Policy on Mental Health Act Assessments in Private Premises, including the use of S.135 of the Mental Health Act 1983

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**Associated documents**

**Appendix 1:**

**Appendix 2:**
1. Introduction

This policy has been drawn up by Camden and Islington NHS Foundation Trust in consultation with the London borough of Camden, the London Borough of Islington, the Metropolitan Police and the London Ambulance Service.

All the agencies involved have a duty to ensure that people who are assessed under the Mental Health Act on private premises and also those subject to the processes of the Mental Health Act; in this case Section 135, are treated fairly, with respect, and their personal dignity is preserved at all times.


This policy was first written in 2004 and has been regularly reviewed to accommodate changes in legislation and local service delivery.

2. Purpose

The purpose of this policy is to ensure there is a consistent approach and clear guidance for all staff and agencies involved in carrying out statutory Mental Health Act assessments on private premises, including the use of a warrant under S.135 and

- Describe best practice in assessing persons believed to be suffering from mental disorder on private premises.
- Ensure that interventions are person centered and safe.
- Facilitate good working relationships between all parties involved in implementing the policy.

3. Scope

This policy is relevant to all employees of Camden and Islington NHS Foundation Trust, Camden and Islington Local Authorities, the Police and the Ambulance service. It should also be read in conjunction with the Joint S.136 Policy, in particular the definition and process for accessing a Health Based Place of Safety.
4. Roles and Duties

4.1 Approved Mental Health Professionals (AMHPs) co-ordinate statutory Mental Health Act assessments. The AMHP is responsible for ensuring that the person is interviewed in a suitable manner, respecting their right to privacy and dignity during the process of the assessment. Where appropriate they apply to court to obtain a warrant to enter a person’s property if they believe the person requires assessment under the Mental Health Act and there may be access and / or safety issues.

Section 115 of the Mental Health Act 1983 provides the power for an AMHP to enter and inspect premises (not being a hospital) in the area of that authority in which a mentally disordered patient is living, if he/she has reasonable cause to believe, that the patient is not under proper care. During the inspection, if the occupier request that the AMHP should leave, before the inspection is completed, this must be complied with to avoid trespassing.

4.2 The Police have a duty under S.135 to execute a warrant when appropriate. Once executed, the police may remain whilst an assessment takes place to ensure everyone’s safety and where necessary remove the person is to a Health Based Place of Safety should it not be possible to the AMHP to carry out the assessment in the property (see Place of Safety). The police may search a person subject to s.135 for protective purposes. The Police are also responsible for responding to an emergency where an AMHP requires assistance and calls 999, should there be a likely breach of the peace or the AMHP or the person’s safety has become compromised. The police also have a duty to engage the London Ambulance service to convey the person to a health based place of safety and if it unsafe to use an ambulance to arrange a more secure a means of transport if it is required.

4.3 The London Ambulance Service have a duty to convey the person to a place of safety as requested by the police for the purposes of being assessed under the Mental Health Act or to hospital as directed by the AMHP once the assessment has been completed.

4.4 The Registered Medical Practitioner has a duty to attend the property and undertake a Mental Health Act assessment. Where a S.135(1) warrant has been executed and it is decided to remove the person, the doctor should inform the person they will be taken to a Place of Safety for the purposes of being assessed under the Mental Health Act 1983. It is the recommending doctor’s responsibility to identify a hospital bed but this is largely delegated to the Trust bed managers unless the person is under the care of a specialist service such as CAMHs. The doctor should also consider the person’s physical health needs as part of the assessment.

5. Place of Safety

The Place of Safety in Camden and Islington is the Emergency Department of the three acute hospitals but it could also include the following; independent hospitals; care homes for mentally disordered persons; police stations (for person from 18+ years old only and in specific circumstances); local social services authority’s residential accommodation; and any other suitable place (with the consent of a person/s managing or residing at that place). The police may detain a person at a place of safety for period of 24 hours; however a doctor can certify an extension of up to 12 hours is necessary if the Mental Health Act assessment
cannot be completed within the permitted period due to the person’s mental or physical condition.

Where a S.135 (1) warrant has been executed, a person may be kept at their home if it is a place of the safety for the purpose of an assessment rather than being removed to another place of safety. A private dwelling i.e. house, flat or a room can be regarded as a place of safety when the person is the sole occupier agrees to this, or when the person is not a sole occupier, both that person and one of the other occupiers agree. S.135 (7)(a)

Where a local voluntary agency/facilities, i.e. crisis cafés, drop in centres, calm spaces and other similar establishments could be considered as a suitable place of safety, the police officer under S.135 (7) (b) must check in each individual case that the responsible manager of the voluntary agency/facilities agrees to the use of the premises as a place of safety.

6. Referral and Risk Assessment

6.1 The care coordinator or person who knows the person best will refer for an Mental Health Act assessment to the relevant AMHP Duty service. The AMHP service and referrer discuss risks and decide if a warrant and police are required.

6.2 In arranging community assessments the least restrictive and intrusive approach should be taken. However, where there are concerns about risks, which may include – violence from the person, risks from others on the premises, risk of self-harm, risk of absconding or there are anticipated problems with access then police assistance is required and a warrant will need to be obtained. This protects the person’s civil liberties and the risk of unlawful trespass. It also ensures the AMHP can carry out the assessment to its conclusion and that all parties are kept safe without the risk of a possible breach of the peace or the person absconding.

6.3 The care coordinator or person who knows the person best will complete a Police Risk Assessment form (Appendix 1) as soon as possible. This should include all the information that would be relevant to making an application for a warrant. (Guidance on completing the PRA Appendix 2). Adequate information needs to be provided otherwise this may cause a delay. Once completed it should be sent to the relevant AMHP service email and uploaded onto Care Notes.

6.4 The AMHP Manager will contact the Police and send the police risk assessment and copy of the warrant. The police will carry out their checks and decide on the level of response required. The AMHP service and police will share any relevant information for safe planning for an assessment and decide on an assessment date. The level of risk and priorities is agreed between the AMHP manager and the police Mental Health team.

6.5 The police will decide on the level of response required and negotiate with the relevant teams.

6.6 Some referrals may require further discussion and joint decision making about the most appropriate plan. The Duty Managers will discuss such cases directly with the Police Mental Health team.
6.7 The Duty AMHP should prepare the application for a warrant under Section 135(1). This must include information and evidence that reasonable attempts to contact the person have been made, and that they may be a risk to their own health and safety or being kept by another in an environment which is unsuitable, and in a manner which is otherwise out of their control.

6.8 The duty AMHP has to attend court (in the relevant jurisdiction) to obtain the warrant and provides evidence under oath to the court. The AMHP should ensure that the warrant is dated and signed by the magistrate. Court bookings and payments are made online. Any challenges regarding access to the court such as long waits should be escalated to the duty manager.

6.9 The Code of Practice states that courts should ensure that S.135 warrants can be granted in a timely way, taking into account that situations can be very urgent (CoP 16.12). The procedure for applying for a warrant out of hours is in the Appendix.

6.10 If the person’s condition deteriorates rapidly, or is so severe that any delay will put lives at risk, the Police will provide immediate assistance where possible. In cases where there is an immediate danger to life, the AMHP should dial 999. Reliance upon a warrant in an emergency may be inappropriate due to the time it can take to obtain a warrant (CoP 16.13). The police may use their power under S.17 (1) of PACE 1984 for the purposes of saving life and limb or preventing serious damage to property.

7. Arranging the Assessment

7.1 The Duty AMHP co-ordinates setting up of the assessment and will complete the Community Mental Health Act assessment checklist, which includes the need for interpreters, locksmiths, protection of pets etc. See appendices for procedure in each borough.

7.2 The Care Act 2014 (S.47) places a duty on the Local Authority to protect a person’s moveable property which includes pets. For the purpose of discharging this duty, the council can enter any premises which the person was living in immediately before being admitted to hospital to deal with the movable property in any way which is reasonably necessary in order to prevent or mitigate loss of or damage to the property.

7.3 Children and vulnerable adults whose parents/carers maybe assessed under the Mental Health Act. If it is known that children are involved or there are concerns for the welfare of children, the AMHP should contact/alert the Multi-agency Safeguarding Hub or Assessment team in Children and Family Services. The sharing of information with this service is covered by jointly agreed sharing of information protocols. Clear plans need to be made for children. Where the person being assessed is a carer for other vulnerable adult, clear plans will need to be put into place for this person with the assistance of adult social care.
7.4 The Duty Manager or administrator will book LAS Non-Emergency Transport (NETs) at least the day before the assessment. Prior warning will be given to the ambulance crew if protective clothing is needed. Where NETs may not provide a service – for example on the same day, before 9 am, to a destination outside of London or where a secure vehicle is required – a private ambulance will be booked by the duty manager from the Trust budget. In an emergency LAS should be requested.

7.5 A bed should be identified prior to the assessment beginning – as agreed in the Bed Management policy. If a bed has not been identified by the end of the assessment, this should be escalated to senior managers to resolve as soon as possible. Any delays should be recorded as a datix. (A delay is when a bed hasn’t been identified by the start of a planned assessment and within one hour after a decision to admit after an unplanned assessment).

7.6 Where an assessment has been undertaken as an urgent situation on the same day, a bed should still be identified as soon as possible. If a bed is not identified within a safe or reasonable time frame the AMHP should discuss whether it is safe to leave with the Duty Manager. However, the AMHP should leave immediately if they are at risk and it is their decision to make. AMHPs will be supported in this. Trust senior management advice should be sought to ensure mental health services put a plan in place to support the person and their family if possible which may involve crisis services and / or the referring team.

8. Entry and Executing the Warrant

8.1 It is best practice for all agencies / professionals to be present prior to entry, although the team may decide to enter if it is known the ambulance is on its way for example. Issues to consider prior to entry:

- Who will be on the premises?
- Are there any carers / family members or children who may be at risk?
- Are there any protective factors, family members, friends or carers present
- Is the person taking illicit drugs or is likely to be violent?
- How will the Police respond if the person becomes violent?
- Will force be required for entry?
- Who will knock on the door?
- Who will enter first?

8.2 The warrant is executed once the Police have gained entry to the property without the persons consent even if they are not at home. A copy of the warrant is left for the person; the Police retain a copy and return one to the Court where it has been issued.

8.3 The AMHP Service keeps all warrants that have not been used and copies of those which have been executed and returns them to the Court they were issued every 3 months.

8.4 S.135 (7) (a) If the person agrees (and the occupier etc) their home can be designated a place of safety and the assessment can go ahead. If the person needs to be removed (or asks to be removed), this will be to ED as a place of safety.
8.5 When a S.135 (1) warrant has been executed and a bed has not been identified and it is unlikely to be so in a reasonable time frame, the person should be removed to a Place of Safety. In each circumstance, the assessing team may make a decision that this is not the best course of action for that person and the assessment should be reorganized. The reasons for this should be documented on the patient's notes.

8.6 Where removal is required and a bed has been identified, under limited circumstances it may be possible to remove the person to the identified inpatient bed if it is local and agreed by the Trust. Such circumstances would be when removal to the Emergency Department would be detrimental to that person and cause distress for example, if the person has dementia.

8.7 Where the doctors have identified that the person needs to go to the ED first due to a medical issue the person can be treated under common law or if incapacitated, the Mental Capacity Act there, before being transported to the hospital named in the application. (See notes in Jones 1-107). NB. If the person is not admitted to a medical ward and treated only in the ED, they are still in the process of being conveyed to psychiatric hospital, albeit interrupted, and therefore conveyance cannot be delegated twice. So for example if the AMHP delegated conveyance to the police, the police could not delegate to security.

8.8 If during the Mental Health Act assessment without the use of a warrant the situation is assessed as becoming dangerous, or if the AMHP is asked to leave by the service-user or their careers they should do so immediately. If access to the property is refused, or the agreement to be in the property is withdrawn the AMHP will be required to apply to court for a warrant using Section 135(1) or where a person is refusing to return to hospital but already detained under the Mental Health Act and application to court under 135(2) will be required (see Appendix 2) If it is an emergency or ‘life or limb’ then the AMHP or Doctor should call the Police by dialing 999.

8.9 When a Mental Health Act assessment has taken place without police support and an application is completed, the person is liable to be detained and therefore in legal custody, S.137 (1). In this circumstance, the assessing professionals will not be trespassers if asked to leave. Common law provides authority to use restraint during the time it takes to process the application as long as it is not unduly delayed (Jones 1-113). The team would be trespassing if asked to leave before a decision to make an application unless one co-owner / tenant allows them to stay, despite the fact that the other co-owner has asked that they leave.

8.10 If the AMHP has access to the patient after the application is completed, there is no requirement for a warrant as S.6 (1) provides sufficient legal authority for an objecting patient to be conveyed. Such force as is reasonably necessary can be used S.137 (2) (CoP 17.18). Police assistance should be requested if a person is likely to be violent (CoP 17.14) and the AMHP or doctors should call 101 or 999 depending on the situation. If the patient escapes during conveyance, they may be retaken within 14 days of the second medical recommendation. S.6 does not allow forced entry and a S.135 (2) warrant should be obtained in these circumstances.
9. Transportation to hospital

9.1 A completed application based on medical recommendations, gives the AMHP the authority to transport to the hospital the person named in the application. AMHPs ensure all the necessary arrangements are made. All agencies should cooperate fully with the AMHP to ensure this is done safely (CoP 17.9).

9.2 The actual provision of transport is the CCG/Trust’s responsibility. For planned assessments, NETs (LAS) is the pan-London commissioned service. NETs is booked in advance. Some assessments require a private ambulance because for example, the location of the bed outside the M25, an early morning assessment or some other reason. There is a protocol for use of private ambulances in Mental Health Act assessments.

9.3 The AMHP may accompany the person and can delegate conveyance where this is appropriate for example, if the person is going to be admitted to a hospital a distance away or where the care coordinator or other involved person can accompany the person. The AMHP should complete the local delegation form. The section papers must travel in the same vehicle as the person. People authorized by the AMHP to transport patients act in their own right and not as the agent of the AMHP, including restraint and action to avoid absconding (CoP 17.14).

9.4 The Police will assist to convey the person to hospital where there are statutory responsibilities to prevent crime or protect life for example if the person has or is likely to become violent and present an unacceptable risk to others. RAVE risks - Resistance, Aggression, Violence, and Escape.

9.5 Police transport will be used in exceptional cases. For example if the ambulance crew consider the person is too violent to travel safely in the ambulance. In this case, a member of the ambulance crew will travel in the police van, and the ambulance will follow behind.

10. CTO Recalls and S.135(2)

CTO recalls are the responsibility of the RC and Care co-ordinator. If a S.135 (2) is required, the Care co-ordinator will apply to court for a warrant. The AMHP duty managers may assist in booking and paying for court, arranging police availability and advise on locksmiths etc. Inpatients should follow their identified process for AWOL patients.

11. Documentation

All statutory mental health act assessments, including those undertaken at private premises and with the use of a warrant under S:135(1)) should be clearly documented on the electronic patient record- Carenotes, and a full AMHP Part 1 and Part 2 report uploaded within 7 days of the assessment. Participating S.12 doctors should make a written record either on the relevant form or the patient record when they have not completed a medical recommendation and the reasons for this.
12. Monitoring

12.1 All mental health act assessments undertaken at private premises and using a warrant under S.135 (1) are recorded. Activity and issues are reported via the AMHP service quarterly reports. The Police Mental Health Team will share their records of activity with the AMHP service and Trust. Incidents will be recorded on Datix and / or raised via escalation procedures where appropriate.

12.2 Quarterly meetings between the AMHP service, police and NETs will have operational oversight and seek to resolve any local operational issues. These will also be raised at the Trust S.136 meeting.

13. Review of this policy

This policy will be regularly reviewed to ensure that it remain fit for purpose and should be read in conjunction with other locally agreed procedures for Health based Places of Safety, London Healthy Partnership standards, the Police and Crime Bill, and Guidance for the implementation of changes to the police powers and places of safety provisions in the mental health act 1983.