

Section 135 of the Mental Health Act

Being taken to a place of safety from a private place

This factsheet looks at section 135 of the Mental Health Act. It explains when and how this section is used. It explains what your rights are under this section. And what could happen after it ends. It is for people who are 18 or over and affected by mental illness in England. It is also for their loved ones, carers and anyone interested in this subject.

Key Points.

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

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A list of professionals we mention in this factsheet

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

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

Approved mental health professional (AMHP): An AMHP is a mental health professional who is trained to use the Mental Health Act. An AMHP can be a psychologist, nurse, social worker or occupational therapist but not a doctor.

They help to decide if you should be detained under the Mental Health Act. The role of the AMHP is to provide a decision that is informed by a social perspective, rather than a medical opinion.¹ Even if they have a medical background. An AMHP can help to bring you to hospital.

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

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

1. What is section 135?

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

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

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

You can find more information about the **Mental Health Act** at www.rethink.org. Or call us on 0121 522 7007 and ask us to send you a copy.

2. When is section 135 used?

S135 may be used if a professional thinks you are mentally unwell. And need to be in hospital for mental health treatment.

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

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

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

2. Or:⁶

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

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

You cannot be taken from a public place under S135. The police would need to use Section 136 (S136) of the Mental Health Act instead. S136 is used to remove you from a public place, such as a park or the street. And to take you to [a place of safety](#).

You can find more information about **Section 136 of the Mental Health Act – Emergency police powers to take you from a public place to a place of safety** at www.rethink.org. Or call us on 0121 522 7007 and ask us to send you a copy.

3. How is section 135 is used?

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

The AMHP may ask for a warrant if:⁸

- you are likely to refuse the health professionals entry to where you live,
- there is a risk that you or other people with you will become violent,
- there is a risk you will run away before your assessment is completed,
- you are likely to harm yourself, or
- there is a risk that a pet will attack the AMHP.

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

What is a warrant?

A section 135 (s135) warrant gives the police two legal powers. They are:

- to come into your home, and
- to take you to a [place of safety](#).

The warrant can be used for either or both reasons.⁹

The police can keep you at home or take you to another place of safety. If you do not allow the police to come into the place you live, they can use force.¹⁰ For example, they might break down your door.

Sometimes the police may not need the warrant to enter your home. For example, someone you live with may let them come in. If this is the case, they can still use the warrant to take you to a place of safety.¹¹

The police can stay in your home even if you ask them to leave. They can search the premises to find you.¹²

The police cannot enter your home under s135 without your permission if they do not have a warrant. Ask them to show you the warrant before you let them in.

But, under section 17 of the Police and Criminal Evidence Act, there are times when the police can enter your home without a warrant. Or your permission.¹³

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

- arranging for an occupier or agent to be present, or
- any other appropriate means.¹⁴

This means the police are only likely to secure your home if no one is present before they leave your property.¹⁵

Please see [section 7](#) below about what you may be able to do if the police use force to enter your home.

Section 135(1)

Under section 135(1), the police must come to your home with an AMHP and a doctor.¹⁶

The mental health professionals will assess your mental health to decide if you need to go to hospital. If they decide to take you to a different place of safety, they must explain why. The police will take you there.¹⁷

Section 135(2)

Under section 135(2), the police can come to your home on their own. But they should try and bring someone from the local hospital or social services with them.¹⁸

This section can be used if you were detained under the Mental Health Act but you left hospital without permission. The police have the power to take you back to hospital.¹⁹

What is a place of safety?

A place of safety could be:²⁰

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

A police station should only be used if there is no better option. You may be taken to a police station if you are thought to be too high a risk to people in a healthcare setting.²¹

If you are taken to the police station, it does not mean that you have done anything wrong. This should be clearly explained to you.²² The police can arrange for you to be seen by a medical assessor.

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

You should be taken from the police station to a more suitable place as soon as possible. Unless it is in your best interests not to move you.²³

Can police officers restrain me to take me to a place of safety?^{24,25}

If you are acting violently or at risk of harm to yourself or others, police officers may restrain you. The least restrictive type of restraint should be used. You should only be restrained if it is absolutely necessary.

If you are restrained, a safety officer should be responsible for monitoring your condition. They should protect your airways and support your neck and head.

It is important officers are aware of any other medical conditions you may have. This is so you are monitored effectively while restrained.

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

When will a home not be a place of safety?

Your home should not be used as a place of safety if you do not want it to be used.²⁶

You might live in shared accommodation. If so, both you and at least 1 of your housemates must agree that you can stay there.²⁷

Your friend's or relative's home should not be used as a place of safety if:²⁸

- you do not agree it should be used, or
- someone who lives in the property does not agree that it should be used.

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4. How long will I be on section 135?

You can be on this section for up to 24 hours until an approved mental health professional (AMHP) or doctor sees you.²⁹

Under section 135, the doctor may decide that you need to be kept for longer. They can do this if it is not practical to do a mental health assessment within 24 hours because of how you are. They can extend your detention by 12 hours. This will start from the end of the original 24 hours.³⁰

If you are being kept in a police station, the doctor needs the permission of a superintendent or above to extend your detention.³¹

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

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

What are my rights if I am in hospital?

If you are in hospital, the hospital managers have to make sure that you:^{32,33}

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

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

If the police take you to a police station, it does not mean that you have done anything wrong. You have the right to:^{34,35}

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

Can I be searched?

You can only be searched if the police officer believes that you:³⁶

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

Your mouth can be searched.³⁷

If you are searched, you will not be asked to take off your clothes. But you can be asked to take off your:³⁸

- outer coat,
- jacket, and
- gloves.

A police officer can keep anything they find on you. They can do this if they believe that you might use it to cause harm to yourself or other people.³⁹

Can I appeal a section 135?

You do not have the right to appeal to the Mental Health Tribunal if you are under a section 135 (s135).⁴⁰

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

You can find more about:

- **Complaints about the police**
- **Legal advice – How to get help from a solicitor**

at www.rethink.org. Or call us on 0121 522 7007 and ask us to send you a copy.

Do I have the right to food and drink while under section 135?

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

At the custody officer's discretion, you can ask for your meals to be supplied by your family or friends, at your expense.⁴¹

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6. Can I claim compensation if the police cause damage to my property?⁴²

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

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

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

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

An ex-gratia payment is a voluntary payment that is made without any legal obligation to make it.

What can I do if I think the police have caused unnecessary damage to my property?

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

You can find more about **Complaints about the police** at www.rethink.org. Or call us on 0121 522 7007 and ask us to send you a copy.

What can I do if the police refuse to pay compensation?

If police refuse to pay compensation, you may be able to bring a civil claim against them for the damages.

If you wish to bring a civil claim against a police force, you will need to seek specialist legal advice.

You can find more about **Legal advice – How to get help from a solicitor** at www.rethink.org. Or call us on 0121 522 7007 and ask us to send you a copy.

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7. Can my doctor treat me if I do not want it?

You have the right to refuse any treatment you do not want when you are under section 135. In rare circumstances, you may be forced to have treatment that you do not want.⁴³

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

You can find more information about the **Mental Health Act** at www.rethink.org. Or call us on 0121 522 7007 and ask us to send you a copy.

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8. What might happen after this section?

After the section 135 (s135) ends, one of the following things will happen.

- **The approved mental health professional (AMHP) and 2 doctors decide that you need to be in hospital.** You might go into hospital as a voluntary patient. Or you may be detained under a different section of the Mental Health Act.
- **The AMHP or medical examiner decide that you do not need to be in hospital.** You are free to leave. They may refer you for support from community services, such as the crisis team, community mental health team or your GP. But it is up to you if you accept the help or not.
- **In an emergency, an AMHP and 1 doctor will be allowed to detain you in hospital.** But it is unlikely that an emergency detention would be justified. This is because if there is an urgent need to transfer you to hospital, the power of transfer between places of safety could be used. This is allowed under s135.⁴⁴

You can find more information about:

- **NHS mental health teams**
- **Mental Health Act**
- **GPs and your mental health**

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Last updated: December 2024 Next update: December 2027 subject to any changes.

Version: 6

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Registered in England Number 1227970. Registered Charity Number 271028. Registered Office 28 Albert Embankment, London, SE1 7GR.

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