues such as:

- historical or current risk of physical violence should the team attempt assess under the Mental Health Act
- historical or current risk of absconding during a mental health act assessment
- medication concordance and established risks of relapse without taking it
- agreements the client has made to engage with home treatment teams or Community Mental Health team's (CMHT) to manage associated risks of their mental disorder that they have subsequently disengaged from
- established packages of care that the client is now declining (carers visiting to prevent neglect/risk of falls with older adults with cognitive impairment/risk of non-concordance with medication

This is not exhaustive and other considerations could be made or linked between care plans, the mental capacity to make decisions regarding care, relapse signatures, the

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persons engagement with services and the associated risks)

- this needs to be linked to a possible mental disorder as defined in part one of the [Mental Health Act 1983](#)

**Or is living alone and unable to care for themselves** – the criteria here is relatively straightforward as anyone that does not live alone will be excluded on this domain.

For those that do;

- evidence of being unable to care for themselves can be collated in line with the neglect domain from SCIE resources, but domains to consider would be personal care, maintaining a home, food, drink and medication
- key health and social care appointments or other domains such as accessing community resources that would normally keep them well or prevent relapse
- the care needs need to be linked to a possible mental disorder as defined in part one of the Mental Health Act 1983

#### **4.How to Apply for a Warrant Using the Online Booking Services, Court Appointment and Out of Hours**

##### **4.1 Online booking court appointments process**

Procedure and guidance for the applicants wishing to apply for a search warrant(s).

**Applications for search warrants where the application is to be made during the working hours of 10.00 am to 4:00pm**

##### **1. Making a booking**

Book in your application using the web-based Team-Up calendar. Bookings can be made any time as the calendar is available 24 hours a day, 7 days a week through both a desktop web browser and a mobile app.

- 2. The [Team Up calendar](#)** can be accessed by pasting the following link into your internet browser.

##### **3. When you can book a hearing**

Applicants can choose the date and time of their application hearing from the available time slots in the calendar. 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 applications can be made on the same day as the application is to be heard if there is hearing time available in the calendar. Applicants are encouraged however to book in advance thus helping the court to effectively manage applications and incorporate urgent applications at short notice.

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Ensure the correct slot duration is booked:

- each application slot is 20 minutes for a standard search warrant application, ie one application in respect of up to 3 linked premises
- if your application covers 4 or more premises, you will need to book two x 20-minute slots to accommodate the application
- do not leave any short gaps in the calendar, if the last search warrant before yours is booked in to finish at 10:20 then schedule yours to start straight afterwards at 10:20

Obtain your booking reference as below and ensure this is recorded on the calendar at the time your booking is made.

e.g. **MH 11-10-2021 Harrison 1**

APPLICANT'S CODE

**MH**

APPLICANT'S SURNAME

**11-10-2021**

**Harrison**

**1**

APPLICATION NUMBER

(TO COVER INSTANCES WHERE THE APPLICANT HAS SEVERAL APPLICATIONS LISTED ON THE SAME DATE)

(IF THE APPLICANT HAS ONLY ONE APPLICATION LISTED THEN THIS NUMBER WILL NOT BE NECESSARY)

DATE YOUR APPLICATION WILL BE HEARD

DATE MUST BE ENTERED USING DD-MM-YYYY FORMAT (NOT DD.MM.YYYY OR DD/MM/YYYY)

It is imperative you do **not** include any personal details about the warrant (premises address, occupier name) 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 court calendar i.e. court name or anything that identifies this as a warrant application.

- 4. Where the application is urgent** requiring a hearing on the same day and there are no slots available the applicant should contact the Midlands Search Warrant admin team by phone on **07815 992400** to request one of the slots set aside for urgent warrants on the day.

There are 6 daily urgent search warrant slots (marked on the Team Up calendar as 'Space reserved for Urgent Applications') and timed as follows:



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12:20-12:40 (x2)

12:40-13:00 (x2)

14:00-14:20 (x2)

- 5. Submitting applications:** All relevant paperwork must be submitted by email at the time the booking is made or as soon as practicable thereafter to the secure email box.

[DN-SearchWarrants@justice.gov.uk](mailto:DN-SearchWarrants@justice.gov.uk)

For bookings made in advance of the court date the cut-off point for paperwork to be submitted is 12noon the working day prior to the hearing.

An automated response will be sent from the above email address when an email has successfully been 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 there is no relevant paperwork submitted will not be accommodated by the court.**

All documents MUST be in Microsoft Word format to allow amendments to be made and Justice's reasons/signature to be recorded (the court will not accept paperwork in PDF format).

You must provide:

- the completed application signed digitally by the applicant officer and the authorising officer
- one copy of the draft search warrant in respect of each premises headed Applicant's Copy/Occupier's Copy

The application and warrant should be headed as being made at the court address below (as this is the administrative site receiving the application).

***Southern Derbyshire Magistrates' Court, 27 St Mary's Gate, Derby DE1 3JR***

**Telephone number: 01332 362000**

See [appendices](#) for:

- application under section 135 of the Mental Health Act 1983
  - warrant under section 135 of the Mental Health Act 1983
- a. Check the correct booking reference has been used on all paperwork and that you have supplied your contact phone number details. This is the telephone number on which the court will contact you at the application hearing time.
  - b. Check 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.

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- c. If another officer is submitting the application on behalf of the applicant, 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.
- d. Check that:
  - i) only the booking reference appears in the subject heading of the email and as the document titles
  - ii) the booking reference also appears in the title of the attached application/warrant (as below)

The screenshot shows an email composition interface. On the left is a 'Send' button with a paper plane icon. To its right are 'To' and 'Cc' fields, with the 'To' field containing the text 'DN-SearchWarrants;'. Below these is a 'Subject' field containing 'POLWM 17-10-2021 909 Harrison'. At the bottom, there are two attachment boxes, each with a Word document icon, a file name, and a size of 12 KB. The first attachment is 'Application POLWM 17-10-2021 909 Harrison.docx' and the second is 'Draft Warrant POLWM 17-10-2021 909 Harrison.docx'. The booking reference 'POLWM 17-10-2021 909 Harrison' is highlighted in yellow in the subject line and both attachment titles.

Please find attached my search warrant application and draft warrant for the hearing at 10:00 on 17 Oct 2021.

Regards,

**PC 909 Harrison**  
West Midlands Police

Where paperwork or information is missing, including the booking code, the legal adviser will contact you, at the earliest opportunity, and no later than the application hearing time, by phone or email. You will be advised to re-book your application and re-submit your 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 paperwork error, it is the responsibility of applicant to ensure their paperwork complies with the requirements of the scheme by submitting the correctly headed documents and in Word format.

- 6. Making the application:** At the designated application hearing time you will be contacted by the court by telephone and asked to verify your identity. You should be able to provide:
  - a) booking reference
  - b) agency applying
  - c) AMHP approval letter
  - d) photo ID to be shared via email

If the court is satisfied they are speaking to the applicant, you will be asked to take the



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oath/affirm and make your application. You will need to have your own holy book ready if taking an oath.

## 4.2 Wording for oath/affirmation

### Oath

I (name) swear by almighty god that the evidence I shall give shall be the truth, the whole truth and nothing but the truth. To the best of my knowledge and belief, this application discloses all the information that is material to what the court must decide, including anything that might reasonably be considered capable of undermining any of the grounds of the application.

### Affirmation

I (name) do solemnly, sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth. To the best of my knowledge and belief, this application discloses all the information that is material to what the court must decide, including anything that might reasonably be considered capable of undermining any of the grounds of the application.

It is important applicants are at an appropriate location to receive the court's call and to ensure the information they provide cannot be overheard. It will not be possible to delay the application in order to facilitate the applicant moving to another location.

**Only the applicant should be present when making the application.** No other person should be present or be able to overhear the application. Any request for any other person to be present with the applicant must be made expressly at the beginning of the application process to the legal adviser and magistrate in the absence of that person. Only where express permission has been sought and granted can that other person then be present. This is to cover situations for example, where applicants are training other members of their team in the making of such applications.

## 4.3 After the application has been heard

### If granted

**Receiving the warrant:** The Warrant will be electronically signed with the JP's digital signature and returned electronically by the legal adviser to the applicant's secure email address. 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 in the original email. This email address must match the email address identified in the information supplied.

Only one copy of the warrant will be returned with 'Occupant/Applicant' at the top, this can be crossed through as appropriate by the applicant.

**Receiving the endorsed application:** Supporting reasons for granting the warrant and

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answers the applicant gave to additional questions from the Magistrate will be endorsed on the relevant paperwork and returned to the applicant electronically. This email address must match the email address identified in the application supplied. The returned application should include a record of any additional evidence provided by the applicant as well as the Magistrate's reasons for grant/refusal.

The legal adviser will also save the endorsed application to a secure location on the Her Majesties Courts (HMCTS) system together with the signed warrant.

**If refused**

**Receiving the endorsed application:** Supporting reasons for refusal will be endorsed on the relevant paperwork and returned to the applicant electronically. This email address must match the email address identified in the application supplied. The returned application should include a record of any additional evidence provided by the applicant as well as the Magistrate's reasons for refusal.

The legal adviser will also save the endorsed application to a secure location on the HMCTS system.

**Return of executed/non-executed warrants:** Once executed or where the warrant time limit has expired without execution, the applicant **MUST** return by email the warrant with any relevant information relating to its execution to the secure [HMCTS email address:](#)

[DN-SearchWarrants@justice.gov.uk](mailto:DN-SearchWarrants@justice.gov.uk)

Please ensure that the document is named with the booking reference and not the premises address. The subject field on this email must contain only the original booking reference i.e.

**MH 11-10-2021 Harrison 1**

Returned warrants will be electronically filed with the original application. It is therefore imperative the subject field contains only the original booking reference.

**The court will NOT accept any paper copies of executed warrants.** This is a digital process from start-to-finish and all executed warrants must be provided digitally by email. If the police's copy is on paper it should be scanned, converted to PDF and emailed to the court at the address above.

Any hard copy warrants should be stored/destroyed in line with any relevant organisation's guidance/policy on retention and destruction of confidential documents.

**4.3 Process for applying direct to a local Magistrates Court if no online booking slots are available**

**Southern Derbyshire Magistrates' Court, 27 St Mary's Gate, Derby DE1 3JR**

**Telephone number: [01332 362000](tel:01332362000)**

**Email:** DB-LegalAdvisors [DB-LegalAdvisors@Justice.gov.uk](mailto:DB-LegalAdvisors@Justice.gov.uk)

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DB-DbySearchWarrants [DB-DbySearchWarrants@Justice.gov.uk](mailto:DB-DbySearchWarrants@Justice.gov.uk)

**Chesterfield Justice Centre, Tapton Lane, Chesterfield S41 7TW**  
**Telephone number: 01246 224040**

**Email: [db-chfmcpostcourt@hmcts.gsi.gov.uk](mailto:db-chfmcpostcourt@hmcts.gsi.gov.uk)**

The AMHP must ring to pre-book a time slot at the Magistrates Court in the area that the patient is from, before arriving at the court. You will be required to provide information as to the type of warrant required, giving your name to the clerk when you ring to arrange the appointment.

On arrival at the court, you will have to go through security, so unless it's necessary, take as few items as possible, to be searched or displayed in public. You will then need to make your way to the counter where you will be asked to complete a form so that payment can be made for the issuing of the warrant. You will need to sign the form, and this will then be sent to the accounts department ([Hannah Williamson](#) or [Accountancy](#)) for payment. The PBA (payroll booking account) Number to be used is PBA0086721.

You will then be guided to the appropriate court, where you will be met by an usher of the court, who will then direct you, or introduce you to the legal clerk who will go through the information you have prepared, and the warrant forms you have completed prior to you attending the court.

More recently when you ring to book a time slot, the court have requested that the applicant completes the application and the supported information both documents which are then emailed to a secure email.

When you arrive at the court, you will be asked to show your ID (which can be your approval letter), and be given a choice as to whether you would like to swear on the Holy Bible or, take an Affirmation. This is done in front of the magistrate or judge in their chambers, or at times out of hours in their own homes.

Whilst you are in chambers, the clerk will go through the information presented, and will use this opportunity to gain further information, or ask you (applicant), to add anything to the information you have submitted in person or emailed.

Once this process is completed, and both the clerk and magistrate are satisfied, they will give you their decision, and if successful, you will be asked to sign the warrant in front of the judge/magistrate.

Please ensure finance (ie Jamie Wickham/Hannah Williamson) are informed when you apply for warrant together with area as this helps finance colleagues to know to expect an invoice for which area this should be charged to.

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## 5. Applying for Warrants Out of Hours

### 5.1 Equipment required to progress an out of hours (OOH) warrant:

- PC/laptop with Internet access to access and complete electronic paperwork and emails
- smartphone or printer/scanner to provide a copy of your work/AMHP ID
- phone connection for conference call purposes
- DCC warrants account number - PBA0086721 - please email [Hannah Williamson](#) or [Accountancy](#) with the pin of any client where a warrant is requested for accounting purposes

### **This scheme is for urgent emergency applications only.**

The emergency out of hours search warrant number is **0121 2126741**. If for any reason this number is not in use please use **07796 403 838** (the mobile number is only to be used if the 0121 number is down not merely because it's engaged).

**Please note that documents required for applications for S135(1) and S135(2) warrants under the Mental Health Act 1983 are stored in the OOH AMHP Resource folder on MS Teams.**

There is a front sheet for both warrants that requires completion to provide sufficient information for the rationale for requesting a warrant, as well as the formal warrant paperwork which needs to be electronically signed by the magistrate if an application is completed.

To use this service, documentation must be sent electronically to the legal adviser's secure email address. The legal adviser in turn will send it to the magistrate's secure account. To utilise this service, it will be essential that paperwork is written and ready to be emailed prior to making contact with the OOH legal assistant as they will provide an email requesting this before any further action is taken. Please also make sure that a copy of your ID is ready to be provided. This can be done either by photographing your work ID on your smartphone and attaching the picture to an email to be forwarded to the magistrate, or scanning a copy of your work ID to your laptop ready to be attached to the appropriate email to be forwarded to the magistrate.

Once the legal adviser has received the correct forms they will make arrangements for a magistrate to review these and arrange a teleconference which you will be given the dial in number for.

Affirmations and evidence are given orally via teleconference.

Please ensure where an application is successful, that the magistrate has signed and dated the correct warrant form. Three copies of any warrant will need to be printed. Provide the client/property a copy, police a copy, and return a copy to the court.

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## 6. Practical Considerations for Planning and Executing a Warrant

### 6.1 Before you get started

Consider attempting to see the person yourself or as an assessing team. Ensure that all realistic and safe options to engage the person in the assessment have been exhausted, and that the presenting risks and concerns warrant assessment via a warrant. Discuss the use of a warrant with the person's responsible clinician (RC) and/or assessing doctors, suitably involved professionals and those family and friends it's appropriate to include in consultation.

Try and seek a consensus over whether a warrant is appropriate and whether it is required. Broad consensus based on the persons past medical and risk history, relapse signatures and current presentation will support dialog with magistrates, police, and NHS commissioners/bed managers when attempting to arrange and co-ordinate the process of executing a warrant.

Arranging, organising and executing a warrant always takes a significant amount of time, make sure your plans make allowances for unexpected changes of plans and delays.

### 6.2 Are there pets at the property?

See if you can identify a family member or set of kennels prior to entry. Refer to the [Protection of Pets Protocol](#). If you have a support worker available/on-call you might feel it's appropriate to delegate parts of this task to them.

### 6.3 Is forced entry likely to be required?

Make sure you have a plan to enter and secure the property before you undertake the assessment unless risks indicate that access cannot be delayed.

Depending on the persons housing status, you can liaise with the housing provider/landlord to ensure that access is with a locksmith or that doors are repaired after an assessment is concluded. We have a statutory duty under S47 of the [Care Act 2014](#) in regard to person's property that means ensuring it is secure is the local authorities responsibility, likewise with pets.

If the person lives in a private home contact the manager on shift to see if Call Derbyshire carpenter services (Corporate Property Services) can be used. Alternatively, you can arrange a private locksmith via Derbyshire's trusted trader website. This requires management approval and invoicing to [Hannah Williamson](#) or [Accountancy](#) for payment. The benefit of using a locksmith means the assessment is not delayed due to waiting for a police response with a door key and reduces and minimizes distress and damage as the door can be opened in a more controlled manner.

Make sure you clarify with the professional/company what times they work to or what times they are available, if possible, you will need this to help you co-ordinate all the elements of an assessment.

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Be mindful when making arrangements regarding the amount of information you share with private companies in regard to executing a warrant. They do not need to be privy to the persons personal information, only that you have a warrant allowing forced entry into a private dwelling.

#### **6.4 What about arrangements for a bed?**

Depending on the information you have prior to assessment its usually best to have a bed identified or earmarked before you proceed. If a section 3 application is needed, then doctors will need to be able to identify a hospital on medical recommendations. Make sure they are contactable if this information needs rectifying at a later date. Doctors hold responsibility for sourcing beds, which is delegated to bleep holders at Derbyshire's psychiatric units.

Liaise with bleep holders and bed flow coordinators to ensure a bed is at least available if your assessment concludes it is suitable. Highlight to those involved that if you do not have an admitting bed in principle then this can affect your ability to execute a warrant, as you may force entry and then decide an admission is required but have nowhere to admit to.

If considerations such as PICU's (pediatric intensive care unit) are part of planning, consider liaising with bed managers regarding the ESW (enhanced support ward) as this is the trusts option for a more secure admission. Otherwise consider removing the patient to a place of safety (S136 suite) to assess, as you may be able to hold the patient there whilst a PICU bed is sought. Liaise with police and the trust regarding this as police may need to support with those that are particularly distressed, agitated, or aggressive. Again, bleep holders and bed flow coordinators will need to source a PICU, usually on the provision of medical recommendations and an AMHP report identifying admission.

If a learning disability bed is possibly required approach Ash Green Specialist Learning Disability Service. Use the LAEP (local area emergency protocol) process to raise the issue with commissioners to ensure other alternatives have been considered. If it is not appropriate to wait for the LAEP process to take place consider what alternative emergency arrangements can be made i.e., admission to an open psychiatric ward or ESW. If you encounter issues with sourcing a suitable psychiatric bed in principle, consider escalating to trust site managers and DCC managers/AMHP lead.

#### **6.5 Is there evidence to suggest a place of safety will be more appropriate place to assess?**

Liaise with the appropriate hospitals bleep holder and bed managers. Advise of your intent to execute a warrant and the rationale for use of a place of safety for example, concerns over risk of absconsion or requirement to keep the client safe until a suitable bed is found.

Ensure that you are clear about timescales and rationale for why a place of safety is needed. If you do not get satisfactory response from the bleep holder escalate your concerns to the on-call manager for the trust site. Liaise with the on-call service manager or AMHP lead should you require support.



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Consider the needs of the patient and whether alternative places of safety are appropriate i.e. A&E, care home, police custody.

If you have a bed already identified and are able to ensure timely transport arrival this may negate some of the need for a place of safety.

### **6.6 The police, ambulance, or other services cannot agree a time to arrive?**

Where you encounter difficulties with either service on agreeing a time of arrival if you have not already it's easier to ask to speak to the reactive inspector or duty sergeant.

Explain the need for some agreement in principle around arrival times and the risks that are likely to be exacerbated if things do not go to plan, i.e., increased mental distress, increased risk of violence or absconding.

Be aware that you may want the ambulance crew to arrive after the police if you are planning to conduct the assessment in the person's home. Give yourself more time than you would to usually complete an assessment if this is the case, as doctors, locksmiths, police, carpenters and/or family can all be late or encounter difficulties that cause a knock-on effect as part of the assessment.

If you are using a place of safety to assess then make sure the ambulance crew arrive at the same time as police and other professionals for conveyance purposes.

In certain situations, it may be more appropriate to consider the safe and secure ambulance services (in Derbyshire this is [Prometheus](#)) as part of any conveyance to a hospital or as part of a removal to a place of safety. This service will have the added benefit of being bookable for a period of time and you can agree a time of arrival. This service is also usually more appropriate than the person being conveyed by police if risks indicate that restraint may be required as part of any conveyance. Talk to the Trusts bleep holder or management to agree funding and booking for this.

### **6.7 I told the client we had a warrant, and he opened the door - can I use the warrant again if we need to come back?**

No. If you attend a person's property and notify them of your possession of the warrant and they open the door based on this information, you have for all intents and purposes executed that warrant as you have used it to "gain access". Even if you have not forcibly gained entry, the very knowledge of the warrant may have contributed to the persons compliance. You cannot then keep the papers and use the warrant again at a later date.

Likewise, if you use the warrant to force entry and the person is not home, you need to apply for a new warrant.

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**7. Actions to be Taken in the Execution of the Warrant**

If you are successful in securing the warrant, you will need to liaise with Derbyshire Constabulary, East Midlands Ambulance Service (EMAS) and the relevant practitioner who is the beep holder, to agree a time of arrival at the property with a view to executing the warrant to remove or take the person to a place of safety so that their needs can be assessed, and plans made.

The AMHP will need to bring the warrant with them to the property and all attempts to gain access should be explored before its execution. If this is unsuccessful the warrant will need to be given to the constable so that the door to the premises can be opened by the police and other relevant people to enable access to the property.

The police and assessing team should ensure thorough checks are being done to make sure the person is in the property and will try to rouse the occupants of the house, inviting them to open the door or alternatively, entry to the property will be forced. Unless otherwise specified, once the warrant has been used to access the property it cannot be used again. The AMHP will need to return to court to repeat the process if necessary.

Once inside the property, the police will make sure that all is in order before inviting others in. It is still the AMHP’s responsibility to coordinate the process and to assess or make arrangement for the patient to be conveyed to the identified place of safety for a full assessment of their needs; and for arrangements and appropriate care and support to be given.

The [Policing and Crime Act 2017](#) now states that the person ‘agrees to the use’ of the premises as a place of safety, i.e. if it is the person’s own home and they agree to stay there then they can. It doesn’t directly mention consent or capacity however, so if an AMHP is in doubt as to how to proceed they should contact their manager, lead AMHP or legal team for advice.

The introduction of the [Policing and Crime Act 2017](#) has introduced another change, to S135(1A) stating 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 mentioned in subsection (1)”.*

New warrant forms are now available for AMHPs with this revision included.

If the warrant is executed, this will then need to be signed and dated by the constable, and one copy is to be left at the premises, one to be kept by the AMHP and the other will need to be returned to the court that issued the warrant.

Arrangements will need to be made to secure the property. It is good practice to return the warrant to the court where it was obtained whether it was executed or not.

**Appendices**

**Appendix 1 – Application for Warrant to Search for and Remove Person**

**APPLICATION FOR WARRANT TO SEARCH FOR AND REMOVE PERSON**

*(Section 135(1) Mental Health Act 1983)*

Use this form ONLY for an application for a warrant under s135(1) Mental Health Act 1983.

This is an application by ..... (name of applicant) an  
approved mental health professional

Applicant's address:<sup>1</sup> .....

Email address: .....

Phone:

**Booking reference (if appropriate:**

I estimate that the court should allow ..... (time) to read this application and .....  
(time) for the hearing.<sup>2</sup>

I expect any warrant issued to be executed on ..... (give the planned date).

**1. Complete the box above and boxes below.** If you use an electronic version of this form, the boxes will expand. If you use a paper version and need more space, you may attach extra sheets.

2. Complete the declaration in box 6.

3. Attach the draft warrant(s) you are asking the court to issue.

4. Send or deliver a copy of the completed form and draft warrant(s) to the court. You may send them by secure email. Make sure the court knows if the application is urgent. Your time estimates will help the court to allow enough time to prepare for the hearing.

1) The address of the place where entry is sought

<sup>1</sup> See guidance note 2 at the end of this form.

<sup>2</sup> See guidance note 4 at the end of this form.

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2) *Where known* the name of the person believed to be suffering from a mental disorder

**3) Grounds for finding reasonable cause**

(a) What grounds lead you to believe that the person concerned is suffering from a mental disorder?

AND EITHER

(b) What grounds lead you to believe that the person is being ill treated, neglected or kept otherwise than under proper control in any place in England and Wales; provide details if applicable

Or

(c) What grounds lead you to believe that the person is unable to care for themselves and is living alone in any place in England and Wales; provide details if applicable

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**4) Why do you believe that the warrant is necessary?** Explain why the matter cannot be dealt with without a warrant, for example – is the person refusing admission to their premises?

5) *If known* the place of safety to which the person will be taken it is not a legal requirement to identify the place in advance but it is useful information if known

6) Search on more than one occasion. Use this box only if you are applying for the court's authority to search premises on more than one occasion.

(a) Why do you want to search on more than one occasion?

(b) How many times do you want to be able to search those premises? Specify any maximum number of occasions, or state 'unlimited'.

7) Duty of disclosure.<sup>3</sup> See also the declaration in box .

Is there anything of which you are aware that might reasonably be considered capable of undermining any of the grounds of this application, or which for some other reason might affect the court's decision? Include anything that reasonably might call into question the credibility of information you have received, and explain why you have decided that that information still can be relied upon.

<sup>3</sup> See guidance note 5 at the end of this form.

8) Declaration

To the best of my knowledge and belief:

(a) this application discloses all the information that is material to what the court must decide, including anything that might reasonably be considered capable of undermining any of the grounds of the application, and

(b) the content of this application is true.

*Signed:*<sup>4</sup> ..... [applicant]

*Date:* ..... *Time:* .....

Decision

I heard this application today.

The applicant satisfied me about his or her entitlement to make the application.

The applicant confirmed on oath or affirmation the declaration in box 6

The applicant gave me additional information, the essence of which was:<sup>5</sup>

I [issued] [refused to issue] [a warrant] [warrants]<sup>5</sup> because:

<sup>4</sup> If an electronic version of this form is used, instead of a signature it may be authenticated electronically (e.g. by sending it from an email address recognisable to the recipient).

<sup>5</sup> Delete if not applicable.



Version:1 FOI Status: Public	Approved Mental Health Professionals (AMHP) Applying for Warrants under Sections 135(1) & 135(2) of the Mental Health Act 1983 Practice Guidance. Derbyshire County Council - Adult Social Care and Health	Originally Issued: May 2022 Issued: May 2022 Review Due: May 2024 Author: James Russell
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Signed: .....

Name: ..... *[Justice of the Peace]<sup>5</sup>*  
*[District Judge (Magistrates' Court)]<sup>5</sup>*

Date: ..... Time: .....

Version:1 FOI Status: Public	Approved Mental Health Professionals (AMHP) Applying for Warrants under Sections 135(1) & 135(2) of the Mental Health Act 1983 Practice Guidance. Derbyshire County Council - Adult Social Care and Health	Originally Issued: May 2022 Issued: May 2022 Review Due: May 2024 Author: James Russell
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**Appendix 2 - Warrant to Search for and Remove Person - Applicant / Patient Copy**

***Applicant Copy/Patient Copy***<sup>1</sup>

**Magistrates' Courts in England and Wales**



**WARRANT TO ENTER PREMISES TO SEARCH FOR AND REMOVE PERSON**

Southern Derbyshire Magistrates' Court, 27 St Mary's Gate, Derby DE1 3JR

Any queries regarding this document should be directed to [DN-SearchWarrants@justice.gov.uk](mailto:DN-SearchWarrants@justice.gov.uk),

This warrant is issued under Section 135(1) Mental Health Act 1983

Specify name of applicant	On this day information was laid before me by [name of applicant]
Specify name of Local Authority/ agency <sup>1</sup>	an officer of [state local authority] Council appointed as an Approved Mental Health Professional for the purposes of the Mental Health Act 1983.
	And it appears that a person believed to be suffering from a mental disorder
Insert address of premises	is to be found on premises at [address]
Insert grounds for application <sup>1</sup>	a) has been, or is being, ill-treated, neglected or kept otherwise than under proper control, or b) being unable to care for himself/ herself, is living alone.

AUTHORITY IS HEREBY GIVEN for any constable accompanied by an Approved Mental Health Professional and by a registered medical practitioner TO ENTER THE SAID PREMISES, if need be by force and, if thought fit, to remove the person named above to a place of safety<sup>2</sup> with a view to the making of an application in respect of that person under Part II of the Acts or making other arrangements for her care

Entry is authorised for one occasion only<sup>1</sup>  
Entry is authorised for ... occasions<sup>1</sup>

Entry under this warrant must be with three months of the date of its issue

**By order of the court**

Signature, initial or other authentication .....  
Justice of the Peace/ District Judge<sup>1</sup>  
Date: .....

Version:1 FOI Status: Public	Approved Mental Health Professionals (AMHP) Applying for Warrants under Sections 135(1) & 135(2) of the Mental Health Act 1983 Practice Guidance. Derbyshire County Council - Adult Social Care and Health	Originally Issued: May 2022 Issued: May 2022 Review Due: May 2024 Author: James Russell
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**ENDORSEMENT** – to be made by the constable executing the warrant

*(please delete as appropriate)*

1. This warrant was executed on
2. The person sought was found and removed to a place of safety namely:
3. No person was found
4. The name(s) of the officer(s) executing this warrant is/are
5. This warrant was not executed because:

Dated:

Signature of officer executing the warrant:

**A copy of this warrant endorsed as above must be returned to the issuing magistrates' court office**

Version:1 FOI Status: Public	Approved Mental Health Professionals (AMHP) Applying for Warrants under Sections 135(1) & 135(2) of the Mental Health Act 1983 Practice Guidance. Derbyshire County Council - Adult Social Care and Health	Originally Issued: May 2022 Issued: May 2022 Review Due: May 2024 Author: James Russell
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**Appendix 3 - Application for Warrant to Search for and Remove Patient**

<b>APPLICATION FOR WARRANT TO SEARCH FOR AND REMOVE PATIENT</b>
<i>(Section 135(2) Mental Health Act 1983)</i>
<p>Use this form ONLY for an application for a warrant under s135(2) Mental Health Act 1983.</p> <p>This is an application by ..... (name of applicant)</p> <p>Applicant's address:<sup>6</sup> .....</p> <p>Email address: .....</p> <p>Phone .....</p> <p><b>Applicant's status:</b> Police constable / person authorised under Mental Health Act 1983 or article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 to take or retake a patient into custody<sup>7</sup></p> <p><b>Booking reference (if appropriate :</b></p> <p>I estimate that the court should allow ..... (time) to read this application and ..... (time) for the hearing.<sup>8</sup></p> <p>I expect any warrant issued to be executed on ..... (give the planned date).</p>
<p><b>1. Complete the box above and boxes below.</b> If you use an electronic version of this form, the boxes will expand. If you use a paper version and need more space, you may attach extra sheets.</p> <p>2. Complete the declaration in box 6.</p> <p>3. Attach the draft warrant(s) you are asking the court to issue.</p> <p>4. Send or deliver a copy of the completed form and draft warrant(s) to the court. You may send them by secure email. Make sure the court knows if the application is urgent. Your time estimates will help the court to allow enough time to prepare for the hearing.</p>
<p>1) (a) The name of the patient</p>
<p>2) The address of any premises you seek to enter</p>

<sup>6</sup> See guidance note 2 at the end of this form.  
<sup>7</sup> Delete as appropriate  
<sup>8</sup> See guidance note 4 at the end of this form.

**3) Grounds.** What you need to explain will depend on the circumstance of the above named individual

(a) Outline the circumstances by which the patient became a patient as defined by the Mental Health Act and the diagnosis if known

(b) Outline the grounds which lead you to believe that the patient is on the premises?

(c) When and how was admission to the premises refused or why do you apprehend that such admission will be refused?

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**4) Why do you believe that the warrant is necessary?** Explain why the matter cannot be dealt with without a warrant, for example – seriousness of risk to patient or others

5) Search on more than one occasion. Use this box only if you are applying for the court's authority to search premises on more than one occasion.

(a) Why do you want to search on more than one occasion?

(b) How many times do you want to be able to search those premises? Specify any maximum number of occasions, or state 'unlimited'.

6) Duty of disclosure.<sup>9</sup> See also the declaration in box .

Is there anything of which you are aware that might reasonably be considered capable of undermining any of the grounds of this application, or which for some other reason might affect the court's decision? Include anything that reasonably might call into question the credibility of information you have received, and explain why you have decided that that information still can be relied upon.

7) Declaration

To the best of my knowledge and belief:

<sup>9</sup> See guidance note 5 at the end of this form.



Version:1  
FOI Status: Public

Approved Mental Health Professionals (AMHP)  
Applying for Warrants under Sections 135(1) &  
135(2) of the Mental Health Act 1983 Practice  
Guidance. Derbyshire County Council - Adult  
Social Care and Health

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Author: James Russell

(a) this application discloses all the information that is material to what the court must decide, including anything that might reasonably be considered capable of undermining any of the grounds of the application, and

(b) the content of this application is true.

Signed:<sup>10</sup> ..... [applicant]

Date: ..... Time: .....

Decision

I heard this application today.

The applicant satisfied me about his or her entitlement to make the application.

The applicant confirmed on oath or affirmation the declaration in box 6

The applicant gave me additional information, the essence of which was:<sup>11</sup>

I [issued] [refused to issue] [a warrant] [warrants] because:<sup>12</sup>

Signed: .....

Name: ..... [Justice of the Peace]<sup>6</sup>  
[District Judge (Magistrates' Court)]<sup>6</sup>

Date: ..... Time: .....

<sup>10</sup> If an electronic version of this form is used, instead of a signature it may be authenticated electronically (e.g. by sending it from an email address recognisable to the recipient).

<sup>11</sup> Delete if not applicable.

Version:1 FOI Status: Public	Approved Mental Health Professionals (AMHP) Applying for Warrants under Sections 135(1) & 135(2) of the Mental Health Act 1983 Practice Guidance. Derbyshire County Council - Adult Social Care and Health	Originally Issued: May 2022 Issued: May 2022 Review Due: May 2024 Author: James Russell
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## Notes for Guidance

### 1. Use of this form

This form is for use in connection with an application for a warrant under section 135(2) of the Mental Health Act 1983.

### 2. Applicant's contact details

The court may need to contact the applicant urgently. In choosing the address and telephone number(s) to give, applicants should be aware that details entered in this application form may be disclosed in subsequent legal proceedings, unless the court orders them to be withheld.

### 3. Status of the applicant

The applicant must satisfy the court about his or her entitlement to make the application. Officers of some other investigating authorities can apply for and execute warrants to enter, search and seize as if they were constables, under the legislation which applies to them. Examples include members of the National Crime Agency designated with the powers of a constable, and officers of HM Revenue and Customs.

### 4. Making an application: time estimates and live links

In boxes 3 and 4 you should identify the sources of your statements, referring to status (e.g. social worker, person's mother, psychiatrist etc) in

The court needs an estimate of how long to allow for reading and hearing the application. If in doubt, consult the justices' legal adviser.

To help assess the urgency of the application compared with others, the court also needs to know when it is expected that the warrant will be executed.

Normally applications should be made by telephone. The applicant must provide a telephone number

The application and a draft warrant must be delivered to the court by email.

### 5. Information that might undermine the grounds of the application

Information that might undermine any of the grounds of the application must be included in the application, or the court's authority for the search may be ineffective. The court will not necessarily refuse to issue a warrant in every case in which there is information that undermines the grounds of the application.

The applicant must explain why information is thought to be credible where it comes from a source that cannot be tested (for example, a report from an anonymous informant).

The applicant must inform the court if there is anything else that might influence the court's decision to issue a warrant. This may include whether the premises have been searched before, and with what outcome, or whether there is any unusual feature of the investigation or of any potential prosecution.

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**Appendix 4 - Warrant to Search for and Remove Patient - Applicant / Patient Copy**

***Applicant Copy/Patient Copy***<sup>1</sup>

**Magistrates' Courts in England and Wales**



**WARRANT TO SEARCH FOR AND REMOVE PATIENT**

Southern Derbyshire Magistrates' Court, 27 St Mary's Gate, Derby DE1 3JR

Any queries regarding this document should be directed to [DN-SearchWarrants@justice.gov.uk](mailto:DN-SearchWarrants@justice.gov.uk),

This warrant is issued under Section 135(2) Mental Health Act 1983

Specify name of applicant	On this day information was laid before me by [name of applicant]
Specify name of Local Authority/ agency <sup>1</sup>	a police constable / person authorised under the Mental Health Act 1983 or Article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 to take a patient to any place or take or retake a patient into custody
Specify patient	that there is reasonable grounds to believe that a patient, namely [name]
Insert address of premises	is to be found on premises at [address] and that admission to the premises has been refused or that such a refusal of such admission is to be apprehended

AUTHORITY IS HEREBY GIVEN for any constable TO ENTER THE SAID PREMISES, if need be by force and remove the patient

The constable may be accompanied by a registered medical practitioner or another person authorised under the Mental Health Act 1983 or Article 8 of the Mental Health (Care and Treatment)(Scotland) Act 2003

Entry is authorised for one occasion only<sup>1</sup>  
Entry is authorised for ... occasions<sup>1</sup>

Entry under this warrant must be with three months of the date of its issue

**By order of the Court**

Signature, initial or other authentication .....  
Justice of the Peace/ District Judge<sup>1</sup>

Date:.....

Version:1 FOI Status: Public	Approved Mental Health Professionals (AMHP) Applying for Warrants under Sections 135(1) & 135(2) of the Mental Health Act 1983 Practice Guidance. Derbyshire County Council - Adult Social Care and Health	Originally Issued: May 2022 Issued: May 2022 Review Due: May 2024 Author: James Russell
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**ENDORSEMENT** – to be made by the constable executing the warrant

*(please delete as appropriate)*

1. This warrant was executed on
  
2. The person sought was found and removed to a place of safety namely:
  
3. No person was found
  
4. This warrant was not executed
  
5. The name(s) of the officer(s) executing this warrant is/are

Dated: .....

Signature of officer executing the warrant: .....

**A copy of this warrant endorsed as above must be returned to the issuing magistrates' court office**

Version:1 FOI Status: Public	Approved Mental Health Professionals (AMHP) Applying for Warrants under Sections 135(1) & 135(2) of the Mental Health Act 1983 Practice Guidance. Derbyshire County Council - Adult Social Care and Health	Originally Issued: May 2022 Issued: May 2022 Review Due: May 2024 Author: James Russell
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<b>Author History</b>
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**Authorisation and Approval History**

Authored by James Russell Service Manager	May 2022
Approved by Senior Management Team	May 2022
Authorised by Helen Jones Strategic Director of Adult Care	May 2022