



MHA Assessments in Private Premises **inc s135(1) MHA Warrants**

Strategic Intention:

- Ensure the safety, the dignity and the rights of the public are placed at forefront of all WMP decisions on policing and mental health.
- Ensure collaborative partnerships operate effectively.
- Ensure deployments to support MHA Assessments are timely, proportionate, necessary and lawful.
- Ensure WMP fulfils its responsibilities under the Mental Health Act 1983 and its Code of Practice.
- Ensure WMP is not operating beyond its legal authority.
- Ensure WMP officers are not operating beyond professional competence.

This document reflects the offer from WMP to our statutory partners and the public on one of the key topics on mental health. **These are guidelines**, they are not binding instructions.

All inter-agency situations are, by definition complex, and must be judged on their individual merits, using the National Decision Model and THRIVE+ to assess threats and risks against available lawful options. **All officers and staff can escalate for tactical advice**, if required.

“Over-policing” is as serious a risk as “under-caring.”

WMP OBJECTIVES

- **TASK:** Discharge responsibilities to support s135(1) MHA assessments and to prevent Breaches of the Peace.
- **TASK:** Minimise risk & maximise safety, where deployed.
- **RISK:** over-policing of the public, compromising dignity.
- **RISK:** untimely resourcing of WMP obligation to act
- **RISK:** non-deployment despite risk because of partners’ difficulty with conveyance, beds or both.

FORCE CONTACT

- **Why do you need the police?** << *The risk assessment*
- **Is there a s135(1) MHA warrant?** << *The legal context*
- **TASK:** Deploy to ‘RAVE’ risks¹ **and / or** MHA Warrants.
- **RISK:** over-policing, outside those parameters.

POLICE OFFICERS

- **TASK:** execute the warrant, where one exists.
- **TASK:** Prevent a Breach of the Peace, where no warrant exists. **KIV:** s129 MHA (obstruction of an AMHP).
- **Do you need to remove to a Place of Safety for MHA assessment?**
- ❖ See **‘Place of Safety’**, if you remove to a PoS.
- ❖ See **‘Conveyance’**, if someone is ‘sectioned’².

SUPERVISORS

- **TASK:** oversee the planning of decisions to deploy
- **TASK:** prioritise deployment versus other priorities, where required.
- **RISK:** confusion about legal powers if ‘no bed’ available.
- ❖ See **‘No Beds’**, and escalate, if required.

¹ **Resistance, Aggression, Violence or Escape** – they are deemed to exist if they are likely *on the balance of probabilities*.

² The fact the police were present when someone was ‘sectioned’ and the fact a s135(1) warrant was necessary to enable the assessment does not mean the police should automatically be involved in conveyance to hospital for admission. Conveyance decisions should be taken afresh, as if officers had not yet become involved and justified on their own terms.

WMP recognises its obligation to support other agencies where necessary during the conduct of MHA Assessments in Private Premises, whether conducted with a s135(1) warrant or not. **It is NOT the policy of WMP that if a warrant is not being relied upon that this prohibits police assistance.** Upon receipt of *any* request to provide police support at a MHA Assessment in Private Premises, the AMHP or caller will be asked two questions to allow WMP to take an informed decision about whether to attend, the resources required and the legal or clinical risks involved:

- **Why is police support requested?** – WMP understands that most MHA assessments are conducted without police support and requests for support are not made without due consideration. This question simply invites a summary of the risk assessment to determine the resources required. **WMP will not attend MHA assessments “just in case”** and will provide support instead of other organisations only where *serious* risks require *urgent* mitigation.
- **Do you have a warrant under s135(1) MHA?** – this ensures clarity about the legal situation and it helps determine the briefing given to officers to ensure they understand their powers, duties and obligations. WMP’s position is that *a warrant which can be sought, should be sought* – this *significantly* enhances the officers’ ability to ensure the safety and security of those involved which is the inherent reason for seeking police support. If there is no time to seek a warrant or an application has been declined, officers can attend where the risk is so great that it justifies it.

FURTHER CONSIDERATIONS

All WMP officers attending a MHA Assessment in Private Premises are to be given a legal briefing:

- Whilst attending a MHA Assessment without a s135(1) warrant **WMP officers have no legal powers** under the MHA itself until such time as a MHA application is made. This remains true even if there is difficulty finalising applications because of inpatient bed availability. Safety and security can only be assured within the scope of legal powers under criminal or common law, which will not always be relevant or appropriate and in any event, are criminalising.
- Officers may use reasonable force to prevent a crime (inc, obstruction of an AMHP under s129 MHA); or may arrest someone after an attempted or substantive criminal offence where there is a need to remove to custody and investigate the allegation. Officers may use force to prevent a *Breach of the Peace* or arrest to prevent its continuance where there is an intention to bring the person before a judicial authority at the first opportunity.
- Where WMP attends the execution of a s135(1) warrant and a decision is taken that removal to a Place of Safety is **not** required, WMP will exercise the right to re-assess ongoing attendance, in particular when powers under the warrant are not being used.
- If MHA applications **are necessary, s13 MHA applies** and conveyance to hospital subsequent to an application for admission is then a matter for the NHS & AMHP, in the first instance, not a WMP responsibility. << [See WMP Offer on Conveyance.](#)
- **Risk assessments / information required to gain police attendance will be provided when the request for support is made via 101 or 999 dependant on urgency of the assessment.**

Upon receipt of a request from an Approved Mental Health Professional (AMHP – pronounced ‘amp’), members of Force Contact should ask the following two questions:

- **Why are you requesting police support?** – it is necessary to know the risks WMP are expected to manage: invite the AMHP (or caller) to summarise the risk assessment to allow proper determination of the police resources that may be required. Alternatively, WMP may decline attendance, if no serious risk is outlined. WMP do not attend MHA assessments ‘just in case’.
- **Do you have a warrant under s135(1) MHA?** – if not, why is it still necessary for the police to attend, given WMP has no legal powers during the conduct of a MHA assessment conducted without a warrant. Again, this question is necessary to understand the legal and risk issues which WMP will be required to consider and address and to help determine our response to the request to attend:

YOU NOW HAVE FIVE OPTIONS

- **URGENT / NO WARRANT:** If a situation is **urgent and there is no time to secure a warrant**, there are imminent serious risks or the AMHP declines or fails to secure a warrant: ensure the AMHP understands that until the patient becomes ‘sectioned’, **police officers have no legal powers to act** unless someone attempts to commit a criminal offence or we anticipate a Breach of the Peace. >> [Refer to FSU or Response, as determined by required urgency.](#)
- **SECTION 135(1) WARRANT:** if the AMHP has secured a warrant, *WMP are obliged to attend and execute it* because only the police may do so – this remains true regardless of WMP’s assessment of risk or necessity. >> [Log created for officers to attendance according to risk.](#)
- **PATIENT RISKS / NO WARRANT:** if the proposal is to attend without a warrant where risks of *resistance, aggression, violence or escape* are likely **from the patient being assessed** (“RAVE risks”), then inform the AMHP that WMP will ask them to secure a warrant if possible in order to ensure officers have the necessary powers to appropriately mitigate the identified risks “*in the safest and least restrictive way*”. >> [Document any reaction and then refer to FSU supervisor.](#)
- **RISKS FROM THIRD PARTIES:** if the RAVE risks come from a *third-party* likely to be at the address and not directly from the patient, the grounds for securing a warrant may not be met, but attendance may still be necessary: ensure the police officers are briefed on AMHP powers under s115 MHA and the criminal offence under s129 MHA (obstructing an AMHP) – refer officers to their page of this document. >> [Log to supervisors to brief officers and coordinate further.](#)
- **NO RISK / NO WARRANT:** if WMP have been asked to attend an assessment where there is no identified or explained risk AND no MHA warrant (for example, a request for us to attend because the AMHP has had difficulty arranging appropriate conveyance to hospital after an assessment), WMP are not obliged to attend and can decline. Conveyance of patients after being ‘sectioned’ is a matter for the NHS unless patients are ‘violent and dangerous’, but even then each matter should be considered on a case by case basis. << [See WMP Offer on Conveyance.](#)

The police service is not present at the majority of MHA assessments in private premises. Force policy indicates that police officers will only attend where their legal powers are required or there are serious risks (including urgent risks) to be managed in support of other agencies.

WARRANT UNDER s135(1) MHA –

A warrant allows WMP to exercise two powers: you don't have to exercise either, unless necessary, but making the patient aware of the warrant means it is executed and allows entry to assess with the use of force, if necessary.

- **There is a power to force entry to the specified premises, if necessary.**
- **Power to search for and remove the patient to a place of safety for MHA assessment.**

- Once inside, a decision can be taken *with the patient's agreement* to conduct the assessment there. In the absence of such agreement, removal *must* occur to a Place of Safety. << [See the Offer on Places of Safety.](#)
- If a person is assessed at the location and the AMHP wishes to 'section' them but cannot identify a bed, it would be lawful, to remove the person under s135(1) to a Place of Safety. << [See the Offer on Places of Safety.](#)

NO WARRANT UNDER s135(1) MHA –

You have no powers under the MHA during the conduct of the assessment. You may rely upon police powers from criminal law or from common law to keep people safe, if there is an attempted offence or a Breach of the Peace; inc, s3 Criminal Law Act 1967.

- Once an application for admission has been made (usually sections 2, 3 or 4 MHA), **the person is in the AMHPs custody** and can be taken under s6 MHA and conveyed to hospital.
- The AMHP may delegate this authority to others, including to the police, but officers *cannot be compelled* to accept the delegation and should only do so where the patient is 'violent or dangerous'. Even then, be aware of risks during transfer. << [See the Offer on Conveyance.](#)

NB: being (likely to be) '*violent or dangerous*' is different to being resistant, frightened or anxious. **Until a MHA application is made (to specific hospital), the patient is not 'sectioned'** and the law governing the incident remains s135(1) of the Act OR criminal / common law, where applicable.

KEEP IN VIEW

Section 115 MHA – all AMHPs have a right of entry and inspection (without using force) to any premises where a mentally disordered person is thought to be if the AMHP has grounds to believe the person is not under proper care. Police may accompany them to prevent a Breach of the Peace.

Section 129 MHA – it is a criminal offence to obstruct an AMHP in the course of their duty. This would include, for example, third-parties interfering with the AMHPs lawful conduct of MHA assessments or admissions.

